



# **Inland Wetlands and Watercourses Regulations**

## **Town of Greenwich, Connecticut**

Adopted December 11, 1973 – amended through October 26, 2015

# INLAND WETLANDS AND WATERCOURSES REGULATIONS OF THE TOWN OF GREENWICH, CONNECTICUT

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## **SECTION 1: TITLE AND AUTHORITY**

**Section 1.1** The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; 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 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 provision 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.

**Section 1.2** These Regulations shall be known as the “Inland Wetlands and Watercourses Regulations of the Town of Greenwich.”

**Section 1.3** The Inland Wetlands and Watercourses Agency of the Town of Greenwich, Connecticut was established in accordance with an ordinance adopted October 9, 1973 by the Greenwich Representative Town Meeting and shall implement the purposes and provisions of these Regulations and the Inland Wetlands and Watercourses Act in the Town of Greenwich.

**Section 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.

**Section 1.5** The Agency shall enforce 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 Greenwich pursuant to sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## SECTION 2: DEFINITIONS

### Section 2.1 As used in these Regulations:

“Act” means the Inland Wetlands and Watercourses Act of the State of Connecticut, Connecticut General Statutes (CGS) sections 22a-36 through 22a-45 as amended.

“Agency” means the Inland Wetlands and Watercourses Agency of the Town of Greenwich.

“Agency Staff” means the professional staff employed by the Town to administer the application, permitting, compliance, and enforcement process for the Agency and to advise the Agency on technical matters.

“Agent” with respect to the Agency means a professional staff member of the Agency, “duly authorized Agent” means an individual designated by the Agency to carry out its functions and purposes and, with respect to the applicant, means any person authorized in writing to act on the applicant’s behalf.

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

“Buffer” means an undisturbed natural area adjacent to the edge of a wetland or a watercourse.

“Clear-cutting” means the harvest or removal of timber in a fashion which removes substantially all trees two inches or greater in diameter at breast height from wetlands and watercourses, upland review area, or any other area which may affect wetlands and watercourses.

“Commissioner of Energy and Environmental Protection” means the Commissioner of the State of Connecticut Department of Energy and Environmental Protection.

“Continual Flow” means a flow of water that 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.

“Deposit” includes, but shall not be limited to fill, grade, dump, place, discharge or emit.

“Discharge” means the emission of any water, substance or material into waters of the Town, whether or not such substance causes pollution.

“Disturbing the natural and indigenous character of the wetland or watercourse” means any activity that alters an inland wetland or watercourse by reason of removal or deposition of material, altering or obstructing water flow, changing the character of the vegetation through cutting or clearing, or causing pollution.

"Emergency" pertains to an event, circumstance or condition which, in the opinion of the Agency or its duly authorized Agent, endangers the public health and safety or the health and safety of one or more residents of the Town of Greenwich, as certified in writing by one or more of the following Town agencies: the Inland Wetlands and Watercourses Agency, the Department of Public Works, the Department of Health, the Police Department or the Fire Department.

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

“Farming” shall be consistent with the definition as noted in section 1-1(q) of the Connecticut General Statutes.

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

“Intermittent watercourses” are characterized by and 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/or (c) the presence of hydrophytic vegetation.

“Landscaping” means the modification of the land surface by altering the plant cover.

“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.

“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.

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

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

“Municipality” means the Town of Greenwich, Connecticut.

“Nurseries” means places where plants are grown for sale, transplanting, or experimentation.

“Permit” means the whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these Regulations and the Act or other municipal, state and federal law.

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

“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.

“Pollution” means harmful thermal effect or the contamination or rendering unclean or impure of any of the wetlands and watercourses 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 to directly or indirectly come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

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

“Regulated Activity” means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in section 22a-40 of the Connecticut General Statutes or in section 4 of these Regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing, or removing of material and discharging of storm water on the land within the upland review areas is a regulated activity. The Agency may determine that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

“Regulations” means the Inland Wetlands and Watercourses Regulations of the Town of Greenwich, as amended.

“Remove” includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, bulldoze, drag line or blast.

“Rendering Unclean or Impure” means any alteration of the physical, chemical, or biological properties of any of the waters of the Town, including, but not limited to change in odor, color, turbidity, temperature or taste.

"Significant impact" means any activity, including, but not limited to, the following activities which may have a major effect:

- a. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
- b. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
- c. 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.
- d. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
- e. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
- f. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
- g. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

“Soil Scientist” means an individual duly qualified in accordance with the standards set by the Federal Office of Personnel Management.

