



TOWN OF FAIRFIELD
INLAND WETLANDS AND WATERCOURSES REGULATIONS

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FAIRFIELD INLAND WETLANDS AGENCY
CONSERVATION COMMISSION

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SECTION 1

TITLE AND AUTHORITY

- 1.1** The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to 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 disposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the State for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the State. It is, therefore, the purpose of these regulations to protect the citizens of the State by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority, preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the State's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the State and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the State, the safety of such natural resources for the 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 Fairfield".
- 1.3** The Inland Wetland and Watercourses Agency of the Town of Fairfield was established in accordance with an ordinance adopted January 28, 1974 as amended January 31, 1977 and shall implement the purposes and provisions of the Inland Wetlands And Watercourses Act in the Town of Fairfield.

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- 1.4 These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The Agency shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and watercourses in the Town of Fairfield 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:
- 2.1.1. **"Act"** means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45a of the General Statutes, as amended.
- 2.1.2. **"Addition"** means a proposed structure, or structures that are not greater than 50% of the square footage of the existing foundation area (or that are not more than half of the square footage of the existing structure foundation area).
- 2.1.3 **"Agency"** means the Inland Wetlands and Watercourses Agency and/or the Inland Wetland Agency (or Commission) of the Town of Fairfield.
- 2.1.4 **"Bogs"** Are watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
- 2.1.5 **"Certificate of Wetlands Conformance"**. This is a document, applied for by an applicant, which may be approved by a designated agent or the Agency as a license, with or without conditions, to ensure conformance with the intent of the purpose and situations contained in Section 6.4 of these Regulations.
- 2.1.6. **"Clear-cutting"** means the harvest of timber in a fashion which removes all trees down to a 2" diameter at breast height.
- 2.1.7 **"Commercial"** or "Commercial, Industrial, Non-residential, etc." includes any site that is not entirely residential.
- 2.1.8.a **"Commission member"** means a member of the Inland Wetlands and Watercourses Agency of the Town of Fairfield.
- 2.1.8.b At least one member of the Inland Wetlands Agency or Staff of the Agency shall be a person who has completed the comprehensive training program developed by the Commissioner pursuant to Connecticut General Statute Section 22a-39, as amended by Section 2 of Public Act 95-313. Failure to have a member of the Agency or Staff with training shall not affect the validity of any action of the Agency. The Commissioner shall annually make such program available to one person from each town without cost to that person or the town. Each Inland Wetlands Agency shall hold a meeting at least once annually at which information is presented to the members of

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the Agency which summarizes the provisions of the training program.

- 2.1.9 **“Commissioner”** means the Commissioner of the State of Connecticut Department of Energy and Environmental Protection (CTDEEP).
- 2.1.10 **“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.
- 2.1.11 **“Demolition”** shall be destruction and removal of a structure, or portion of a structure, including the foundation or slab.
- 2.1.12 **“Deposit”** includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.
- 2.1.13 **“Designated agent”** means an individual(s) designated by the Agency to carry out its functions and purposes. Designated agents shall include, but not be limited to, the Conservation Director, Conservation Administrator, and Wetlands Compliance Officer. Designated agents shall complete the comprehensive training program developed by the Commissioner pursuant to Connecticut General Statute Section 22a-39, as amended.
- 2.1.14 **“Discharge”** Means emission of any water, substance, or material into waters of the state whether or not such substance causes pollution.
- 2.1.15 **“Disturb the natural and indigenous character of the land”** means that the activity will significantly alter the inland wetland and watercourses by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.
- 2.1.16 **“Essential to the farming operation”** means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.
- 2.1.17 **“Farming”** shall be consistent with the definition as noted in section 1-1(q) of the Connecticut General Statutes.
- 2.1.18 **“Feasible”** means able to be constructed or implemented consistent with sound engineering principles.
- 2.1.19 **“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 sections 22a-36 to 22a-45, inclusive.
- 2.1.20 **“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.

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- 2.1.21 **“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.
- 2.1.22 **“Municipality”** means the Town of Fairfield.
- 2.1.23 **“New Structure”** means a proposed structure or structures, that are greater than 50% of the square footage of the existing foundation area (or that are more than half of the square footage of the existing structure foundation area).
- 2.1.24 **“Nurseries”** means places where plants are grown for sale, transplanting, or experimentation.
- 2.1.25 **“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 under the authority of the Inland Wetlands Agency.
- 2.1.26 **“Permittee”** means the person to whom such permit has been issued.
- 2.1.27 **“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.
- 2.1.28 **“Pollution”** means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the State by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling or land clearing or excavation activity.
- 2.1.29 **“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 in imprudent.
- 2.1.30 a. **“Regulated Activity”** means any operation within or use of a regulated area or a lot or parcel of land which is wholly or partially contained within a regulated area involving removal or deposition of material; or any obstruction, construction, alteration or pollution, of such regulated area, or such activity located on the lot or a parcel containing regulated area, but shall not include the specified activities in Section 4 of these regulations.
- b. The regulation of activities within certain horizontal distances, i.e., upland review area, around wetlands and watercourses shall apply only to those activities which are likely to impact or affect wetlands or watercourses.
- 2.1.31 **“Regulated area”** means any inland wetland or watercourse as defined in these regulations. “Regulated area” shall be defined as both “wetlands” and all existing and future “watercourses” including horizontal distances i.e., upland review area, around

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all wetlands and watercourses according to the following upland review areas:

