

INLAND WETLANDS & WATERCOURSES  
REGULATIONS

Town of Hamden,  
Connecticut

Adopted 7/2/03  
Effective 7/3/03

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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 wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment, thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof, deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural

resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Hamden, Connecticut," or "Regulations."

1.3 The Hamden Inland Wetland Commission was established in accordance with an ordinance adopted by the Legislative Council on May 1, 2000 as the successor to the Hamden Conservation Commission established by the Legislative Council on April 2, 1974.

The Hamden Inland Wetlands Commission shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Hamden.

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 or affecting inland wetlands and watercourses in the Town of Hamden 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:

"Act" means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45 of the General Statutes, as amended.

"Agency" means the Hamden Inland Wetland Commission, alternatively known as the Inland Wetlands and Watercourses Commission of the Town of Hamden or the Inland Wetlands and Watercourses Agency.

"Bogs" are areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

"Clear-cutting" means the harvest of timber in a fashion which removes all trees down to a two inch diameter at breast height.

"Commission member" means a member of the Inland Wetland Commission of the Town of Hamden, alternatively known as the Agency or the Inland Wetlands and Watercourses Agency of the Town of Hamden.

"Commissioner of Environmental Protection" means the Commissioner of the State of Connecticut Department of Environmental Protection.

"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.

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

"Designated agent" means an individual(s) designated by the agency to carry out its functions and purposes.

"Discharge" means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.

"Disturb the natural and indigenous character of the land" means that the activity will significantly alter the inland wetlands and watercourses by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

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

"Farming" means use of land for the growing of crops, raising of livestock or other agricultural use.

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

"Inland Wetlands and Watercourses Agency" or "Inland Wetlands Agency" means the Inland Wetland Commission of the Town of Hamden.

"Intermittent watercourse" - see "Watercourse"

"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 these Regulations under the authority of the Agency.

"Management practice" means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or

enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands or watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

"Marshes" are areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.

"Material" means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse, waste, leaves, logs or tree limbs.

"Municipality" means the Town of Hamden.

"Non-Disturbance Buffer Zone" means the Non-Disturbance Buffer Zone, established pursuant to Section 10 of these Regulations, in which no activities may occur except as the Agency may allow as an exception as part of a permit issued by the Agency.

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

"Permit" means the whole or any part of any license, certificate of approval or similar form of permission that may be required of any person by the provisions of these Regulations under the authority of the Agency.

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

"Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

"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, land clearing or excavation activity.

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

"Regulated Activity" means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution of such wetlands or watercourses, but shall not include the specified activities in Section 4 of these Regulations. Furthermore, regulated activity shall include any uses or operations that affect wetlands or watercourses, including, but not limited to, the discharge or dumping of material.

"Regulated area" means any wetlands or watercourses as defined in these Regulations.

"Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.

"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.

"Significant impact activity" means any activity, including, but not limited to, the following activities that may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetlands or watercourse system:

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 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; or to prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions; or
4. Any activity which is likely to cause or has the potential to cause 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 is likely to cause 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.

"Soil Scientist" means an individual duly qualified in accordance with standards set by the Office of Personnel Management (formerly the U.S. Civil Service Commission.)

"Swamps" are areas with soils that exhibit aquic moisture regimes and are dominated by wetland trees and shrubs.

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

"Town" means the Town of Hamden.

"Upland review area" means the area of land extending for a distance of two hundred (200) feet in all directions from any regulated area and in which any regulated activity is proposed, provided however, that the Agency may extend such upland review area beyond such distance if a regulated activity has the potential to affect a regulated area. The upland review area of two hundred (200) feet is the minimum distance from a regulated area over which the Agency will exercise its authority under these Regulations.

"Waste" means sewage or any substance (i.e., liquid, gaseous, solid or radioactive) which may pollute or tend to pollute any of the wetlands or watercourses of the Town.

"Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended. Intermittent Watercourses shall be delineated by a defined permanent channel and bank, and the occurrence of two 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.

