

**INLAND WETLANDS  
AND  
WATERCOURSES REGULATIONS**

**TOWN OF WEST HARTFORD  
WEST HARTFORD, CONNECTICUT**

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<b>Section</b>		<b>Page</b>
1	TITLE AND AUTHORITY.....	3
2	DEFINITIONS.....	5
3	INVENTORY OF REGULATED AREAS.....	9
4	PERMITTED AND NONREGULATED USES.....	10
5	ACTIVITIES REGULATED BY THE STATE.....	12
6	REGULATED ACTIVITIES TO BE LICENSED.....	14
7	APPLICATION REQUIREMENTS.....	15
8	APPLICATION PROCEDURES.....	21
9	PUBLIC HEARINGS.....	23
10	CONSIDERATIONS FOR DECISION ON PERMITS.....	24
11	DECISIONS PROCESS AND PERMITS.....	27
12	ACTION BY DESIGNATED AGENT.....	30
13	BOND AND INSURANCE.....	32
14	ENFORCEMENT.....	33
15	AMENDMENTS.....	35
16	APPEALS.....	38

<b>17</b>	<b>CONFLICT AND SEVERANCE.....</b>	<b>38</b>
<b>18</b>	<b>OTHER PERMITS.....</b>	<b>38</b>
<b>19</b>	<b>EFFECTIVE DATE OF REGULATIONS.....</b>	<b>38</b>

**SECTION 1**

**TITLE AND AUTHORITY**

1.1 The Inland Wetlands and Watercourses of the Town of West Hartford are an indispensable, irreplaceable and fragile natural resource with which the citizens of the Town have been endowed. The Wetlands and Watercourses are an interrelated web of nature essential to an adequate and safe supply of surface and underground water; hydrological stability and control of flooding and erosion; the recharging and purification of groundwater; and the existence of many forms of animal, aquatic and plant life. Many inland wetland and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the Deposit, 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 Town of West Hartford and has and will continue to imperil the quality of the environment thus adversely effecting the ecological, scenic, historic and recreational values and benefits of the Town 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 Town. It is, therefore, the purpose of these regulations to protect the citizens of the Town by making provisions for the protection, preservation, maintenance and use of the Inland Wetlands and Watercourses by minimizing their disturbance and Pollution; maintaining Wetlands and Watercourses 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 Town’s potable 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 Town and use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the Town, 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 West Hartford”.
- 1.3 The Inland Wetland and Watercourses Agency of the Town of West Hartford was established in accordance with an ordinance adopted May 14, 1974 and shall implement the purposes and provisions of the Act in the Town of West Hartford.
- 1.4 These regulations have been adopted and may be amended from time to time, in accordance with Section 25-3 of the West Hartford Code of Ordinances, the provisions of the Act and these regulations.
- 1.5 The Agency shall regulate any activity affecting Wetlands and Watercourses and shall enforce all provisions of the Act and shall issue, issue with modification, or deny Permits for all regulated activities on Inland Wetlands and Watercourses in the Town of West Hartford pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## SECTION 2

### DEFINITIONS

2.1 As used in these regulations:

- a. “Act” means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the General Statutes, as amended.
- b. “Administrative Officer” means the Town Planner of the Town of West Hartford.
- c. “Agency” means the Inland Wetlands and Watercourses Agency of the Town of West Hartford.
- d. “Anchorage” means an area sufficient for serving boats for recreation or use coincidental to the enjoyment or maintenance of private or public water bodies.
- e. “Aquifer” means a water bearing stream, permeable rock, Pond or gravel.
- f. “Bogs” means watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage and highly acidic conditions.
- g. “Clear-cutting,” means the harvest of timber in a fashion which Removes all live and disease free trees more than 2” in diameter from any area which may produce erosion and result in siltation in a Regulated Area, as determined by the Designated Agent.
- h. “Commissioner of Energy and Environmental Protection” means the Commissioner of the State Department of Energy and Environmental Protection.
- i. “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.
- j. “Deposit” includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
- k. “Designated Agent” means an individual designated by resolution of the Agency to carry out its functions and purposes. Such person(s) (1) shall remain qualified to act in such capacity pursuant to Section 22a-39 of the Connecticut General Statutes; (2) may be removed by duly authorized resolution of the Agency; and, (3) be and remain actively employed by the Town of West Hartford.
- l. “Developed Wetland” means a mapped Wetland designated as a “Developed Wetland” on the Official Inland Wetlands and Watercourses Map of the Town of West Hartford, Connecticut. A Developed Wetland is a Wetland which has been disturbed, filled and developed.
- m. “Discharge” means emission of any water, substance or Material into Wetlands or Watercourses whether or not such substance causes Pollution.
- n. “Disturb the natural and indigenous character of the land” means that the activity will significantly alter the inland Wetlands and Watercourses by reason of removal or Deposit of Material, Clear-cutting, alteration or obstruction of water flow, or will result in the Pollution of the Wetland or Watercourse.
- o. "Essential to the farming operation" means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.