WATERSHED	DISTANCE
Aspetuck River	106 feet
Sasco Creek	95 feet
Sasco Creek Tributary	95 feet
Mill River	144 feet
Browns Brook	83 feet
Cricker Brook	103 feet
Pine Creek	50 feet
Grasmere Brook	79 feet
Rooster River	90 feet
Horse Tavern Brook	34 feet
London Brook	30 feet

and including the entire parcel which is wholly or partially contained within the regulated area (see Mario v. Town of Fairfield 217 Conn. 164 (1991) and Section 6.4 of these regulations pertaining to Certificates of Wetlands Conformance). Not all watercourses may be specifically delineated on the maps entitled "Designated Inland Wetlands and Watercourses of the Town of Fairfield Connecticut" due to imperfections in printing and mapping scale. The reference to existing and future watercourses acknowledges the fact that a watercourse can be and is created every time a stream is diverted or piped or when a storm water detention basin is constructed. A storm sewer stream diversion beneath a road would exist as a watercourse but would be impossible to depict graphically on the wetland maps due to scale. The Fairfield Inland Wetlands Agency determines and regulates all wetlands and watercourses regardless of whether they are shown on the designated inland wetland and watercourses maps. The more extensive definition shall be effective where both coincide.

2.1.32 **"Remove"** includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, bulldoze, dragline, or blast.

2.1.33 **"Rendering unclean or impure"** means any alteration of the physical, chemical or biological properties of any waters of the State, including, but not limited to, change in odor, color, turbidity or taste.

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

1. Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another

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part of the inland wetland or watercourse system; or

2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space or other functions; or
4. Any activity which causes substantial turbidity, siltation or sedimentation in a wetland or watercourse; or
5. Any activity which causes a substantial 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 or educational value.

2.1.35 **"Soil Scientist"** means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

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

2.1.37 **"Submerged lands"** means those lands which are inundated by water on a seasonal or more frequent basis.

2.1.38 **"Town"** means the Town of Fairfield.

2.1.39 **"Unit of construction"** each separate proposed lot, as in a subdivision; OR

each structure on one lot with its own distinct foundation, or subsurface sewage disposal system, such as a pool or guest house; OR

each addition requiring a separate foundation; OR

each separate proposed building as in a multi-unit condominium development; OR

each separate building structure on one lot or proposed lot such as detached garages, sheds, etc.; OR

for commercial, industrial, or non-residential (and assisted living type) structures, each 5,000 square feet of the building foundation footprint, or portion thereof, shall be considered a unit of construction, and each parking area shall be a unit of construction.

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2.1.40 **“Unit of demolition”** shall be each separate structure whether or not on a separate lot.

2.1.41 **“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.

2.1.42 **“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 Section 22a-28 through 22a-35, inclusive, of the General Statutes, as amended. Intermittent watercourse shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus; (b) the presence of standing or flowing water for a duration longer than a particular storm incident; and (c) the presence of hydrophytic vegetation.

In attempting to achieve the objectives of these regulations, as specified by Town ordinance, the Agency acknowledges the fact that the adverse effects of developmental activities must be anticipated and regulated before they impact upon a watercourse and, conversely, that the detrimental effects on development due to flooding be minimized before the flood waters impact upon such development. For these reasons and in light of the recently acquired watershed – floodway data compiled by the U.S. Army Corps Of Engineers, the regulated area shall include the watercourse and all adjacent ground surface within the horizontal distances from the upland soil – water course interface of said watercourse, as described in Section 2.1.31, Regulated Area, and on maps entitled “Designated Inland Wetlands and Water Courses of the Town of Fairfield, Connecticut”, on file for inspection in the Town Clerk’s office, and the office of the Agency.

2.1.43 **“Wetlands”** means land, including submerged land as defined in this section, not regulated pursuant to Section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). 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. The regulated area shall include the wetlands and all adjacent ground surface within the horizontal distances from the wetland-upland soil interface of said wetland as described in Section 2.1.31, Regulated Area, and delineated on maps entitled “Designated Inland Wetlands and Water Courses of the Town of Fairfield, Connecticut”, on file for inspection in the Town Clerk’s office and the office of the Agency.

SECTION 3

INVENTORY OF REGULATED AREAS

- 3.1** The map of regulated areas, entitled "Designated Inland Wetlands and Water Courses, Town of Fairfield, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the 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 field inspections and testing conducted by a certified soil scientist, 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 Inland Wetland 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 within the Town.
- 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. The provisions of this subdivision 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 purposes of sale; and

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b. A residential home (i.) for which a building permit has been issued or (ii.) 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 to 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 subdivision unless the building permit was obtained on or before July 1, 1987.; and

c. Boat anchorage or mooring, not to include dredging or dock construction; and

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 municipality (provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres) and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of substantial amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse; and

e. Construction and operation, by water companies as defined by Section 16-1 of the 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 General Statutes; and

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 subdivision, "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.

4.2 The following operations and uses shall be permitted as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland watercourse:

a. Conservation of soil, vegetation, water, fish, shellfish and wildlife; and

b. Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping,

boating, water skiing, trapping, hunting, fishing and shellfishing 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 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; and

d(i) Normal routine maintenance by Town of Fairfield agencies, but not upgrading or improvement, of existing facilities and structures which structures or activities and the maintenance thereof do not have a significant adverse or major effect upon a regulated area as determined by the agency in accordance with section 2 and 7 of these regulations. Such maintenance work shall be performed so as to cause the least change, modification, disturbance, or damage to the regulated area. Every reasonable effort, as determined by the agency, shall be made to restore the regulated area to its original natural condition by the town agency conducting such necessary maintenance work.