"Wetlands" means land, including submerged land, not regulated pursuant to sections 22a-28 to 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the

soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites that possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

### **Section 3**

#### **Inventory of Regulated Areas**

3.1 The map of regulated areas entitled "Inland Wetlands and Watercourses Map, Hamden, 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 through the Agency. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determinations may be made by (a) field inspection; or (b) testing conducted by a soil scientist where soil classifications are required, or (c) where watercourse determinations are required, by any qualified individual(s).

3.2 Any person who disputes the designation of any land as a regulated area on the Inland Wetlands and Watercourses Map, may petition the Agency to change the designation in accordance with Section 15 of these Regulations. 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 provide proof that the designation is inapplicable. Documentation in accordance with Section 15 of these Regulations may be required of the petitioner when the Agency requires an accurate delineation of regulated areas.

3.3 The Agency or its designated agent (s) shall inventory and maintain current records of all regulated areas within the town. The Agency may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and

watercourses within the town. Such map amendments are subject to the public hearing process outlined in Section 15 of these Regulations.

## **Section 4**

### **Permitted Uses as of Right & Nonregulated Uses**

4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:

- a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include 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;
  
- 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 of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as a right under this subdivision shall document the validity of such right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic

system, driveway, approval dates or other necessary information to document the entitlement;

- c. Boat anchorage or mooring, not to include dredging or dock construction;
- d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality 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;
- 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 through 22a-410 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 sections 22a-42a of the Connecticut General Statutes or July 1, 1974, which ever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subsection, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

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

- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
- b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing and cross-country skiing where otherwise legally permitted and regulated.

4.3 All activities in or affecting wetlands or watercourses involving filling, excavation, dredging, clear cutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Agency in accordance with Section 6 of these Regulations.

4.4 To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation or use, notify the Agency and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time.

## **Section 5**

### **Activities Regulated by the State**

5.1 In addition to any permit or approval required by the Agency, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:

- a. Construction or modification of any dam pursuant to sections 22a-401 through 22a-410 of the General Statutes, as amended;
- b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to sections 22a-342 through 22a-349 of the General Statutes, as amended;
- c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to sections 22a-28 through 22a-35 of the General Statutes, as amended;
- d. Diversion of water including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day, or any change in the instantaneous flow of any surface waters of the state where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to sections 22a-365 through 22a-378 of the General Statutes, as amended;
- e. Discharges into the waters of the state pursuant to section 22a-430 of the General Statutes, as amended;
- f. Discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.

5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.

5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the General Statutes as amended by Public Act 91-308, and subsequently.

5.4 The Commissioner of 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. Any person receiving such dam repair or removal order shall not be required to obtain a permit from the Agency for any action necessary to comply with such dam order.

## **Section 6**

### **Regulated Activities to be Licensed**

6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Agency of the Town of Hamden.

6.2 The Agency shall regulate any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses and any other activity affecting wetlands or watercourses, unless such operation or use or activity 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.

## **Section 7**

### **Application Requirements**

7.1 Any person wishing to undertake a regulated activity or to renew a permit to conduct such activity, which is on any property containing or abutting a regulated area, or which will affect a regulated area shall apply for a permit on a form entitled, "Application to Hamden Inland Wetlands and Commission." An application shall include an application form and such information as prescribed by Section 7.4 and, in the case of a significant activity, by Section 7.5 of these Regulations. Application forms may be obtained in the offices of the Hamden Town Clerk or the Agency. The applicant shall, at the applicant's expense, provide each owner of property abutting the property on which the regulated activity is proposed with notice of the proposed regulated activity, including a narrative describing the proposed regulated activity, via certified mail, return receipt requested. In the case of an application seeking approval of a subdivision, the applicant shall provide each owner of property that is located within 500 feet of each boundary edge of the property to be subdivided with the same notice, via certified mail, return receipt requested, provided to abutters.