- p. “Farming,” means those uses described in the definition of “Farming” set forth in CGS sec. 1-1(q), as that section may be amended or renumbered from time to time.
- q. “Feasible” means able to be constructed or implemented consistent with sound engineering principles as determined by the Agency.
- r. “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 CGS., Sections 22a-36 to 22a-45, inclusive.
- s. “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.
- t. “Marshes” mean Watercourses that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in Marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.
- u. “Material” means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, Bog, peat, mud, debris, sand, refuse or waste.
- v. “Municipality” means the Town of West Hartford, Hartford County, Connecticut.
- w. “Nurseries” mean places where plants are grown for sale, transplanting, or experimentation.
- x. “Permit” means the whole or any part of any License, certification or 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.
- y. “Permittee” means the Person to who such Permit has been issued.
- z. “Person” means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- aa. “Pollution” means harmful thermal effect or the contamination or rendering unclean or impure of any waters or Inland Wetland soils of the Town 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 water or Inland Wetland soils. This includes, but is not limited to, erosion resulting from any filling or excavation activity.
- bb. “Pond” meaning a natural or artificially confined body of water.
- cc. “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.

- dd. “Recharge Area” means an area which contributes to the restoration of supply to water bodies including, but not limited to, Aquifers, streams, Ponds, lakes or springs.
- ee. “Regulated Activity” means any permanent or temporary operation, use or activity, any part of which is within a Regulated Area or which will have a Significant Impact on a Regulated Area, including but not limited to any obstruction, construction, alteration or Pollution of such Wetlands or Watercourses and any earth moving removal of Material filling, construction or Clear-cutting of trees, grubbing, storm drainage Discharge, septic system leachate or use or storage of hazardous Material s and other pollutants, but does not include the activities specified in Section 4 of these regulations.
- ff. “Regulated Area” means:
  1. Any Wetland as defined in these regulations and as shown on the “Official Inland Wetlands and Watercourses Map for the Town of West Hartford”;
  2. Any Watercourse as defined in these Regulations;
  3. Any Wetland or Watercourse as otherwise established as such by the Agency in accordance with these regulations;
  4. All areas located within one hundred fifty (150) feet of the boundary of such Wetlands or within one hundred fifty (150) feet of the boundary of such Watercourse. This one hundred fifty (150) foot boundary is also known as the upland review area for the purpose of these regulations.
- gg. “Remove” includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear-cut timber, bulldoze, dragline or blast.
- hh. “Rendering unclean or impure” means any alteration of the physical, chemical or biological properties of any waters of the Town, including, but not limited to, change in odor, color, turbidity or taste.
- ii. “Review Period” means the time between receipt by the Agency of an application for a Permit and the decision of the Agency to grant or deny.
- jj. “Significant Impact” means any activity, including, but not limited to, the following activities which may have a major effect:
  1. Any activity involving a Deposit or removal of Material or clear cutting which will or may have a substantial effect on the Regulated Area or on another part of the Inland Wetland or Watercourse system; or
  2. Any activity which substantially changes the natural channels or may inhibit the natural dynamics of a Watercourse system; or
  3. Any activity which 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; or
  4. Any activity which may cause turbidity, siltation or sedimentation in a Wetland or Watercourse; or
  5. Any activity which causes a diminution of flow of a natural Watercourse, or groundwater levels of the Regulated Area; or
  6. Any activity which causes or has the potential to cause Pollution of a Wetland or Watercourse; or