(ii) Under this subsection, "Normal Routine Maintenance" by Town of Fairfield agencies is restricted to the performance of activities incident to maintaining the structural integrity and hydraulic conveyance of existing man-made drainage improvements located within public rights of way including, but not limited to: repairs to existing end walls, the clearing of debris, silt or other material that might hinder the flow of water discharged from an existing piped watercourse to an open watercourse, the flushing and routing of culverts, the excavation, repair and replacement of existing culverts with a culvert of equivalent capacity and grading appurtenant thereto provided there are no new drainage connections or no increased volume or rate of flow to the system, repair or adjustment to existing manholes, catch basins, grates and frames, maintenance of bridge piers, abutments and spans, the maintenance of road-shoulder swales and leak-offs, repair of retaining walls and restoration and stabilization of road shoulders, side slopes and embankments, provided that appropriate erosion and sediment control practices and structures are carried out as described in "Connecticut Guidelines for Soil Erosion and Sediment Control".

(iii) This section does not apply to work in unimproved cross-country easements or rights of way, on private property, or in any inland wetland soil or in a watercourse beyond the public right of way. Regulated activities in restricted areas such as these shall require an application for a Certificate of Wetlands Conformance or an Inland Wetland Permit as appropriate to the activity and area involved.

4.3 All activities in wetlands and 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 a permitted operation and use or a nonregulated operation and use 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 nonregulated use of a wetland or watercourse. The Agency shall rule that the proposed operation and use or portion of it is a permitted or nonregulated operation and use or that the proposed operation and use is a regulated activity and a permit is required.

SECTION 5

ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION

- 5.1 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by the department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to section 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 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.
- 5.3 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Environmental Protection under sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 The Commission of Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into 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

- 6.1 No person shall conduct or maintain a regulated activity upon and inland wetland or watercourse regulated area without first obtaining a permit for such activity from the Inland Wetland Agency of the Town of Fairfield. Any person proposing to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse shall file an application with the Inland Wetlands Agency. The application shall be in such form and contain such information as the Inlands Wetlands Agency may prescribe.
- 6.2 The Agency shall regulate any operation within or use of a wetland or watercourse or regulated area involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses or regulated area and any other regulated activity, unless such operation or use is permitted or non-regulated pursuant to section 4 of these regulations.
- 6.3 Any person found to be conducting or maintaining a regulated activity without 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.
- 6.4 **Eligible Activities for Certificates of Wetlands Conformance**
- a. Subject to review and written determination by the agency or its agent that the proposed activity(ies):
- IS not reasonably likely to significantly disturb the natural and indigenous character of the land, and that the conduct of such activity would result in no greater than a minimal impact on any wetland or watercourse;
 - AND, if specified in category i, ii, iv, and v, below, if conducted, are located within one parcel of land, wholly or partially contained within a regulated area, or within a town right-of-way or easement but not located within a wetland soil or within a watercourse i.e., within the wetted perimeter, except for aquatic pesticide application.
 - OR, if specified in category iii below, if conducted, are located on a parcel of land which parcel is wholly or partially contained within a regulated area, provided the structure, construction activities, on-site storm water detention and related site disturbance activities are all located outside of the regulated area.
 - THEN, the following activities may be conducted in the following situations, with a Certificate of Wetlands Conformance Categories:
 - (i) The construction of a shed or deck, or demolition of structure (s) 1,000 square feet or less; OR

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The excavation and filling of soil observation holes, test pits and borings used to determine engineering, septic, and related information pertaining to site suitability surveys; OR

The repair of an existing septic system but not to include the total replacement;

(ii) The construction of an addition to an existing residential dwelling or the construction or renovation of improvements located on a residential lot; OR

The construction of an addition to an existing commercial, industrial or non-residential building or the construction or renovation of improvements located on a commercial, industrial or nonresidential lot; OR

The demolition of a residential building or improvement located on the lot of an existing residential dwelling of over 1000 square feet; OR

The demolition of a commercial, industrial or nonresidential building or the existing improvements located on a commercial, industrial or nonresidential lot of over 1000 square feet.

(iii) The construction of a new residential structure located on a residential lot; OR

The construction of a new commercial, industrial or non-residential structure located on a commercial, industrial or nonresidential lot.

(iv) Normal routine maintenance by Town of Fairfield agencies that is restricted to the performance of activities incident to maintaining the structural integrity and hydraulic conveyance of existing man-made drainage improvements located in unimproved cross-country easements or rights-of-way, or on private property when all such activities are not located in wetland soil or within the wetted perimeter of a watercourse. Such maintenance work shall be performed so as to cause the least change, modification, disturbance or damage to the regulated area. Every reasonable effort, as determined by the Agency, shall be made to restore the regulated area to its original natural condition by the entity conducting such necessary maintenance (See section 4.2.d.i through 4.2.d.iii).

(v) New or improved drainage projects by Town of Fairfield agencies whether in town rights-of-way or on private property, when all such activities are not located in wetland soil or in a watercourse (See section 4.2.d.i through 4.2.d.iii).

The duration of a Certificate of Wetlands Conformance shall correspond to that of an Inland Wetland Permit.

b. The designated agent may approve, but not immediately issue, a Certificate of Wetlands Conformance, with or without conditions, to any

applicant whose proposed activities, as described in the applicant's supporting plans and documents, come within the situations described hereinabove (6.4.a).

c(i) Any person receiving a notice of intent to approve and issue a Certificate of Wetlands Conformance from such designated agent shall, within ten days of the date of notice of such approval, publish, at the applicant's expense, notice of the intent to approve and issue a certificate 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 designated agent to the Inland Wetlands Agency within fifteen days after the publication date of the notice and the inland wetlands 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. The Inland Wetlands Agency shall, at its discretion, sustain, alter, or reject the decision of its designated agent or require an application for a permit in accordance with sections 6, 7, 8, and 9 of these regulations.