7.2 If an application to the Town of Hamden Planning, Zoning, or Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, as defined in Section 2 of these Regulations, the applicant shall submit an application to the Agency, in accordance with this section, no later than the day the application for the subdivision or resubdivision is filed with the Planning, Zoning or 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 All applications shall include the following information in writing or on maps or drawings:

- a. The applicant's name, home and business address, e-mail address, and telephone and fax numbers;

- b. The owner's name, property address, mailing address, e-mail address, telephone and fax numbers, 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 property that will be affected by 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;
- e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- f. A written narrative explaining the alternatives considered by the applicant and why the alternative(s) as set forth in the application was chosen. All such alternatives shall be diagrammed on a site plan or drawing;
- g. A site plan drawn at a 1 " to 20' scale showing the proposed regulated activity and existing and proposed conditions (including contours), including all proposed Non-Disturbance Buffer Zones, in relation to wetlands and watercourses, the boundaries of which shall be clearly marked and color coded (wetlands identified by green coloring, watercourses by pink, and regulated areas by yellow) 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. Flagging, using blue tape, of wetlands and watercourses identified on such site plan shall be performed by a certified soil scientist, and shall be contemporaneous with the application. The site plan shall depict a line showing the boundary of the two-hundred (200) foot upland review area, or such other upland review area as the Agency may direct. Site plans showing a subdivision can be drawn at a 1 " to 40' scale, however, site plans showing an individual lot or series of lots on which a wetlands or watercourse is present shall be drawn at a 1 " to 20' scale. Each site plan shall be certified by the professional engineer responsible for preparing the site plan and, as to the wetlands and watercourse delineation, by the soil scientist responsible for such delineation;

- h. Names and mailing addresses and property addresses of all property owners required to receive notice pursuant to Section 7.1 of these Regulations and proof of notification;
- i. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- j. Authorization for the commissioners and agents of the Agency to inspect the property, at reasonable times, both before and after a final decision has been issued;
- k. A reporting form shall be completed during the application process that provides the Commissioner of the Department of 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.

- l. Any other information the Agency deems necessary to the understanding of what the applicant is proposing;
- m. Submission of the appropriate application fee, as provided by municipal ordinance;
- n. A statement identifying which watershed the proposed regulated activity is located, and whether the regulated activity is located in a public drinking water supply watershed area. Watershed areas are those areas identified as such in maps on file with the Town Planner's office;
- o. Proof that notice required pursuant to Section 7.1 of these Regulations has been provided. Such proof shall include a photocopy of the notice, and narrative, sent to each person required to receive notice pursuant to Section 7.1 of these Regulations;
- p. If the applicant is a corporation, the applicant shall submit: (1) the name address, phone numbers and contact person for its parent corporation, if any; (2) the name, address, phone numbers and contact name for its subsidiary corporations, if any; (3) the name, address and phone number for each of its directors; and (4) the name, title, address and phone number for each of its officers;
- q. If the applicant is a limited liability company, the applicant shall submit: (1) the name address, phone number and contact name for each member; and (2) the name address, phone number and contact name of any manager(s) who, through articles of organization, is vested the management of the business, property and affairs of the limited liability company;
- r. If the applicant is a limited partnership, the applicant shall submit: (1) the name address, phone number and contact name for each general partner; and (2) the name, address, phone number and contact name for each limited partner;

- s. If the applicant is a general partnership, the applicant shall submit the name, address, phone number and contact name for each general partner; and
- t. If the applicant is a voluntary association, which association is not a corporation or a limited or general partnership, the applicant shall identify any persons authorized by law to act for such association, or, if no such persons are authorized, provide the names, addresses and phone numbers for all members of the association.

7.5 The Agency may require additional information, based on the nature and anticipated effects of the activity, including but not limited to the following:

- 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, all proposed Non-Disturbance Buffer Zones, and other pertinent features of the development, prepared by the applicable professional engineer, land surveyor, architect or landscape architect licensed by the state or by such other qualified person;
- b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the Natural Resources Conservation Service;
- d. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions;

- e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;
  
- f. Analysis of chemical or physical characteristics of any fill material;
  
- g. Management practices and other measures designed to mitigate the impact of the proposed activity.

7.6 The applicant shall certify whether:

- a. Any portion of the property on which the regulated activity is proposed is located within 1,500 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; and,
- d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

7.7 Except as the Agency may otherwise direct, thirteen (13) copies (one (1) original and twelve (12) copies) of all application materials shall be submitted to comprise a complete application.