7. Any activity which destroys unique Wetland or Watercourse areas having demonstrable scientific, aesthetic and educational value; or
  8. Any activity which results in the placement of a structure over a Wetland or Watercourse.
  9. Any activity which results in the destruction or impairment of an identified Aquifer or recharge area, the reduction of an inland wetlands or watercourses natural flood storage capacity which might result in increasing the volume or velocity of water leading to upstream or downstream flooding, erosion or sedimentation or an impairment of the natural flushing of stream sediment during normal flooding
- kk. “Soil Scientist” means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.
- ll. “Submerged Lands,” means those lands, which are inundated by water on a seasonal or more frequent basis.
- mm. “Swamps” are watercourses that are distinguished by the dominance of wetland trees and shrubs.
- nn. “Town” means the Town of West Hartford, Hartford County, Connecticut.
- oo. “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.
- pp. “Watercourse” 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 Section 22a-28 through 22a-35 of the Connecticut General Statutes, as amended. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two (2) or more of the following characteristics: (1) evidence of scour or Deposits of recent alluvium or detritus; (2) the presence of standing or flowing water for a duration longer than a particular storm incident; or (3) the presence of hydrophytic vegetation.
- qq. “Wetlands” mean land, including submerged land not regulated pursuant to sections 22a-28 to 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 floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture. Such areas may include filled, graded, or excavated sites which 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 Regulated Areas entitled “Inland Wetlands and Watercourses Map of the Town of West Hartford, Connecticut” delineates the general location and boundaries of Inland Wetlands and the general location of Watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Inland Wetlands 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 map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to 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(s), shall inventory and maintain current records of all Regulated Areas 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 with the Town. Such map amendments are subject to the public hearing process outlined in Section 15 of these Regulations.
- 3.4 All map amendments are subject to the public hearing process outlined in Section 15 of these regulations.

## SECTION 4

### **PERMITTED USES AS OF RIGHT AND 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 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, or the mining of top soil, peat, sand, gravel or similar Material from wetlands or watercourses for the purpose of sale;
  - b. A residential home (A) for which a building permit has been issued or (B) on a subdivision lot, provided the Permit has been issued or the subdivision has been approved by the Town Plan and Zoning Commission as of May 14, 1974 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. The individual claiming a use of wetlands permitted as a right under this Subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement;
  - 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 and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or Deposit of significant amounts of Material from or into a Wetland or Watercourse, or diversion or alteration of a Watercourse.
  - e. In Wetlands which are designated “Undeveloped Wetlands” incidental uses shall include, maintenance of existing structures and landscaping but shall not include disturbance or removal or Deposit of Material from or into a Wetland or Watercourse, or diversion or alteration of a Watercourse.
  - f. In Wetlands which are designated “Developed Wetlands” on the Official Inland Wetland and Watercourses Map of the Town of West Hartford, Connecticut, all activities pursuant to the zoning ordinances and subdivision regulations of the Town of West Hartford provided that there is no watercourse or undeveloped Wetland within one hundred and fifty (150) feet from the proposed activity;
  - g. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes, as amended, or by municipal water supply systems as

- provided for in Chapter 102, of the Connecticut General Statutes, as amended, 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 Sections 22a-401 and 22a-403 of the Connecticut General Statutes, as amended;
- h. Maintenance relating to any drainage pipe which existed before July 1, 1974, 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 and
  - i. Withdrawals of water for fire emergency purposes.
- 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 Deposit 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. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture Management practices.
  - b. Outdoor recreation including the use of play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing 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 subsection “dry hydrant” means a non-pressurized pipe system that: (A) is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) 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, excavating, 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 to carry out a permitted or non-regulated 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 non-regulated use of the Wetland or Watercourse. The Agency or its Designated Agent shall rule that the proposed operation or use is a permitted or a non-

regulated use or operation, or that a Permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The Designated Agent for the Agency may make such rulings on behalf of the Agency at any time. If the Agency finds that a proposed use or activity does not represent any regulated use or operation as defined by Section 2.1 of these Regulations, no application for a Permit for such activities will be required. Any such ruling may be subject to limitation or revocation if it is later shown that the proposed operation or use results in a Regulated Activity. The Agency decision shall be stated in writing.

## **SECTION 5**

### **ACTIVITIES REGULATED BY THE STATE**

- 5.1 In addition to any Permit or approval required by the Agency, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- a. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-410 of the Connecticut General Statutes, as amended;
  - b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349 of the Connecticut General Statutes, as amended;
  - c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the State pursuant to Sections 22a-359 through 22a-363 or in designated tidal Wetlands pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended;
  - d. Diversion of water, including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day or any piping, culverting, channelization, relocation, damming or other alteration of the location of flow of any surface waters of the State where the tributary watershed area above the point of such alteration is hundred (100) acres or larger, pursuant to Sections 22a-365 through 22a-378a of the Connecticut General Statutes, as amended.
  - e. Discharges into the waters of the State pursuant to Section 22a-430 of the Connecticut General Statutes, as amended; and
  - f. 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, as amended.
- 5.2 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 Sections 22a-39 or 22a-45a of the Connecticut General Statutes.