(ii) If approved, the designated agent shall not issue a certificate prior to the expiration of the aforementioned fifteen day appeal period; and if appealed no certificate shall be issued prior to a ruling on the appeal by the Agency.

(iii) The applicant shall submit proof of publication of the notice of intent to approve and issue at the time it requests issuance of the approved certificate.

(iv) In acting on an application for a certificate the designated agent or agency shall consider the factors set forth in section 10 of these regulations, and shall state upon the record the reasons for its decision in writing.

d. The designated agent or Agency may revoke a Certificate of Wetlands Conformance if, in its judgement, it finds that the activities are inconsistent with the intent of the Certificate or if the purposes of the wetlands regulations would be best served by requiring an application for a wetland permit.

e. The designated agent may annually advise the Agency of the Certificates issued within the preceding year.

6.5 Emergency provisions

Section 6.1 preceding shall not apply to emergency work in a regulated area which is immediately necessary to protect the health, safety and well-being of any person or to prevent imminent damage to personal or real property, providing the Agency is given immediate verbal notification and written notification within 48 hours after commencement of the work and within 48 hours of the completion of such work. Such emergency work shall be performed so as to cause the least change, modification, disturbance or damage to the regulated area. Every reasonable effort, as determined by the Agency, shall be made to restore the regulated area to its original natural condition by the person conducting such necessary emergency work. The person conducting the emergency work, or causing the emergency work

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to be conducted, shall submit an inland wetland permit application for the work within thirty (30) days of the initiation of the emergency work.

SECTION 7

APPLICATION REQUIREMENTS

- 7.1 a. Any person intending to conduct a regulated activity, amend, or renew a permit to conduct such activity, shall apply for a permit on a form entitled "Town of Fairfield Inland Wetlands and Watercourses Agency Application for permit". An application shall include an application form and such information as prescribed by subsection 7.5 and, in the case of a significant activity, by subsection 7.6 of these regulations.
- b. Application forms and required Site Plan Data Checklist may be obtained in the office of the Fairfield Inland Wetlands Agency.
- 7.2 If an application to the Town of Fairfield's Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Agency in accordance with this section, no later than the day the application is filed with the Town Planning and Zoning Commission.
- 7.3 All applications shall contain such information that is necessary for a fair and informed determination of the issues.
- 7.4 The prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- 7.5 All applications shall include the following information in writing or on maps or drawings:
 - a. The applicant's name, home and business mailing addresses 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;
 - c. Applicant's interest in the land;
 - d. The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), and wetland vegetation;

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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 or priority: restore, enhance and create productive wetland or watercourse resources;

f. Alternative which would cause less or no environmental impact to wetlands or watercourses and why the alternatives as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan drawing;

g. A site plan 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;

h(i) Names and addresses, and assessors map and parcel numbers, of current abutting property owners of record.

(ii) Name and address of the clerk(s) of any municipality within five hundred (500) feet of the subject property, or through which municipality any significant portion of the traffic, sewage, drainage or runoff will pass if the project is approved as proposed.

(iii) Name and address of the water company, if any, within whose watershed boundary any portion of the subject property exists.

i. Statement by the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;

j. Authorization for the members and agents of the Agency to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;

k. A completed CTDEEP reporting form; the Agency shall revise or correct information provided by the applicant and submit the form to the Commissioner of Department of Energy and Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;

l. Any other information the Agency deems necessary to the understanding of the what the applicant is proposing; and

m. Submission of the appropriate filing fee based on the fee schedule established in **Section 19** of these regulations.

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7.6 At the discretion of the Agency or its agent, or when the proposed activity involves a significant impact, additional information based on the nature and anticipated effects of the activity, including but not limited to the following, is required:

- a.** Site plans for the proposed use or operation and the property which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the development, prepared by the applicable professional engineer, land surveyor, architect and landscape architect licensed by the state of Connecticut or by such other qualified person;
- b.** Engineering reports, and analyses, and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
- c.** Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;
- d.** Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
- e.** A 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; and
- g.** Management practices and other measures designed to mitigate the impact of the proposed activity.

7.7 The applicant shall certify whether:

- a.** Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- b.** Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c.** Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,

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- d.** Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.8** One (1) original, one (1) set in electronic format, and seventeen (17) sets of collated copies of all application materials shall be submitted to comprise a complete application unless and applicant is otherwise directed, in writing, by the Agency.
- 7.9** Any application to renew or amend an existing permit shall be filled 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 or amend such an existing permit shall contain the information required under section 7 of these regulations provided:
- a.** The application may incorporate the documentation and record of the 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;
- 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 judgement, the permit is likely to be renewed 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 years, and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.
- 7.11** For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:
- a.** For purposes of this 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

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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, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of such existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than sixty days prior to the filing of the permit application.

d. In lieu of such notice pursuant to subsection 7.11c, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.

7.12 A reporting form shall be completed during the application process which provides the Commissioner of the Department of Energy and Environmental Protection with information necessary to properly monitor the inventory of State wetlands. The reporting form shall be part of the application and the following information shall be provided by the applicant: name of applicant; location and name of the project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered. The Agency shall be responsible for the remaining information and any corrections on the form and for filing it in accordance with section 22a-39-14 of the Inland Wetlands and Watercourses Regulations of the Department of Environmental Protection.