"Swamps" are watercourses that are distinguished by the dominance of wetland trees and shrubs.

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

“Town” means the Town of Greenwich, Connecticut.



“Upland Review Area” means any area:

- a. Within 100 feet measured horizontally from the boundary of any wetland or watercourse not located within any public water supply watershed, or
- b. Within 150 feet measured horizontally from the boundary of any wetland or watercourse, located within any public water supply watershed, or
- c. Within 200 feet measured horizontally from the mean high water mark of any public water supply reservoir, or
- d. Any area defined by the Agency or the Agency’s staff after an initial review of materials submitted by an applicant that is greater than the above mentioned distances due to special circumstances that may include, but shall not be limited to: steep slopes, impervious surfaces, topographical features, or any other reason the Agency’s staff or Agency may deem necessary to include for the purpose of conducting its review operations.

“Vernal” means appearing or occurring in the spring.

“Vernal Pool” means a seasonal or permanent watercourse in a defined depression or basin that lacks a fish population and supports or is capable of supporting breeding and development of amphibian or invertebrate species recognized as obligate to such watercourses.

“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.

“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 sections 22a-28 to 22a-35 inclusive of the Connecticut General Statutes. For purposes of this section, “watercourses” include aquatic, plant or animal life, and habitats, in watercourses.

“Wetlands” means land, including submerged land as defined in this section, not regulated pursuant to sections 22a-28 to 22a-35 inclusive of the Connecticut General Statutes, which consist 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 Resource Conservation Service of the U. S. 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. For purposes of this section, “wetlands” include aquatic, plant or animal life, and habitats, in wetlands.

## **SECTION 3: INVENTORY OF INLAND WETLANDS AND WATERCOURSES**

**Section 3.1** The map entitled “Inland Wetlands and Watercourses Map, Greenwich, Connecticut” (hereinafter “Map”) indicates 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 Agency. In all cases, the actual character of the land, the distribution of wetland soil types and location of watercourses shall determine the precise location of wetlands and watercourses. In the absence of site-specific delineations of wetland soils and watercourses, the Agency may use aerial photography, Geographic Information System data, remote sensing imagery, resource mapping, soils maps, site inspection observations, its records or other information in determining the general location of the boundaries of wetlands and watercourses.

**Section 3.2** The Agency shall maintain a current inventory of wetlands and watercourses within the town. The Agency may amend its Map and records as more accurate information become available.

**Section 3.3** Any person may petition the Agency for an amendment to the Map. Petitioners shall bear the burden of proof for all requested map amendments. Such proof may include, but not be limited to, aerial photography, remote sensing imagery, resource mapping or other available information.

**Section 3.4** All amendments of the Map are subject to the public hearing process outlined in section 15 of these Regulations.

## **SECTION 4: PERMITTED OPERATIONS AND NON-REGULATED USES**

**Section 4.1** To carry out the purposes of this section, any person proposing to carry out a permitted or non-regulated operation and use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation and 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 shall rule that the proposed operation and use, or a portion of it, is a permitted or a non-regulated operation and use, or that a permit is required. Such ruling shall be in writing, shall state the factual bases for the ruling, 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 Agency encourages the use of best management practices by those who conduct permitted and non-regulated operations and uses in order to minimize adverse impacts on wetlands and watercourses.

**Section 4.2** The following operations and uses shall be permitted in inland wetlands and watercourses as of right:

- a. Grazing, farming, nurseries, gardening, harvesting of crops and farm ponds of three acres or less which farm ponds are 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, enhancement or mosquito control. The provisions of this subsection 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 cropland, or the mining of topsoil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes 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 a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to Subsection (b) of section 22a-42a, 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 permit was obtained on or before July 1, 1987;
- c. Uses incidental to the enjoyment and maintenance of a residential property, such property defined as equal to or smaller than the largest lot site permitted anywhere in the municipality. Such incidental uses shall include maintenance of existing structures and landscaping, as defined in these Regulations, but shall not include removal or deposition of material from or into a wetland or watercourse, or diversion or alteration of a watercourse;
- d. Boat anchorage or mooring, not to include dredging;

- e. Construction and operation, by water companies as defined by section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies, except as provided in sections 22a-401 and 22a-403 of the Connecticut General Statutes;
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes 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; and
- g. Withdrawals of water for fire emergency purposes.

**Section 4.3** The following operations and the uses shall be permitted as non-regulated uses in inland 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, 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 trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated; and
- 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 the purposes of this section, “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.