- 5.3 The Commissioner of Energy and 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.
- 5.4 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 Environmental Protection under Section 22a-402 or a dam construction Permit issued by the Commissioner of Environmental Protection under Sections 22a-403 or 22a-41 of the Connecticut General Statutes. Any Person receiving such dam repair or removal order or dam construction 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 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 The Agency shall regulate any permanent or temporary operation, use or activity, any part of which is within a Regulated Area or which will otherwise impact on a Regulated Area or any obstruction, construction, alteration or Pollution of such Wetlands and Watercourses and any earth moving, removal of Material, filling, construction or Clear-cutting of trees, grubbing, storm drainage Discharge, septic system leachate or use or storage of hazardous Materials or other pollutants within one hundred and fifty (150) feet of the boundary of such Wetlands and Watercourses or on any property, any portion of which is comprised of Wetlands or Watercourses or is within one hundred and fifty (150) feet of the boundary of such Wetlands and Watercourses, but does not include the activities specified in Section 4 of these Regulations.
- 6.3 Any Person found to be conducting or maintaining a Regulated Activity without the prior authorization of the Agency, or violating any other provision of these Regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these Regulations and Chapter 25, Article I of the West Hartford Code of Ordinances and any other remedies as provided by law.

## SECTION 7

### APPLICATION REQUIREMENTS

- 7.1 Any Person intending to conduct a Regulated Activity or amend a Permit to conduct such activity shall apply for a Permit on a form entitled “Town of West Hartford Inland Wetlands and Watercourses Agency – Application for Permit”. An application shall include an application form and such information as prescribed by Section 7.5 and, in the case of a significant activity, by Section 7.6 of these Regulations. Application forms may be obtained in the offices of the Agency.
- 7.2 If an application submitted to the Town of West Hartford Plan and Zoning Commission for subdivision or re-subdivision of land involves land that includes a Regulated Area or has a Significant Impact on a Regulated Area, 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 Plan and Zoning Commission.
- 7.3 All applications shall contain such information as is necessary for a fair and informed determination of the issues.
- 7.4 The Agency will review all applications at a regular meeting of the Agency to determine the significance of the proposed activity. The Agency must state its finding in writing.
- 7.5 Except as provided in Section 12.1, to the extent applicable, all applications shall include the following information in writing:
- a. The applicant’s name, home and business address and telephone numbers; 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 owner’s name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application, and, if the property is held in trust, the names of all beneficial owners of the property, the name or names of all trustees, and the name or names of all settlors of the trust;
  - c. Applicant’s interest in the land;
  - d. The geographical location of the property which is the subject of by the proposed activity, including but not limited to a description of the land in sufficient detail to allow identification of the Inland Wetlands and Watercourses, a computation of the area(s) (in acres or square feet) of Wetland or Watercourse disturbance, soil types(s) and vegetation;
  - e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls 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. A narrative description of all development activities contemplated by the Applicant at the site which is the subject of the application for the five (5) year period commencing on the date when the application is filed, if any;
  - g. Alternatives which would cause less or no environmental impact to Wetlands or Watercourses and why the proposal to alter wetlands set forth in the application was chosen; these alternatives shall be diagrammed on a site plan or drawing and submitted to the Agency as part of the application;
  - h. A site plan drawn by a licensed surveyor or engineer registered in the State of Connecticut showing the proposed activity and 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;
  - i. Where any activity is proposed within ten (10) feet of a Wetland and/or Watercourse, or where the Agent determines that circumstances (including, but not limited to the area or scope of disturbance; unique topography; construction methods proposed; wetland quality; proposed alteration to vegetative cover which may impact upon the wetland itself or past decisions of the Agency regarding the subject property or surrounding properties) warrant, confirmation of the wetland and/or watercourse boundary and an impact analysis by a Soil Scientist, Wetland Scientist and/or other appropriately qualified individual in the biological sciences addressing the following:
    - 1. Description of the ecological communities and functions of the Wetlands or Watercourses involved with the application and affects of the proposed Regulated Activities on these communities and wetland functions, including surface and ground water quality and storm water run-off;
    - 2. 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;
    - 3. 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;
  - j. Names and addresses of abutting property owners;



- k. Certification 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;
- l. Authorization for the members of the Agency, members of the Conservation and Environment Commission and other agents of the Agency to inspect the property, at reasonable times, during the pendency of the application and for the life of the permit. The property owner may require reasonable prior notice for inspection of the property;
- m. A completed DEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
- n. Any other information the Agency deems necessary to the understanding of what the applicant is proposing;
- o. Submission of the appropriate filing fee based on the fee schedule established by ordinance.