SECTION 8

APPLICATION PROCEDURES

8.1 All petitions, applications, requests or appeals shall be submitted to the Inland Wetlands and Watercourses Agency for the Town of Fairfield with the Conservation Department.

8.2 The Agency shall, in accordance with Connecticut General Statutes section 8-7d(f), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:

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- a. Any portion of the property affected by a decision of the agency is within five hundred 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 on the site will flow through and significantly impact the drainage or sewerage 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 days of the date of receipt of the application, petition, appeal, request, or plan.

- 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 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 municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application.
- 8.4 The date of receipt of a petition, application, request, or appeal shall be the day of the next regularly scheduled meeting of the Agency, immediately following the day of submission to the Agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.
- 8.5 At any time during the review period, the Agency may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection.
- 8.7 Incomplete applications may be denied.
- 8.9 a. The Agency shall cause to be published, in a newspaper having general circulation within the Town of Fairfield, and within fifteen (15) days of receipt of an application, a notice indicating receipt of an application to conduct a regulated activity. The notice shall provide for the public to petition for a public

hearing on the application and the Agency must consider the petition if it is endorsed by at least twenty-five(25) persons and received within thirty (30) days of the submission of such application. For the purposes of this section, the submission date shall be the date the designated agent received the application, not the date of receipt of the application by the Agency.

b. The Inland Wetlands Agency shall not hold a public hearing on such application unless the Inland Wetlands Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, or a petition signed by at least twenty-five (25) persons requesting a hearing is filed with the Agency not later than thirty (30) days after the submission of such application, or the Agency finds that a public hearing regarding such application would be in the public interest.

c. Such hearing shall be held no later than sixty-five (65) days after the receipt of such application.

SECTION 9

PUBLIC HEARINGS

9.1. a. The Inland Wetlands Agency shall not hold a public hearing on an application unless the inland wetlands 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 filed with inland wetlands agency not later than fourteen days after the date of receipt of such application, or the inland wetlands agency finds that a public hearing regarding such application would be in the public interest. The inland wetlands agency may issue a permit without a public hearing provided no petition provided for this section is filed with the inland wetlands agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard.

b. When a public hearing is required or otherwise held on a petition, application, request or appeal, such hearing shall be completed within thirty-five (35) days after such hearing commences. The petitioner or applicant may consent to one or more extensions of the time period for scheduling or completing the hearing provided the total extension of all such periods shall not be for longer than sixty-five (65) days or may withdraw such petition, application, request or appeal.

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

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newspaper having a general circulation in each town where the affected wetland or watercourse is located.

- 9.3** The Agency shall endeavor to give notice of the public hearing to owner(s) of record of abutting land by mail no less than fifteen days prior to the day of the hearing. In giving such notice the Agency may rely on the last completed grand list for the town. Such notice shall be at the expense of the applicant. Failure of an abutting landowner to receive notice shall not deprive the Agency of jurisdiction to hear and act on the application and shall not be grounds for appeal.
- 9.4** In the case of any application which is subject to the notification provisions of subsection 8.2 of these regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.
- 9.5** The Agency or its designated agent shall specify the forms for notifying the current abutting property owners of record, municipalities, and water companies, by a First Class, Certified Return Receipt mailing showing to whom and date delivered. Such notification envelopes and fee shall be provided by the applicant at the time of application.

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. Reports from other agencies and commissions including but not limited to the Town of Fairfield:
 - 1. Conservation Commission
 - 2. Planning, Zoning, or Planning and Zoning Commissions
 - 3. Building Official
 - 4. Health Officer
 - c. The Agency may also consider comments on any application from the Fairfield County Soil and Water Conservation District, the Metropolitan Council of Governments (METROCOG), 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.

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d. 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.

e. For an application for which a public hearing is held, public comments, evidence and testimony.

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, including the effects on the inland wetland's and watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.

b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.

c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options.

d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources. This requires recognition that the inland wetlands and watercourses of the State of Connecticut are an indispensable, irreplaceable and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion, diminution or obstruction of water flow including low flows, and by the erection of structures and other uses.

e. The character and degree of injury to, or interference with safety, health, or the reasonable use of property, including abutting or downstream property, which is caused or threatened by the proposed regulated activity, or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community.

f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed, and future activities associated with, or reasonably related to, the proposed regulated activity, which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses. This requires a balancing of the need for the economic growth of the state and the use of its land, with the need to protect its environment and ecology for the people of the state and the benefit of generations yet unborn.

g. Measures which would mitigate the impact of any aspect of the proposed regulated activity. Such measures include, but are not limited to, actions which would avoid adverse impact or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and groundwater to control sedimentation, prevent erosion, assimilate wastes, facilitate drainage, to control pollution, to support recreational activities and open space, and to promote public health and safety. Mitigation 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.

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 this section. The finding and the reasons therefore shall be stated on the record in writing.

10.4 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed activity which have less adverse impact on wetlands and 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

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alternatives to the proposed activity.