**Section 4.4** 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.

**SECTION 5: ACTIVITIES REGULATED EXCLUSIVELY BY THE  
COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION**

**Section 5.1** The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over:

- a. Regulated 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;
- b. Tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended;
- c. Activities authorized under a dam repair or removal order issued by the Commissioner of Energy and Environmental Protection under section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Energy and Environmental Protection under sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit; and
- d. The discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.

## **SECTION 6: REGULATED ACTIVITIES TO BE LICENSED**

**Section 6.1** No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetland and Watercourses Agency of the Town of Greenwich.

**Section 6.2** 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 any other remedies as provided by law.

## **SECTION 7: APPLICATION REQUIREMENTS**

**Section 7.1** Any person intending to conduct, or cause to be conducted, a regulated activity, or to renew, extend or modify a permit, shall, prior to the commencement of such activity, apply for a permit on a form provided by the Agency. Application forms may be obtained in the office of the Agency. The application shall contain the information described in this section and any other information the Agency may reasonably require. The Agency or its staff may also, at its discretion, waive or modify the requirements set forth below. Applicants are encouraged to consult with the staff of the Agency to determine which, if any, of the requirements are not required. Approved waivers and/or modifications of these requirements shall not be construed as a basis to find an application incomplete.

**Section 7.2** If an application to the Town of Greenwich Planning and Zoning Commission for subdivision or re-subdivision of land, or Site Plan Approval, Special Permit or special exceptions, involves land containing a wetland or watercourse, the applicant shall, in accordance with CGS sections 8-3(g), 8-3c, or 8-26, 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 and Zoning Commission.

**Section 7.3** A prospective applicant may request the Agency to determine whether or not a proposed activity qualifies for a review by a duly authorized Agent, the Agency, or involves a significant impact activity. Activities eligible for review and approval by the Agency's duly authorized Agent are generally smaller in scope and shall not include any activities in a wetland or watercourse. "Significant impact activities" are further defined in section 2.1 of these Regulations.

**Section 7.4** In the case where an activity qualifies for duly authorized Agent review, the applicant shall submit the original and three collated copies of the application and supporting documentation in written and electronic form. Applications to be reviewed by the Agency require the applicant to submit, in written and electronic form, the original and eleven collated copies of all application materials unless otherwise directed, in writing, by the Agency or its staff. The Agency reserves the right to request additional copies, as needed.

**Section 7.5** Applications shall contain such information as is necessary for a fair and informed determination therein by the Agency or its duly authorized Agent. All information submitted in the application for review shall be considered factual and binding. Omission of information or submission of incorrect information shall be sufficient grounds for the revocation of any permit issued under these Regulations and/or for penalties to be imposed in accordance with section 14 of these Regulations.

**Section 7.6** All applicants 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;
- d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality;
- e. Any portion of the property is within the watershed of any water company which has filed a Watershed Boundary Map on the land records and at the office of the Agency.

**Section 7.7** All applications shall include the following information in writing on an application form provided by the Agency:

- a. The applicant's name, mailing address, telephone number, and email address. If the applicant is not the owner, written consent of the land owner to the proposed activity set forth in the application shall be provided;
- b. The owner's name, mailing address, telephone number, and email address. If the owner is a corporation or other non-individual entity, the name, address, email, and phone number of a principal shall be included;
- c. Applicant's interest in the land;
- d. A brief description of the proposed regulated activity as it relates to wetlands and/or watercourses;
- e. Statement by the applicant that he or she 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; and
- f. Authorization for the members and agents of the Agency to inspect the property, at reasonable times both before and after a final decision has been issued, while the regulated activities are being conducted, and at any time thereafter up to and including the period of time in which the applicant's bond is in effect in order to ensure that the activities are being conducted in accordance with the permit.

**Section 7.8** Submission of the appropriate application fee based on the fee schedule as established in section 19 of these Regulations.