7.6 At the discretion of the Agency or its agent, or if the proposed activity involves a Significant Impact activity as determined by the Agency and defined in Section 2.1.ii. of these Regulations, additional information, based on the nature and anticipated affects of the activity, including but not limited to the following, is required:

- a. Site plans for the proposed activity and the land which will be affected thereby 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 the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the State, or by such other qualified person;
- b. Engineering reports and analyses and additional drawings to fully describe the proposed activity and any filling, excavation, drainage or hydraulic modifications to wetlands or watercourses and the proposed erosion and sedimentation control plan; seal of surveyor and/or engineer shall appear on all plans.
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service. The Agency will require the applicant to have the Wetlands delineated by flags in the field by a Certified Soil Scientist and that the field delineation be incorporated onto the site plans by a Registered Surveyor. Description of the depth to the water table, depth to mottled soil and the seasonal variation of the water table. Name of Soil Scientist and address should appear on all plans.
- d. Description of the ecological communities and functions of the Wetlands or Watercourses involved with the application and affects of the proposed Regulated Activities on these communities and Wetland functions, including surface and ground water quality and storm water run-off;
- 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 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;

- f. Analysis of chemical or physical characteristics of any fill Material;
- g. 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;
- h. The applicant must prepare comprehensive and sequential erosion and sedimentation control plan which conforms to the West Hartford Erosion and Sedimentation Control Ordinance, Section 177-60 through 177-67 of the West Hartford Code of Ordinances, as may be amended from time to time.

7.7 The applicant shall certify whether:

- a. Any portion of the property on which the Regulated Activity is proposed is located within five hundred (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 run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

7.8 Six (6) copies of all application materials shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Agency.

7.9 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 of the Permit in accordance with Subsections 8.5 through 8.8 of these Regulations. Any application for amendment, renewal or extension shall be made in accordance with this Section, provided:

- a. The application may incorporate by reference 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 in the permit;
- c. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the Permit;
- d. The application shall describe any changes in facts or circumstances involved with or effecting wetlands or watercourses or the property for which the Permit was issued;

- e. 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 extended and the public interest or environment will be best served by not interrupting the activity.
- 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 no Permit shall be valid for more than ten (10) 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 (14) years. When any Permit cannot be renewed, a new application shall be filed to continue the Regulated Activity.
- 7.11 Upon receipt of an application, it shall be forwarded to those agencies and commissions referenced in Section 10.1c of these Regulations for their review. The Administrative Officer shall forward copies of all reports or comments of those agencies or commissions immediately upon receipt thereof to the applicant. If said reports request further information from said applicant, such information shall be provided within five (5) days from the applicant's receipt of the report or comments requesting same, but in no case shall any such responsive information be provided less than five (5) business days prior to the day scheduled for hearing upon the application by the Agency. Failure to provide such responsive material within the time period provided herein may result, at the discretion of the Agency, in: (1) dismissal or denial of the application as incomplete; (2) continuation of the hearing until such time as the information has been provided; (3) a determination on the merits of the application in the absence of the material requested.
- 7.12 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, 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 section "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 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 with a state or local land use Agency or a local building official or director of health, 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 (60) days prior to the filing of the Permit application.

- d. In lieu of such notice, 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.