7.8 Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Section 8 of these Regulations at least sixty-five (65) days prior to the expiration date of the permit. The Agency at its discretion may waive the 65 day requirement. However, no application to renew or amend a permit that is filed after the permit has expired will be accepted by the Agency. Any application for renewal or amendment shall be prepared in accordance with this section provided:

- a. The application may incorporate the documentation and record of the original application;
- b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;

- c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property for which the permit was issued;
- d. The Agency may, prior to the expiration of an existing permit, accept an untimely application to renew a 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;
- e. The application shall describe the extent of work completed at the time of filing and the schedule for completing activities authorized in the permit; and
- f. The Agency shall evaluate the application, if accepted, pursuant to Section 10 of these Regulations and grant the application as filed, grant it with any terms or limitations, or deny it.

7.9 Any application to renew a permit that satisfies the requirements of Section 7.8 of these Regulations shall be granted upon a 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 may be valid for more than ten (10) years.

7.10 A prospective applicant may request that the Agency determine whether or not a proposed activity involves a significant impact activity.

## **Section 8**

### **Application Procedures**

8.1 All applications shall be submitted to the Agency.

8.2 In the case of any application where any portion of the property is located within 1,500 feet of the boundary of Bethany, Cheshire, New Haven, North Haven, Wallingford, or Woodbridge, the applicant shall give written notice of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetlands agency on the same day of filing an inland wetland permit application with the Agency. Documentation of such notice shall be provided to the Agency in accordance with section 22a-42c of the General Statutes.

8.3 The Agency shall, in accordance with Connecticut General Statutes section 22a-42b, notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:

- a. Any portion of the property is located within 1,500 feet of the boundary of an adjoining municipality;
- b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site
- c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or,
- d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

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

8.4 When an application is filed to conduct or cause to be conducted a regulated activity affecting an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the 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 within seven (7) days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency. The pertinent water company is the South Central Connecticut Regional Water Authority. Any notice to this water company shall require completion of its Notification Form by the applicant.

8.5 The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency, provided such meeting is no earlier than three (3) business days after receipt, or thirty-five (35) days after such submission, whichever is sooner.

8.6 At any time during the review period, the Agency may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or the wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitations as set forth in Section 11.2 of these Regulations.

8.7 All applications shall be open for public inspection.

8.8 Incomplete applications may be denied.

8.9 Failure by the applicant to provide notice of the application as required by Section 7.1 of these Regulations shall be grounds for denying the application.

## **Section 9**

### **Public Hearings**

9.1 The Agency shall not hold a public hearing on an application unless the Agency determines that the proposed regulated 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 twenty-five (25) days after the date of receipt of a complete application or the Agency finds that a public hearing regarding such application would be in the public interest. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.

9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.

9.3 Notice of the public hearing shall be mailed to the owner(s) of record of abutting land no less than fifteen (15) days prior to the day of the hearing.

9.4 In the case of any application that is subject to the notification provisions of Section 8.3 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

## **Section 10**

### **Considerations for Decision**

10.1 The Agency may consider the following in making its decision on an application:

- a. The application and its supporting documentation;
- b. Public comments, evidence and testimony;
- c. Reports from other agencies and commissions including but not limited to the Town of Hamden:
  1. Agency Enforcement Officer;
  2. Planning and Zoning Department;
  3. Building Department;
  4. Natural Resources and Open Space Commission;
  5. Engineering Department;
  6. Town Attorney's Office.
- d. The Agency may also consider comments on any application from the New Haven County Soil and Water Conservation District, the South Central Regional Planning Agency, the South Central Connecticut Regional Water Authority, the Quinnipiack Valley Health District, or other regional organizations (e.g. 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 studies or investigations.
- e. Non-receipt of comments from agencies and commissions listed in Section 10.1.c and d above shall not preclude the Agency from entering a decision.

10.2 Standards and 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 consider all

relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:

- a. The environmental impact of the proposed action, 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 feasible and prudent alternatives to the proposed action 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 that would provide similar benefits with different environmental impacts, such as using a different location for the activity;
- c. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity, 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 wetlands or watercourse resources that would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. This requires recognition that the inland wetlands and watercourses of the State of Connecticut are an indispensable,

irreplaceable and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion, diminution or obstruction of water flow including low flows, and by the erection of structures and other uses;

- e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed 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. The impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- g. The suitability of the activity to the area for which it is proposed. 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; and
- h. Measures which would mitigate the impact of any aspect of the proposed regulated activity. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, to prevent flooding, to supply and protect

surface and ground waters, to control sedimentation, to prevent erosion, to assimilate wastes, to facilitate drainage, to control pollution, to support recreational activities and open space, and to promote public health and safety.