- 10.5** For purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands and watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6** A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7** In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence of other material not in the hearing record shall not be considered by the Agency in its decision.
- 10.8** In the case of an application where the applicant has provided written notice pursuant to subsection 7.11c of these regulations, the holder of the restriction may provide proof to the inland wetlands agency that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the inland wetlands agency shall not grant the permit approval.
- 10.9** In the case of an application where the applicant fails to comply with the provisions of subsections 7.11c or 7.11d of these regulations, 1.) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or 2.) r (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 inland wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.
- 10.10** Nothing in subsections 7.11c or 7.11d 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 AND PERMIT

- 11.1** The Agency may grant the application as filed; grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the policy of the Inland Wetlands and Watercourses Act, or deny. 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 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 bases for its decision.
- 11.4** The Agency shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit, in a newspaper having a 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.
- 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 of Fairfield Planning, Zoning, or Planning and Zoning Commission within fifteen days of the date of the decision.

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- 11.6** Any permit issued by the Agency for the development of land for which an approval is required under Chapter 124, 124b, 126 or 126a of the Connecticut General Statutes shall be valid until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued by the Agency for any activity for which any 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.
- 11.6.1** Notwithstanding the provisions of Section 11.6 of these regulations, any permit issued by the Agency prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.
- 11.7** No permit shall be assigned or transferred without the written permission of the Agency.
- 11.8** 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.
- 11.9** General provisions in the issuance of all permits:
- a.** If the Agency 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 Fairfield, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.
 - c.** If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under sections 8.3(g), 8-3(c), or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
 - d.** In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control stormwater discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
 - e.** Permits are not transferable without the prior written consent of the agency.

SECTION 12

ACTION BY DULY AUTHORIZED AGENT

- 12.1** The Agency may delegate to its duly authorized agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to 22a-39 of the Connecticut General Statutes. Request for such approval shall be made on a form provided by the Agency and shall contain the information listed under section 7.5 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8,9, and 11 of these regulations, such agent may approve or extend such an activity at any time.
- 12.2** Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with section 7 of the these regulations.
- 12.3** The Agency may delegate to its duly authorized agent the authority to approve, approve with conditions, modify or extend any application for a Certificate of Wetlands Conformance prescribed in Section 6.4

SECTION 13

BOND AND INSURANCE

- 13.1** Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Agency, be required to file a bond with such surety in such amount and in a form approved by the Agency.
- 13.2.** The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.
- 13.3** The Agency may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or

use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount 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 actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.
- 14.2** The Agency or its agent may make regular inspections at reasonable hours of all regulated activities for which permits have been issued with the consent of the property owners 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 designated agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:
- a.** Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (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 in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44(b) of the Connecticut General Statutes, as amended;
 - b.** Suspend or revoke a permit if it finds that the 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

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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 it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper general circulation in the municipality wherein the wetland or watercourse lies.

c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or filing a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subsection 14.3.a or other enforcement proceedings as provided by law.

(i) After notice to the owner of the property in question, and following a public hearing confirming an inland wetland violation, the Agency may record on the Fairfield Land Records, with respect to the title of the property in question, a Notice of Violation including a description of the property, and a summary of the nature of the violation and the actions and time frames required for its resolution. A copy of such violation notice shall be sent by Certified Mail Return Receipt Requested to the violator.

(ii) Following resolution of a violation in a matter where a Notice of Violation is filed on the Fairfield Land Records, the Agency (or its designated agent) shall clear the title by recording on the Fairfield Land Records a Notice of Resolution of Violation.

SECTION 15

AMENDMENTS

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Fairfield may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the State Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with an Inland Wetlands Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks and buffers, taking

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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 a change has taken effect on or after the date of such receipt. The provisions of this subdivision 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 chapter 440 of the Connecticut General Statutes as of the date of such receipt.

15.3 These regulations and the Town of Fairfield Inland Wetlands Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Energy 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 pursuant to subsection 15.4 of this section, at least thirty-five days before the public hearing on their adoption. (Fee schedules shall be adopted as Agency regulations or as otherwise provided by municipal ordinance.)

15.4 Petitions requesting changes or amendments to the "Designated Inland Wetlands and Watercourses of the Town of Fairfield, Connecticut" shall contain at least the following information:

- a. The petitioner's name, address and telephone number;
- b. The address of the land affected by the petition;
- c. The petitioner's interest in the land affected by the petition;
- d. 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; and
- e. The reasons for the requested action.

15.5 Any person who submits a petition to amend the "Designated Inland Wetlands and Watercourses of the Town of Fairfield, 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 14.3, The petition shall include:

- a. The name, address and telephone number of the owner(s) of such land and owner(s) agent or other representative;

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- b. The names and addresses of the owners of abutting land;
- 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.

15.6 Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.

15.7 A public hearing shall be held on petitions to amend the Designated Inland Wetlands and Watercourses Map of the Town of Fairfield. 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.

15.8 The Agency shall hold a public hearing on a petition to amend the regulations and the Designated Inland Wetlands and Watercourses Map of the Town of Fairfield within sixty five days after receipt of such petition. The hearing shall be completed within thirty-five days after commencement. The agency shall act upon the changes requested in such petition within sixty-five days after the completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by the agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition. Failure of the agency to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.

15.9 The Agency shall make its decision and state, in writing, the reasons why the change in the Designated Inland Wetland and Watercourses Map of the Town of Fairfield was made.

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 Energy and Environmental Protection.

SECTION 17

CONFLICT AND SEVERANCE

- 17.1 If there is conflict among 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, subdivision or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.
- 17.2 If there is a conflict between the provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

SECTION 18

OTHER PERMITS

- 18.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Fairfield, 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

APPLICATION FEES

- 19.1 **Method of Payment.** All fees required by these regulations shall be submitted to the Agency by cash, check, or such other forms of payment as may be approved from time to time payable to the Town of Fairfield at the time the application is filed with the Agency.
- 19.2 No application shall be granted or approved by the Agency unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to subsection 19.5.1 of these Regulations.
- 19.3 Fees are not refundable.
- 19.4 Definitions. As used **ONLY** for the purposes of this Section:
- 19.4.(i) **"Residential uses"** means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.
- 19.4.(ii) **"Commercial uses"** means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.