**Section 7.9** Applications to conduct regulated activities subject to review by a duly authorized Agent shall, at a minimum, include the following information in addition to the requirements of section 7.7 and 7.8:

- a. Description of the existing site conditions and purpose and description of the proposed activity, erosion and sedimentation controls and other management practices as applicable;
- b. A site plan prepared by an appropriate professional with sufficient detail to accurately depict existing and proposed conditions and erosion and sedimentation controls, as warranted;
- c. Wetlands shall be delineated by a certified soil scientist and a soils report shall be submitted indicating the series of flags for each wetland area, the on-site soil types, and a sketch depicting his or her work. Watercourses shall be delineated by a certified soil scientist, ecologist, geologist, wetland scientist, or other qualified professional. The flags delineating these features shall be located and depicted on a map by a licensed surveyor;
- d. A location map at a scale of 1"=1,000' showing the location of the land which is the subject of the proposed activity;
- e. Recent photographs of the areas in question from multiple angles sufficient to illustrate all pertinent aspects of the proposed activities and potential impacts. The photos shall be labeled and cross referenced on a reduced copy of the site plan;
- f. GIS map of the subject property, in color and sized to fit 8.5"X11" paper;
- g. Names and addresses of adjoining property owners, including those across the street, as listed in the records of the Greenwich Tax Assessor. If land abutting or across the street from the subject property is a "common interest community," as defined in Chapter 828 of the Connecticut General Statutes, and a unit owners' association has been organized for such common interest community, the applicant need only submit the name of the unit owners' association;
- h. Copy of Certificates of Mailing to the property owners identified in 7.9.g. and a copy of the letter sent to inform the property owners of the pending application;
- i. Copy of the record card from the Tax Assessor's office;
- j. A completed DEEP reporting form. The Agency shall revise or correct the information provided by the applicant, as may be necessary, and shall submit the form to the Commissioner of Energy and Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
- k. Evidence of compliance with the Town of Greenwich Drainage Manual; and
- l. Other documentation deemed necessary for review by the duly authorized Agent.

**Section 7.10** Applications to conduct regulated activities subject to review by the Agency, but not deemed to include significant impacts shall, at a minimum, include the following information in addition to the requirements of sections 7.7, 7.8 and 7.9:

- a. Project narrative describing the proposed activity and its purpose, erosion and sedimentation controls and another 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, and/or (3) in the following order of priority: restore, enhance, and create productive wetland or watercourse resources;
- b. Site plans showing existing and proposed conditions, prepared by licensed professionals, at a scale of 1"=50' or larger showing features including property boundaries, site improvements, tree line, trees greater than 6 inches dbh within the proposed limit of disturbance, limits of wetlands and watercourses on-site and as practical, off-site within 100, 150, or 200 feet, as prescribed in section 2.1 "Upland Review Area" of these Regulations, topographic information at two foot intervals; easements, stone walls, drainage structures, utilities, trees to be removed and/or protected, and identifying any further activities associated with or reasonably related to the proposed regulated activities which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses. Each map shall have a title block, north arrow, scale, and when the parcel is vacant, the number of the nearest telephone pole;
- c. Site plans as described above reduced to fit 11"X17 ledger paper;
- d. Erosion and Sedimentation Control Plan showing limits of sediment barriers, limits of clearing, phasing, sediment basins, stockpile areas, anti-tracking pads, protection at drainage structures, protection of proposed infiltration areas, site specific construction sequence, detail specifications, and other methods and specifications of erosion and sediment control, as warranted;
- e. Alternative(s) considered and subsequently rejected by the applicant diagramed on site plans or drawings;
- f. A biological narrative describing the site, its wetlands and watercourses, and the effect the proposed activity may have on those wetlands and watercourses. The narrative shall also include measures utilized to avoid, minimize, or mitigate such impacts and shall discuss the alternatives considered, their respective impacts on the wetlands and watercourses, and why they were disqualified. The report shall be prepared and signed by a wetland scientist, ecologist, or other professional qualified to make such assessments; and

- g. Additional information as required by the Agency or its staff deemed necessary to the understanding of what the applicant is proposing. This information may be required at any time prior to the issuance of a decision on an application for a permit, or in the case of an application on which a public hearing is conducted, at any time prior to the close of the public hearing, the Agency may require the applicant to provide additional information about the land or regulated activity which is the subject of the application.

**Section 7.11** Applications to conduct regulated activities subject to review by the Agency that may include significant impact activity shall include, at a minimum, the following information in addition to the requirements of sections 7.7, 7.8, 7.9 and 7.10:

- a. Envelopes, preaddressed to such owners listed in section 7.9 g above, submitted not later than five (5) days following the date on which the Agency sets the matter down for a hearing. Prepared envelopes shall also be provided by the applicant if a public hearing is otherwise warranted in accordance with section 9.1 of these Regulations;
- b. Site plans for the proposed activity and the land which will be affected thereby which show existing (A-2 or T-2 topographic survey) and proposed conditions, wetland and watercourse boundaries, upland review areas, existing and proposed land contours, boundaries of land ownership, proposed alterations and uses of wetland 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 professional. The map shall be at a scale as the Agency may deem suitable for the review of the project. All maps shall be signed and sealed by the licensed professional responsible for their preparation;
- c. Engineering reports, analysis and additional drawings to fully describe the proposed activity including any construction, structures, filling, excavation, drainage or hydraulic modifications to watercourses and the proposed Erosion and Sedimentation Control Plan. All reports shall be signed and sealed by the Connecticut licensed professional engineer responsible for their preparation;
- d. Biological evaluation based upon a methodology acceptable to the Agency, prepared by a wetland scientist, ecologist, or other qualified professional that provides a description of the ecological communities, functions, and values of the wetlands, watercourses, and Upland Review Area involved with the application. The report should also describe the extent of the presence of plant species commonly associated with wetlands and watercourses. Description of how the proposed activities will change, diminish, or enhance the ecological communities and functions of the wetlands, watercourses, and/or upland review area involved in the application and each alternative. Narrative detailing why each alternative was deemed neither feasible nor prudent shall be included. The report shall be signed by the professional responsible for its preparation;

- e. Management practices and other measures designed to mitigate the impact of the proposed activity. Such measures could include, but need not be limited to, plans or actions that avoid destruction or diminution of the wetland and/or watercourse functions, recreational uses, and natural habitats; that prevent flooding, degradation of water quality, erosion and sedimentation, obstruction of drainage; safeguard water resources; provide for wetland/watercourse habitat and functions and other legal measures designed to preserve and protect adjacent wetland and watercourse areas and natural buffers; and
- f. Watercourse characteristics and impacts – if the Agency has reason to believe the proposed activities may potentially affect a watercourse, the applicant shall submit quantitative information of water quality and quantity relative to the present character both upstream and downstream of the watercourse on the subject property, including the comparison of existing and anticipated discharges where downstream flooding is a consideration, and the projected impact, including storm water impacts, of the proposed activity upon the watercourse.

**Section 7.12** The Agency's duly authorized Agent shall be empowered to temporarily authorize regulated activities in an emergency upon receipt of a qualifying application. Any activity authorized pursuant to this section shall be reviewed by the Agency at its next regularly scheduled meeting. The Agency may ratify such temporary authorization and issue a permit approving the same, or may seek additional information or impose such additional special conditions as it may deem appropriate.

**Section 7.13** Any application to renew, extend or modify an existing permit shall be filed with the Agency in accordance with section 8 of these Regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew, extend or amend such an existing permit shall contain the information required under this section of these Regulations provided:

- a. The application may incorporate the documentation and record of the prior 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 activity was 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 affecting wetlands or watercourses or use of the land for which the permit was issued; and
- e. The Agency may, prior to the expiration of a permit, accept an untimely application to renew such 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.

**Section 7.14** Any application to renew a permit shall be granted upon request of the permit holder unless the Agency or its staff 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 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.

**Section 7.15** For a 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 herein, 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 the land described herein, 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 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; and
- d. In lieu of such notice pursuant to subsection 7.15c, 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**

**Section 8.1** All petitions, applications, requests or appeals shall be submitted to the Town of Greenwich Inland Wetlands and Watercourses Agency, and open for public inspection in the office of the Agency during regular business hours. Copies of application documents are available in accordance with the provisions of the Freedom of Information Act.

**Section 8.2** The Agency shall, in accordance with CGS section 8-7 d(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 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.

Such notice shall be made by certified mail; return receipt requested and shall be mailed within seven (7) days of the date of receipt of the application, petition, appeal, request or plan.

**Section 8.3** 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 CGS section 25-32a, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the Land Records of the 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 application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any meeting or hearing on the application. Documentation of such notice shall be provided to the Agency.

**Section 8.4** For the purposes of these Regulations the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting immediately following the day of submission to the Agency, or thirty five days after submission, whichever is sooner.

**Section 8.5** At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in Subsection 11.2 of these Regulations.

**Section 8.6** An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.

## **SECTION 9: PUBLIC HEARINGS**

**Section 9.1** The Agency shall not hold a public hearing on any application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses; a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed requesting a hearing is filed with the Agency not later than fourteen days after the date of receipt of such application; or the Agency finds that a public hearing regarding such application would be in the public interest. The Agency may issue a permit without a public hearing provided no petition provided for in this subsection 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 (65) days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard and may be represented by agent or by attorney.

**Section 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 town where the affected wetlands and watercourses are located.