10.3 In the case of any application that received a public hearing, a permit shall not be issued unless the Agency finds that the proposed alteration or destruction of wetlands or watercourses is unavoidable and that a feasible and prudent alternative to the alteration or destruction of wetlands or watercourses does not exist. In making this finding, the Agency shall consider the facts and circumstances set forth in Section 10 of these Regulations. This finding and the reasons thereof, shall be stated in the record of the decision by the Agency.

10.4 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. However, the Agency is not precluded from seeking advice from information already in the record of the public hearing. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that the application is consistent with the purposes and policies of the Inland Wetlands and Watercourses Regulations of the Town of Hamden and of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

10.5 In addition to the Non-Disturbance Buffer Zone required pursuant to Section 10.6 of these Regulations, wetlands, watercourses, and floodplains shall be buffered from site disturbance during and after construction to the maximum extent feasible, and native vegetation shall be left in place in the buffer area. Factors to be considered in determining the appropriate width of a buffer zone include but are not necessarily limited to the presence of steep slopes, the intensity of adjacent land use, soil erodibility, the size and characteristics of a watercourse (e.g. intermittent versus perennial), vegetation types and conditions, and whether the wetland/watercourse/floodplain is directly tributary to a public water supply reservoir or lies within a public water supply watershed.

10.6 The Agency finds that a Non-Disturbance Buffer Zone is a necessary part of any permit in order to separate construction, development or other regulated activity from a regulated area in order to prevent harm to the regulated area. Such buffer zones serve to improve water quality by, among other things, filtering pollutants from stormwater runoff and reducing thermal impacts from such runoff. Therefore, the Agency shall require at a minimum a Non-Disturbance Buffer Zone extending in all directions a distance of one hundred (100) feet from any regulated area as a condition of granting wetlands permits; unless the applicant demonstrates through substantial evidence in the record that such zone would not be feasible and prudent. The Agency shall identify any such substantial evidence in the minutes of its deliberations on the application. Future applications seeking alteration of any Non-Disturbance Buffer Zone may be considered and approved by the Agency only upon determination of a substantial change in circumstance warranting such alteration.

10.7 The Agency shall discourage the discharge of untreated run-off from paved surfaces; treatment of run-off from such surfaces shall be required at the discretion of the Agency.

10.8 The Agency shall encourage maintaining natural drainage systems, including perennial and intermittent streams, swales and drainage ditches, in an open condition.

10.9 In the case of an application which is denied on the basis of a finding that there may be one or more feasible and prudent alternatives to the proposed regulated activity which have less adverse impact(s) on wetlands or watercourses, the Agency shall identify on the record in writing the type(s) of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.

## **Section 11**

### **Decision Process and Permit**

11.1 The Agency may, in accordance with Section 10 of these Regulations, grant the application as filed; grant it upon such terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes of the Act; or, deny the application. Such terms may include any reasonable measures and/or management practices that would mitigate the impacts of the regulated activity and that 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. The Agency, its officers, or its designated agent may decline jurisdiction over proposed activities that are determined to be de minimis.

11.2 No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. The hearing shall be completed within forty-five (45) 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 for the holding of the hearing and for action on such application, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such application. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency 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 and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.

11.4 The Agency shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit,

to be published in a newspaper having general circulation in the town wherein the inland wetlands or watercourse lies. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.

11.5 If an activity authorized by a permit issued by the Agency also involves an activity that requires a zoning or subdivision approval, special zoning permit, variance, or special permit under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Agency shall file a copy of the decision and report on the application with the Town of Hamden Planning and Zoning Commission within fifteen (15) days of the date of the decision thereon.