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194.(iii) "Other uses" means activities other than residential uses or commercial uses, such as "pond maintenance dredging", which means activities meant to restore a pond to a pre-existing condition and is not meant to include activities to create a new pond or to fill any wetland or watercourse.

19.5 Fee schedules. Certificate of Wetlands Conformance and Inland Wetland Application and Permit fees shall be based on the following schedules:

19.5.1 Waiver. All fees may be waived in full or in part at the discretion of the Agency.

19.5.2 Public hearing fee is \$320.00 (This is in addition to any fees required below.)

19.5.3 Certificates of Wetlands Conformance Fees(see section 6.4).

A Use Fee per category type is required, as follows:

<u>Category</u>	<u>Use Fee</u>	
(i)	\$640.00	
(ii)	\$960.00	plus:
	\$320.00	per additional unit of construction or demolition.
(iii)	\$1280.00	plus:
	\$960.00	per additional unit of construction, plus:
	\$320.00	per unit of demolition, plus:
		Fee from Schedule A (see below)
(iv) (v)	Town - No fee	

Schedule A Fee

The Schedule A fee is based on the regulated area of the parcel in 1,000 square feet or part thereof. One acre contains 43,560 Ksq.ft.

If Regulated Area of Parcel (in 1000 Sq. Ft.) is Over --	But Not Over --	Schedule A Fee is	Times the area (in 1000 Sq.Ft.) over --
0	25	___ \$50/Ksqft	0 Sq. Ft.
25	50	\$1,250 + \$40/Ksqft	25
50	100	\$2,250 + \$30/Ksqft	50
100	----	\$3,750 + \$10/Ksqft	100

EXAMPLE: Parcel of 2.1 acres of which .75 acre is regulated area. Schedule A fee is

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calculated as follows:

Regulated area: .75 acre X 43,560 square feet per acre = 32,670 sq. ft., say 33,000 sq. ft. Schedule A fee is \$1,250 + \$40 X 8 (which is 33 less 25) or \$1,570

For the purpose of calculating Certificate and Permit application, approval and extension fees, the regulated area in schedule A is the total area of wetlands and watercourses including upland review regulated area on the entire property.

For other uses such as pond maintenance dredging, the Schedule A fee is only calculated on the pond and related disturbance area plus the setback around the pond, i.e., that portion of the total regulated area on the property which is reasonably likely to be disturbed or affected by the proposed activity.

All of the above application fees are due at the time of application.

Upon site disturbance, Schedule A fees per year of disturbance for category (iii).

A Certificate Time Extension Fee of \$160.00/Certificate is required, plus Schedule A fee per year of site disturbance. This fee shall accompany any request for Certificate time extension.

19.5.4 Inland Wetland Application Permit Fees

A Permit Application Fee of \$480.00 is required for “construction uses,” plus Use Fees listed per applicable Category. “Construction uses” cover the same activities listed as Certificate of Wetlands Conformance Categories (i) through (iii) (see section 6.4.a).

A Permit Application fee of \$960.00 is required for “other uses,” e.g., pond maintenance dredging; plus fees listed per Schedule A or B, except that the regulated area calculation shall be replaced with the size of the pond, plus its setback area around the disturbance perimeter.

A Use Fee is required per type of application, as follows:

Application Type	Use Fee	
Construction or addition or residential or commercial, industrial or nonresidential lot	\$640.00	plus
	\$480.00	Per additional unit of construction or demolition, plus: Fee from Schedule A or B (see below)
New construction on a residential or commercial,	\$960.00	plus
	\$960.00	Per additional unit of construction, plus:

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industrial or nonresidential lot	\$480.00	Per unit of demolition plus: Fee from Schedule A or B (See Below)
	\$960.00	Plus: Fee From Schedule A or B except that regulated area is calculated only for the pond plus setback area (see below)

Fees per 1,000 square feet of regulated area are the same as for Certificates of Wetlands Conformance, i.e., Schedule A, with the following exception: When the Permit Application is found to be **significant**, then Schedule B fees will apply.

Schedule A Fee

The Schedule A fee is based on the regulated area of the parcel in 1,000 square feet or part thereof. One acre contains 43,560 square feet.

If Regulated Area of Parcel (in 1000 Sq.Ft.) is Over --	But Not Over --	Schedule A Fee is	Times the area (in 1000 Sq.Ft.) over --
0	25	___ \$50/Ksqft	0 Sq. Ft.
25	50	\$1,250 + \$40/Ksqft	25
50	100	\$2,250 + \$30/Ksqft	50
100	----	\$3,750 + \$10/Ksqft	100

Example: Parcel of 2.1 acres of which .75 acre is regulated area. Schedule A fee is calculated as follows:

Regulated area: .75 acre X 43,560 square feet per acre = 32,670 sq. ft., say 33,000 sq. ft. Schedule A fee is \$1,250 + \$40 X 8 (which is 33 less 25) or \$1,570

Schedule B Fee

The Schedule B fee is based on the regulated area of the parcel in 1,000 square feet or part thereof. One acre contains 43.560K sq. ft.