## SECTION 8

### APPLICATION PROCEDURES

- 8.1 All petitions, applications, requests or appeals shall be filed with the Agency of the Town of West Hartford.
- 8.2 In the case of any application where any portion of the Wetland or Watercourse on which the Regulated Activity is proposed is located within five hundred (500) feet of the boundary of Hartford, Bloomfield, Avon, Farmington or Newington, the APPLICANT shall give written notice, in accordance with Connecticut General Statutes, Section 22a-42c, as amended, of the proposed activity, certified mail, return receipt requested, to the adjacent municipal wetland agency on the same day of filing an inland wetland Permit application with the Agency. Documentation of such notice shall be provided to the Agency.
- 8.3 The Agency shall, in accordance with Connecticut General Statutes Section 8-7d, as amended, 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 on which the Regulated Activity is proposed is located within five hundred (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 impact the sewage or drainage system within the adjoining municipality;
  - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality or;
  - e. Notice of the pendency of such application shall be made by registered mail, return receipt requested and shall be mailed within seven (7) days of the date of receipt of the application.
- 8.4 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, as amended, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by the Commissioner provided such water company or said Commissioner has filed a map showing the boundaries of the watershed on the land records of the Town and with the Agency. Such notice shall be made by certified mail, return receipt requested and shall be mailed within seven (7) days of the date of the application. The water company and/or the Commissioner, through a representative, may appear and be heard at any hearing on the application.

- 8.5 The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency, or thirty-five (35) days after such submission, whichever is sooner.
- 8.6 At any time during the Review Period the Agency may require the applicant to provide additional information about the Regulated Area or Regulated Activity which is the subject of the application or Wetlands or Watercourses affected by the Regulated Activity. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.7 All applications shall be open for public inspection.
- 8.8 Incomplete applications may be denied.

## **SECTION 9**

### **PUBLIC HEARINGS**

- 9.1 The Agency shall not hold a public hearing on an application unless it 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 (18) 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 (14) 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 receipt of such application. Such hearing shall commence no later than sixty-five (65) days after receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. Any Person may appear and be heard at any such public hearing.
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer 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 and Watercourse is located. The applicant shall post a sign giving notice of the application in a conspicuous place, visible from a public street on the property upon which the Regulated Activity is proposed to be conducted. Said sign should be posted at least seven (7) days before the date of any hearing; and shall remain in place until the hearing; and shall be removed not later than three (3) days after the hearing.
- 9.3 Notice of the public hearing shall be mailed to the owner(s) of record of abutting land no less than fifteen (15) days prior to the day of the hearing.
- 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 the adjoining municipalities 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**

- 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 from a public hearing held with respect to the application in question;
  - c. Reports from other Agencies and commissions including, but not limited to, the various boards, commissions, departments and divisions of the Town of West Hartford.
  - d. The Agency may also consider comments on any application from the Hartford County Soil and Water Conservation District, the Capitol Region Council of Governments or other regional organizations (i.e. Council of Elected Officials); agencies in adjacent municipalities which may be effected 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 10.1.c and d. above within the prescribed time shall neither delay nor prejudice the decision of the Agency.
- 10.2 In carrying out the purposes and policies of Sections 22a-36 to 22a-45, inclusive, of the Connecticut 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:
- a. The environmental impact of the proposed Regulated Activity on Wetlands or Watercourses;
  - 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;
  - 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;
  - 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 (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 which is caused or threatened by the proposed Regulated Activity; and
  - 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.
  - g. Impacts which the proposed Regulated Activity may have on Wetlands or Watercourses when considered in conjunction with development activities on the site which the applicant anticipates will occur within five (5) years following submission of the application.
- 10.3 The Agency may establish a “no work” perimeter setback around the Inland Wetland or Watercourse boundary and the proposed Regulated Activity using the “Site Specific Method” which recognizes that each site is unique. In determining the number of feet of the setback, the Agency will consider the site, topography, soil type and quality, ground water level and quality, location of watercourses and Ponds (if any), function of the wetland and its location as part of a larger system or isolated one, vegetation types and amounts, scope of activity proposed and its potential to impact the Wetlands or Watercourse and any other such information as required to make a determination of the appropriate setback distance.
- 10.4 In the case of any application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a Significant Impact on Wetlands and 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 Section 10 of these Regulations. This finding and the reasons therefore shall be stated on the record in the decision of the Agency.
- 10.5 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 Wetlands 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.
- 10.6 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 of 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 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.

- 10.7 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.
- 10.8 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.
- 10.9 In the case of an application where the applicant has provided written notice pursuant to subsection 7.12(c) of these regulations, the holder of the restriction may provide proof to the Agency that granting 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 sought.
- 10.10 In the case of an application where the applicant fails to comply with the provisions of subsections 7.12(c) or (d) of these regulations: (1) a party, other than a state agency, that holds the conservation or preservation restriction may file an appeal with the Agency not later than fifteen (15) days after receipt of actual notice of Permit approval, subject to the rules and regulations of the Agency relating to appeals, or (2) the state agency that holds such restriction may file an appeal with the Agency not later than thirty days (30) after receipt of actual notice of Permit approval, subject to the rules and regulations of the Agency relating to appeals. The Agency shall reverse its prior approval of the Permit at issue upon finding that the requested land use violates the terms of such restriction or 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.
- 10.11 Nothing in subsections 7.12(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 over a portion of the property that is not restricted under the terms of such conservation or preservation restriction.