**Section 9.3** Notice of the public hearing shall be sent to the abutting landowners of record no less than 15 days prior to the day of the commencement of the hearing.

**Section 9.4** In the case of an application which is subject to the notification provisions of Subsections 8.2 or 8.3 of these Regulations, a public hearing shall not be held until the clerk of the adjoining municipality(ies) and/or water company and the Commissioner of Public Health 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**

**Section 10.1** The Agency shall consider the following in making its decision on an application:

- a. The application and its supporting documentation;
- b. All information including public comments, evidence and testimony offered at or before any public meeting or hearing;
- c. Watershed management plans and any other reports from other commissions and/or federal, state or town agencies, including but not limited to, the Connecticut Department of Energy and Environmental Protection, the Conservation Commission, the Planning and Zoning Commission, the Health Department and the Department of Public Works;
- d. The Agency may also consider comments on any application from the Southwest Conservation District, the Western Connecticut Council of Governments or other regional organizations (i.e., Council of Elected Officials); agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations; and
- e. Non-receipt of comments from agencies and commissions listed in Subsections 10.1(c) and (d) above within the prescribed time shall neither delay nor prejudice the decision of the Agency.

**Section 10.2** Criteria for Decision. 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, and/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.

**Section 10.3** In the case of an application which 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 of these Regulations. The finding and the reasons therefore shall be stated on the record in writing.

**Section 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 wetlands or watercourses, the Agency shall propose on the record and in writing the types of alternatives which the applicant may investigate. The suggested alternatives shall not be considered to be all-inclusive and this subsection shall not be construed to shift the burden from the applicant to prove that he or she is entitled to the permit or to present alternatives to the proposed regulated activity.

**Section 10.5** 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 their application is consistent with the purposes and policies of these Regulations and sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

**Section 10.6** For the 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.

**Section 10.7** The Agency shall not deny or condition an application for a regulated activity in an area outside a wetland or watercourse 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 wetland or watercourse.

**Section 10.8** In the case of an application where the applicant has provided written notice pursuant to subsection 7.15c 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.

**Section 10.9** In the case of an application where the applicant fails to comply with the provisions of subsections 7.15c or 7.15d of these Regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such a 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 of the Agency relating to appeals. The Agency shall revoke 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 of the Agency relating to appeals. The Agency shall immediately revoke 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.

**Section 10.10** Nothing in subsections 7.15c or 7.15d 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**

**Section 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, or grant it upon other terms, conditions, limitations or modifications of the regulated activity 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 CGS sections 22a-36 to 22a-45, inclusive.

**Section 11.2** No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing pursuant to section 9 of these Regulations on such application. At such hearing any person or persons may appear and be heard and may be represented by agent(s) or attorney(s). 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, the Agency shall act 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 for the holding of the hearing and for action on such application, provided the total extension(s) of all such periods shall not be for longer than sixty-five (65) days, or the applicant may withdraw the application.

The failure of the Agency or its duly authorized Agent 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.

**Section 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, as applicable and in accordance with section 10 of these Regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.

**Section 11.4** The Agency shall notify the applicant and any person entitled to such notice 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 wherein the inland wetland or watercourse lies. 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.

**Section 11.5** If an activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit or special exception, under Connecticut General Statutes sections 8-3(g), 8-3c, or 8-26, the Agency shall file a copy of the decision and report on the application with the Greenwich Planning and Zoning Commission within fifteen days of the date of the decision thereon.

**Section 11.6** Any permit issued by the Agency for the development of land for which an approval is required under Connecticut General Statutes chapter 124, 124b, 126 or 126a 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 [other] activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years.

**Section 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.

**Section 11.7** No permit issued pursuant to these Regulations shall be assigned or transferred to another party without written authorization from the Agency or its duly authorized Agent.

**Section 11.8** If a bond is required in accordance with section 13 of these Regulations, the Agency may withhold issuing the permit until such bond or insurance is provided.

**Section 11.9** 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 of Greenwich, 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 or special exception under sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained;

- d. In implementation of the authorized activities, the permittee shall employ 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 wetlands and watercourses; and
- e. Permits of any kind issued by the Agency are not transferable without the prior written consent of the Agency or its duly authorized Agent.

## **SECTION 12: ACTION BY DULY AUTHORIZED AGENT**

**Section 12.1** The Agency hereby delegates to its duly authorized Agent(s) the authority to approve or extend 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 CGS section 22a-39. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under sections 7.6 through 7.9 of these Regulations and any other information the Agency or its Agent 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.