If Regulated Area of Parcel (in 1000 Sq.Ft.) is Over --	But Not Over --	Schedule B Fee is	Times the area (in 1000Sq.Ft.) over --
0	25	___ \$160/Ksqft	0 Sq. Ft.
25	50	\$4,000 + 110/Ksqft	25
50	100	\$6,750 + \$60/Ksqft	50
100	----	\$9,750 + \$20/Ksqft	100

Example: Parcel of 2.1 acres of which .75 acre is regulated area. Schedule B fee is calculated as follows:

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Regulated area: .75 acre X 43,560 square feet per acre = 32,670 sq. ft., say 33,000 sq. ft. Schedule B fee is \$4,000 + \$110 X 8 (which is 33 less 25) or \$4,880

Schedules A and B. For the purpose of calculating application and permit fees, the regulated area in Schedule A or B is the total area of wetlands and watercourses including setback area on the entire property.

For other uses such as pond maintenance dredging, the Schedule A fee is only calculated on the pond area plus the setback around the pond's related disturbance perimeter, i.e., that portion of the total regulated area on the property which is reasonably likely to be disturbed or affected by the proposed activity.

All of the above application fees are due at the time of application.

An approved Permit Fee of \$2,890.00 is due within twenty (20) days of Permit approval, plus, upon site disturbance, Schedule A or B fees per year of disturbance.

A Permit Time Extension Fee of \$2,890.00/Permit is required, plus Schedule A or B fee per year of site disturbance. This fee shall accompany any request for Permit time extension.

- 19.5.5 IWPA Permit Amendment or Modification Fee shall 25% of the original base permit fee.
- 19.5.6 Map Amendment Fee: (Town - no fee/Private - \$960.00 per parcel)
- 19.6 Exemption. Boards, commissions, agencies, councils and departments of the Town of Fairfield are exempt from all fee requirements.

SECTION 20

EFFECTIVE DATE OF REGULATIONS

- 20.1 These regulations including the "Designated Inland Wetlands and Watercourses of the Town of Fairfield, Connecticut" 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 Fairfield.

APPENDIX A

Connecticut General Statute Section 1-1(q)

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

APPENDIX B

Connecticut General Statute section 8-7d

Sec. 8-7d. Hearings and decisions. Time limits. Day of receipt. Notice to adjoining municipality. Public notice registry.

(a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 or an aquifer protection agency under chapter 446i and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. Notice of the hearing shall be published in a newspaper having a general circulation in such 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 or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board or agency may, by regulation, provide for additional notice. Such regulations shall include provisions that the notice be mailed to persons who own land that is adjacent to the land that is the subject of the hearing or be provided by posting a sign on the land that is the subject of the hearing, or both. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. 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. All decisions on such matters shall be rendered not later than sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.

(b) Notwithstanding the provisions of subsection (a) of this section, whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered not later than sixty-five days after receipt of such site plan. Whenever a decision is to be made on an application for subdivision approval under chapter 126 on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an inland wetlands and watercourses application under chapter 440 on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an aquifer protection area application under chapter 446i on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such plan or application.

(c) For purposes of subsection (a) or (b) of this section and section 7-246a, the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such

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commission, board or agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner. If the commission, board or agency does not maintain an office with regular office hours, the office of the clerk of the municipality shall act as the agent of such commission, board or agency for the receipt of any petition, application, request or appeal.

(d) The provisions of subsection (a) of this section shall not apply to any action initiated by any zoning commission, planning commission or planning and zoning commission regarding adoption or change of any zoning regulation or boundary or any subdivision regulation.

(e) Notwithstanding the provisions of this section, if an application involves an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by a zoning commission or planning and zoning commission established pursuant to this section would elapse prior to the thirty-fifth day after a decision by the inland wetlands agency, the time period for a decision shall be extended to thirty-five days after the decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.

(f) The zoning commission, planning commission, zoning and planning commission, zoning board of appeals, inland wetlands agency or aquifer protection agency shall 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: (1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality; (2) 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; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

(g) (1) Any zoning commission, planning commission or planning and zoning commission initiating any action regarding adoption or change of any zoning regulation or boundary or any subdivision regulation or regarding the preparation or amendment of the plan of conservation and development shall provide notice of such action in accordance with this subsection in addition to any other notice required under any provision of the general statutes.

(2) A zoning commission, planning commission or planning and zoning commission shall establish a public notice registry of landowners, electors and nonprofit organizations qualified as tax-exempt organizations under the provisions of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, requesting notice under this subsection. Each municipality shall notify residents of such registry and the process for registering for notice under this subsection. The zoning commission, planning commission or planning and zoning commission shall place on such registry the names and addresses of any such landowner, elector or organization upon written request of such landowner, elector or organization. A landowner, elector or organization may request such notice be sent by mail or by electronic mail. The name and address of a landowner, elector or organization who requests to be placed on the public notice registry shall remain on such registry for a period of

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three years after the establishment of such registry. Thereafter any land owner, elector or organization may request to be placed on such registry for additional periods of three years.

(3) Any notice under this subsection shall be mailed to all landowners, electors and organizations in the public notice registry not later than seven days prior to the commencement of the public hearing on such action, if feasible. Such notice may be mailed by electronic mail if the zoning commission, planning commission or planning and zoning commission or the municipality has an electronic mail service provider.

(4) No zoning commission, planning commission or planning and zoning commission shall be civilly liable to any landowner, elector or nonprofit organization requesting notice under this subsection with respect to any act done or omitted in good faith or through a bona fide error that occurred despite reasonable procedures maintained by the zoning commission, planning commission or planning and zoning commission to prevent such errors in complying with the provisions of this section.