## SECTION 11

### **DECISION PROCESS AND PERMIT**

- 11.1 The Agency or its Designated Agent acting pursuant to Section 12 of these Regulations, may, in accordance with Section 10 of these Regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the Regulated Activity designed to carry out the purposes 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: 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 sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- 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 by the Agency.
- 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 A copy of all Agency decisions shall be forwarded to the Commissioner of Environmental Protection in such form as prescribed by the Commissioner. 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 requested, 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 of West Hartford. 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 days thereafter.

- 11.5 If an activity authorized by the Inland Wetland Permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed with the Town Plan and Zoning Commission of West Hartford or West Hartford Town Council, as appropriate, within fifteen (15) days of the date of the decision.
- 11.6 If the Agency denies the Permit, or if it grants a Permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The Agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for the purposes of appeal.
- 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 If an activity authorized by the Inland Wetland Permit also requires site plan, special permit, subdivision/re-subdivision or zone change approval, the Permit shall be valid until the associated land use approval expires or for ten (10) years whichever is earlier. Any Permit issued by the Agency for any other activity shall be valid for five (5) years. Notwithstanding the foregoing, any Permit which was issued prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for nine (9) years after the date of such approval. All Permits shall expire upon the completion of the acts specified therein.
- 11.9 No Permit shall be assigned or transferred without the written permission of the Agency.
- 11.10 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.
- 11.11 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 of the Town of West Hartford, 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 Inland Wetland Permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the Wetland 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. The permittee is required to prepare a comprehensive and sequential erosion and sedimentation control plan which adheres to the requirements of the West Hartford Erosion and Sedimentation Control Ordinance.

## SECTION 12

### **ACTION BY DESIGNATED AGENT**

- 12.1 The Designated Agent(s) is hereby granted the authority to approve or extend an activity within the upland review area 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 Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. For purposes of this section, it shall be presumed that an activity will have a minimal impact upon the Wetland or Watercourse if: (1) all of said activity is to be conducted at least fifty (50) feet from the Wetlands or Watercourse and will involve a disturbance of less than five hundred (500) square feet of material; (2) all of said activity is to be conducted between ten (10) feet and fifty (50) feet from the Wetlands or Watercourse and will involve a disturbance of less than two hundred fifty (250) square feet of Material; or (3) all of said activity satisfies the requirements of subdivisions (1) and (2) of this subsection in combination and does not exceed five hundred (500) square feet of Material in total. The Designated Agent may decline to approve or extend an activity which otherwise satisfies the presumption described in this subsection if, in his or her opinion, the unique nature of the activity in question merits consideration by the Agency 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 Applications for action by a Designated Agent pursuant to this Section, shall include, among other items, all information listed in Section 7.5 of these regulations unless specifically waived by the Designated Agent as well as a certification by the applicant that (1) the proposed activity does and will not constitute a Significant Impact activity; (2) best Management practices shall be used so as to ensure continued compliance with governing laws and regulations; and (3) there are no Prudent alternatives to the proposed activity that have a less adverse impact on Wetlands and Watercourses. The Designated Agent may request such further application from any applicant as is necessary to permit a thorough review of the application. Applications shall also include a conspicuous notice of the applicant's right to appeal any decision of a Designated Agent to the Agency.
- 12.3 Any Person receiving such approval from such agent shall, within ten (10) 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 (15) 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 (3) 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.

- 12.4 The Designated Agent(s) shall provide a periodic report in such form as the Agency shall reasonably request, as to such matters as the total number and general types of activities described in applications received in accordance with this Section 12 during the preceding reporting period.
- 12.5 The Designated Agent(s) shall submit annual reports to the Agency confirming their continued compliance with the training and certification requirements set forth in C.G.S. Section 22a-39, as amended from time to time.