**Section 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 of Greenwich. 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 AND INSURANCE**

**Section 13.1** The applicant, upon approval of the permit and prior to the start of the permitted activity, may, at the discretion of the Agency, be required to file a bond in an amount and in a form approved by the Agency. Bonds shall, unless otherwise approved by the Agency, be in the form of a cash deposit to be made payable to the Town of Greenwich and held without interest until released. The bond shall be conditioned on substantial compliance with all provisions of these Regulations and the terms, conditions and limitations established in the permit.

**Section 13.2** The amount of the bond shall be released to the permittee upon receipt by the Agency of evidence that the proposed activity(ies) have been substantially completed in a satisfactory manner. The Agency may, at its own discretion release a portion of the bond amount if it is of the opinion that the permitted activity(ies) have been substantially completed and only a minor portion of the activity(ies) remains to be completed.

**Section 13.3** The cash bond can be called by the Agency to correct violations or compliance problems on a permitted site in accordance with the provisions of section 14 of these Regulations.



## SECTION 14: ENFORCEMENT

**Section 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 correct 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.

**Section 14.2** The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits or licenses have been issued under these Regulations.

**Section 14.3** Any person, who commits, takes part in, or assists in any violation of any provision of these Regulations or of CGS sections 22a-36 through 22a-45 shall be subject to the penalties provided in CGS section 22a-44 and to such other penalties as the law may provide. If the Agency or its duly authorized Agent determines that any person is conducting or maintaining any activity, facility or condition, or is exceeding the conditions or limitations placed on a permit or the scope of work as set forth in the application, or has obtained a permit through deception or through inaccurate information as to either the activity or its environmental impact, the Agency or its duly authorized Agent may:

- a. 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 file an 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 14.3.b or other enforcement proceedings as provided by law; and/or
- b. 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. The order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. Within ten (10) calendar days of issuance of the 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 in a newspaper having general circulation in the Town of Greenwich. If the original or revised order remains in effect, the Agency may file a certificate of violation in the office of the Greenwich Town Clerk and the town clerk shall record the certificate on the land records. The certificate of violation shall be released upon compliance with the cease and correct order. Issuance of an order pursuant to this subsection shall not delay or bar other action pursuant to CGS section 22a-44b as amended; and/or

- c. 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 hearing to provide the permittee an opportunity to show that they are in compliance with their permit and any and all requirements for retention of the permit. During this hearing, the Agency may determine whether to call the cash compliance bond to remedy problems on the site. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit or call the cash bond by certified mail within fifteen (15) 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 of Greenwich; and/or
- d. Issue notice of a public hearing for the purpose of determining whether the Agency should bring an action in Superior Court, pursuant to Subsection (e) below for the collection of fines and penalties for violations of any of the provisions of CGS sections 22a-36 through 22a-45 as amended, or these Regulations; and/or
- e. Bring an action in Superior Court, pursuant to CGS section 22a-44 for the collection of all fines and penalties, together with all costs, fees and expense of such collection, including reasonable attorney's fees; and/or
- f. Bring an action pursuant to CGS section 22a-44 in the Superior Court, in all cases of continuing violation, for an order restraining such continuing violation and for such orders directing that the violation be corrected or removed as the Agency, pursuant to a public hearing, deems necessary and appropriate to the protection of inland wetlands and watercourses, and for the costs, fees and expenses of such action together with reasonable attorney's fees.

**Section 14.4** All parties may, subject to the ruling of the Agency, cross-examine witnesses, introduce records, papers, documents, or other evidence into the record; and submit oral arguments and file briefs for the purpose of showing compliance with requirements for retention of a permit and for the purpose of showing the absence of any violation. At all hearings held pursuant to this section, all aggrieved persons shall have the right to intervene and present evidence.

**Section 14.5** A municipal fine for violation of wetland regulations is established in accordance with an ordinance adopted December 10, 2007 and as subsequently amended by the Greenwich Representative Town Meeting. The Director, with the prior consent of the Chair of the Agency, may impose a fine in an amount not to exceed the maximum permitted by Connecticut General Statute, section 22a-42g, against any person who commits, takes part in, or assists in any violation of any provision of these Regulations. The ordinance includes the manner in which citations shall be issued and may be appealed.

**Section 14.6** Nothing in these Regulations shall be taken as limiting or excluding such other remedies as are available to the Agency for the protection of inland wetlands and watercourses, including, but not limited to, suits under CGS sections 22a-14 through 22a-20 for the protection of natural resources, and any legal or equitable powers or remedies that may be granted by a court of competent jurisdiction.