11.6 Any permit issued under this section shall be valid for five (5) years. Any regulated activity approved by the Agency shall be completed within one (1) year from the time such activity is commenced provided the Agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one (1) year and further provided the Agency may extend: (1) under the provisions of Section 7.8 of these Regulations, the time period of the original permit provided such period shall not extend beyond ten (10) years from the date such permit was granted, or (2) the time period within which an activity, once commenced is required to be completed under this section.

11.7 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.

11.8 No permit issued by the Agency shall be assigned or transferred without the prior written permission of the Agency.

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 Hamden, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or Regulations pertinent to the property or activity.
- c. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses. Failure to take such steps may be considered sufficient cause for revocation of the permit.
- d. The Agency, at its discretion, may require the filing and recording of deed restrictions in the Town of Hamden Land Records.
- e. A copy of the plans approved by the Agency must be kept at the job site during all activity.
- f. The boundary of the Non-Disturbance Buffer Zone(s) adjacent to permitted construction, development, or other regulated activity shall be marked at every thirty-five (35) foot interval (unless otherwise directed by the Agency) using such materials, writing, and/or medallions as the Agency may direct.
- g. All permits shall have as a condition of the permit a deed restriction requirement in order to ensure the awareness of this regulated status by future owners of the property. The following shall be incorporated as a deed restriction for the permitted property:

It has been determined by the Hamden Inland Wetland Commission that wetlands, watercourses or regulated areas as defined by the Hamden Inland Wetland Commission's regulations are present on the property. Any activity in the wetland, watercourse, or regulated area must have prior approval/permitting by the Hamden Inland Wetland Commission.

- h. If the activity authorized by the Agency's permit also involves an activity that requires zoning or subdivision approval, special permit, or variance under Sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the permit issued by the Agency may begin until such approval is obtained.

## **Section 12**

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

12.1 The Agency may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of the such activity would result in no greater than a de minimis impact on any regulated area provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7.4 of these Regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing of applications prescribed in Sections 8, 9 and 11 of these Regulations, such agent may approve or extend such an activity at any time. Applications processed and approved in accordance with this Section 12.1 shall not be subject to the published notice and abutter notification provisions of Section 7.1 of these Regulations. The Agent shall provide the Agency a monthly, typewritten report summarizing all approvals issued pursuant to this Section 12.1.

12.2 Any person receiving such approval from such agent shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in the New Haven

Register. Any person required to publish such notice shall submit proof of such publication within fifteen (15) days of approval. Any person may appeal such decision of such agent to the Agency within fifteen (15) days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three (3) business days after receipt by the Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these Regulations.

### **Section 13**

#### **Bond and Insurance**

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 performance 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, owner or permittee 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 designate an agent or agents to act in its behalf with the authority to inspect property and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement 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 under these Regulations, and of any possible violations of these Regulations.

14.3 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 neither delay nor bar an action pursuant to section 22a-44 (b) of the 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 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 having general circulation in the municipality.

- 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 file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subdivision 13.3.a or other enforcement proceedings as provided by law.
- d. Seek a civil penalty for each violation as provided at section 22a-44(b) of the Connecticut General Statutes.

## **Section 15**

### **Amendments**

15.1 These Regulations and the Inland Wetlands and Watercourses Map for the Town of Hamden 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 Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

15.2 An application filed with the Agency which is in conformance with 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 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 subsection shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of such receipt.

15.3 These Regulations and the Town of Hamden Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments pursuant to Section 15.4 of these Regulations, at least thirty-five (35) days before the public hearing on their adoption. (Fee schedules shall be adopted as provided by municipal ordinance.)

15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Hamden, Connecticut" shall contain at least the following information:

- a. The petitioner's name, address and telephone and fax numbers;
- b. The owner's name (if not the petitioner), address, telephone and fax numbers, and a written consent to the proposed action set forth in the application;
- c. Petitioner's interest in the land;
- d. The geographic location of the property involved in the petition including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas;
- e. The reasons for the requested action;
- f. The names and addresses of adjacent property owners; and
- g. A map showing proposed development of the property.
- h. If the petitioner is a corporation, the petitioner shall submit: (1) the name address, phone numbers and contact person for its parent corporation, if any; (2) the name, address, phone numbers and contact name for its subsidiary corporations, if any; (3) the name, address and phone number for each of its directors; and (4) the name, title, address and phone number for each of its officers.
- i. If the petitioner is a limited liability company, the petitioner shall submit: (1) the name address, phone number and contact name for each member; and (2) the name address, phone number and contact name of any manager(s) who, through articles of organization, is vested the management of the business, property and affairs of the limited liability company.