## **SECTION 13**

### **BOND AND INSURANCE**

- 13.1 The Agency may require as a Permit condition the filing of a bond with such surety in such amount and in a form approved by the Agency, and in a form approved by the Office of the Corporation Counsel.
- 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 with two (2) years of completion of such operations, in an amount to be determined by the Agency commensurate with the Regulated Activity.



## SECTION 14

### **ENFORCEMENT**

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to 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, members of the Conservation and Environment Commission or other agents of the Agency may make regular inspections, at reasonable hours, of all regulated activities for which Permits have been issued under these regulations 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 Designated Agent finds that any Person is conducting or maintaining any activity, facility or condition which is in violation of the Act or of these Regulations, the Agency or its duly Designated 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 (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 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 within fifteen (15) days 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 Section 22a-44(b) of the Connecticut 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 or special meeting of the Agency to 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 Subsection a. of this Section or other enforcement proceedings as provided by law.

- c. Commence and maintain an action pursuant to Connecticut General Statutes Section 22a-44(b), as amended.

14.5 The Agency may 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 the work as set forth in the application including application plans. Prior to revoking 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. At the public 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 personal service or by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of its decision within fifteen (15) days in a newspaper have general circulation in the Town. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for publication of such notice within ten (10) days thereafter.

14.6 A violation of the Inland Wetlands and Watercourses Regulations of the Town of West Hartford, including a violation of the conditions of approval of any Permit issued by the Agency, may be punishable as set forth in Chapter 25, Article of the West Hartford Code of Ordinances and any other remedies as provided by law.

## **SECTION 15**

### **AMENDMENTS**

- 15.1 These Regulations and the “Official Inland Wetlands and Watercourses Map of the Town of West Hartford” 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 soil, hydrology, botanical species and inland Wetlands and Watercourses becomes available.
- 15.2 An application filed with the Agency which is in conformance with the applicable Regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in these Regulations (or boundaries) including changes to setbacks and buffers, 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 provisions of this Subsection 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 Petitions requesting changes or amendments to the “Official Inland Wetlands and Watercourses Map of the Town of West Hartford, Connecticut” shall contain at least the following information:
- a. The applicant’s name, address and telephone number.
  - b. The address, or location, of the land affected by the petition.
  - c. The owner’s name (if not the applicant), address, telephone number and a written consent to the proposed action set forth in the application.
  - d. Applicant’s interest in the land.
  - e. The geographic location of the property involved in the petition including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas.
  - f. The reasons for the requested action.
  - g. The names and addresses of all abutting property owners.
  - h. A map drawn to scale and based on Class A2 Survey.
- 15.4 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, West Hartford, Connecticut, 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:

- a. The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
  - 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; and
  - d. Map(s) showing any proposed development of the land in relation to existing and proposed Wetland and Watercourse boundaries.
- 15.5 Watercourses shall be delineated by a Soil Scientist, geologist, ecologist or other qualified individual.
- 15.6 A public hearing shall be held on petitions to amend the Official Inland Wetland and Watercourses Map of the Town of West Hartford, Connecticut. Notice of the hearing shall be published in a newspaper having a substantial circulation in the Town 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 such hearing. The petitioner shall post a sign giving notice of the petition in a conspicuous place, visible from a public street, on the property which is the subject of the petition. Said sign should be posted at least seven (7) days before the date of the public hearing; shall remain in place until the hearing; and shall be removed not later than three (3) days after the hearing.
- 15.7 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.
- 15.8 The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made. On approval of the map amendment the applicant shall supply the Planning Office with a permanent transparent mylar having a minimum size of 12" x 18" and maximum size of 24" x 36". A copy of the approved map shall also be provided on such computer medium and in such computer program or language as established by the Director of Community Services from time to time.

- 15.9 These regulations and the Town of West Hartford 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 Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five (35) days before the public hearing on their adoption.

## **SECTION 16**

### **APPEALS**

- 16.1 Appeal on actions of the Agency shall be made in accordance with the provisions of Section 22a-43 of the Connecticut General Statutes, as amended.
- 16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

## **SECTION 17**

### **CONFLICT AND SEVERANCE**

- 17.1 If there is a conflict between the provisions of these Regulations, the provision which imposes the most stringent standards 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.
- 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 of West Hartford, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Energy and Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, Permits or Licenses is the sole responsibility of the applicant.

## **SECTION 19**

### **EFFECTIVE DATE OF REGULATIONS**

- 19.1 These Regulations including the Official Inland Wetlands and Watercourses Map, application forms, fee schedule and amendments thereto, shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of West Hartford.