## SECTION 15: AMENDMENTS

**Section 15.1** These Regulations and the Inland Wetlands and Watercourses Map for the Town of Greenwich may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Energy and Environmental Protection or as new information regarding soils and inland wetlands and watercourses becomes available.

**Section 15.2** An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of receipt of such application shall not be required thereafter to comply with any change in inland wetlands 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 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.

**Section 15.3** These Regulations and the Town of Greenwich Inland Wetlands and Watercourse Map shall be amended in the manner specified in CGS section 22a-42a 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 map amendments at least thirty-five (35) days before the public hearing on their adoption.

**Section 15.4** Petitions requesting changes or amendments to the “Inland Wetlands and Watercourses Map, Greenwich Connecticut” shall contain at least the following information:

- a. The petitioner’s name, mailing and email addresses and telephone number;
- b. The owner's name (if not the petitioner), mailing address, telephone number, and written consent to the proposed action set forth in the petition;
- c. The petitioner’s interest in the land affected by the petition;
- d. The reasons for the requested action;
- e. The names and addresses of adjacent property owners; and
- f. A map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations.

**Section 15.5** Any person, who submits a petition to amend the Greenwich Inland Wetlands and Watercourses Map, 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. 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
- c. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.

**Section 15.6** Watercourses shall be delineated by a soil scientist, geologist, ecologist, or other individual who is qualified in the judgment of the Agency.

**Section 15.7** A public hearing shall be held on petitions to amend the Regulations and the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than fifteen days, nor less than ten days, and the last not less than two days before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

**Section 15.8** 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.

**Section 15.9** The Agency shall make its decision and state, in writing, the reasons therefore, why the change in the Inland Wetlands and Watercourses Map was made.

## **SECTION 16: APPEALS**

**Section 16.1** Appeal of Agency actions shall be made in accordance with the provisions of CGS section 22a-43 as amended.

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

## **SECTION 17: CONFLICT AND SEVERANCE**

**Section 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 the wetland or watercourse shall govern. The invalidity of any word, clause, sentence, section, part 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.

**Section 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**

**Section 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 Greenwich, CT, the State of Connecticut or 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: APPLICATION FEES**

**Section 19.1** Fees are set to cover the reasonable cost of reviewing and acting on applications, petitions, and monitoring compliance with any permit or Agency order. No application shall be 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 section 19.7 of these Regulations. The application fee is not refundable.

**Section 19.2** A schedule of fees will be established annually by the Agency in December. The fees will be effective for the following calendar year. A filing fee as specified in the schedule of fees is payable at the time an application is filed. An additional application fee may be required at the discretion of the Agency when it finds that the nature of the application requires an unusual degree of monitoring and inspection. Upon the discovery of permit violations, the Agency may also require an additional application fee to cover monitoring.

**Section 19.3** If an activity has occurred prior to the submission of an application, the Agency may require a filing fee to cover Agency costs including but not limited to field inspections, public hearings, public notices and consultants.

**Section 19.4** Filing fees are payable upon the submittal of an application to modify or amend any portion of a permit or condition issued by the Agency.

**Section 19.5** Upon the scheduling or conclusion of public hearings held pursuant to section 9 of these Regulations, a public hearing fee and an additional filing fee equivalent to one half the costs of legal notices and transcripts, respectively, shall be paid by the applicant or alleged violator. Failure to pay the public hearing fee at least two weeks prior to the hearing could result in the postponement of the public hearing until the fee is paid.

**Section 19.6** Boards, commissions, agencies and departments of the Town of Greenwich and the State of Connecticut shall be exempt from the payment of fees cited in this section.

**Section 19.7** An 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 require a fee for processing such waiver petitions. 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**

**Section 20.1** These Regulations shall be filed with the Town Clerk and shall become effective upon notice of adoption of such regulations published in the form of a legal advertisement in a newspaper having a substantial circulation in the Town of Greenwich.

**Section 20.2** Copies of such regulations and related documents shall be available at the office of the Agency. The price of such copies shall be determined by the Agency.

**Section 20.3** The effective date of these Regulations is December 28, 1973 when the notice of adoption was published in the Greenwich Time.

**Section 20.4** These Regulations have been amended on September 11, 1978; October 22, 1979; November 17, 1980; June 27, 1983; February 2, 1988; May 11, 1992 and September 28, 2004, January 30, 2006, April 28, 2008, January 23, 2012, December 17, 2012, and October 26, 2015.