- j. If the petitioner is a limited partnership, the petitioner shall submit: (1) the name address, phone number and contact name for each general partner; and (2) the name, address, phone number and contact name for each limited partner.
- k. If the petitioner is a general partnership, the petitioner shall submit the name, address, phone number and contact name for each general partner.
- l. If the petitioner is a voluntary association, which association is not a corporation or a limited or general partnership, the petitioner shall identify any persons authorized by law to act for such association, or, if no such persons are authorized, provide the names, addresses and phone numbers for all members of the association.

15.5 Any person who submits a petition to amend the "Inland Wetlands and Watercourses Map, Hamden, Connecticut" shall bear the burden of proof for all requested map amendments. Such proof may include, without limitation, 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 owner, developer or purchaser, in addition to the information required subsection 15.4, the petition shall include:

- a. The name, mailing address and telephone and fax numbers of the owner(s) of such land and owner(s) agent or other representative;
- b. The names and the mailing addresses of the owners of abutting land;
- c. Documentation by a soil scientist of the distribution of wetland soils on such 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 such land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
- d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.

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

15.7 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having substantial circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing. A copy of such proposed boundary change shall be filed in the office of the Town Clerk for public inspection at least ten (10) days before such hearing. In addition, the Agency may require the petitioner to provide notice to all property owners within 1,500 feet of the wetlands and/or watercourse affected by the petition.

15.8 Within ninety (90) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the petition. The Agency shall act upon the changes requested in such petition within sixty (60) days after the close of the hearing. The petitioner may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such petition. 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 petition.

15.9 The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made. The Agency shall provide a copy of the change to the Commissioner of Environmental Protection no later than ten (10) days after its adoption.

## **Section 16**

### **Appeals**

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

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

## **Section 17**

### **Conflict and Severance**

17.1 If there is a conflict between the provisions of these Regulations, the provision that imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these Regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.

## **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 Hamden, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of 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 money order payable to the Town of Hamden 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 Section 19.6 of these Regulations.

19.3 Definitions. As used in this section:

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

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

"Other Uses" means activities other than residential uses or commercial uses.

19.4 Fee Schedule. Application fees shall be established by recommendation of the Agency subject to approval by the Legislative Council, and may be amended from time to time as appropriate.

19.5 Exemption. Boards, commissions, councils and departments of the Town of Hamden are exempt from all fee requirements.

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

- a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or
- b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application. The Agency shall state upon its record the basis for all actions under this subsection.

**Section 20**

**Records Retention and Disposition**

20.1 The Agency and the Town Clerk for the Town of Hamden shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/disposition schedules set forth in Section 20.2 of these Regulations.

20.2 The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands Agencies effective April 24, 1989:

<b>Name/Title of Record</b>	<b>Minimum Record Retention By the Agency</b>	<b>Minimum Record Retention by Town Clerk</b>
<b>Applications (including supporting materials)</b>	10 years	-
<b>Decision Letters</b>	10 years	Permanent
<b>Approved Site Plans</b>	10 years	-
<b>Legal Notices</b>	10 years	Permanent
<b>Staff and Public Written Testimony (hearing records)</b>	10 years	-
<b>Minutes of Meetings Public</b>	15 years	Permanent

<b>Hearings</b>		
<b>Tapes, Audio-Inland Wetland Matters</b>	4 years	-
<b>Notices of Violation &amp; Orders</b>	10 years	-
<b>Text of Changes Adopted In Regulations</b>	Continuous Update/Permanent	-
<b>General Correspondence Issued or Received</b>	5 years	-

**Section 21**  
**Effective Date of Regulations**

21.1 These Regulations 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 Hamden.

Regulations Adopted on:	7/2/03
Regulations Filed on:	7/3/03
Effective Date of Regulations	7/3/03