

TOWN OF DURHAM

INLAND WETLANDS

AND

WATERCOURSES REGULATIONS

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Town of Durham Inland Wetlands and Watercourses Agency Informational Guidelines

This Agency has the responsibility of regulating and preserving the wetlands and watercourses in the Town of Durham. Its function is to help the residents and property owners in the town minimize the impact on an irreplaceable and fragile natural resource, the wetlands.

Any proposed construction activity on any property within a radius of 100 feet from any wetlands or watercourse must be evaluated by the Agency.

Monthly meetings are held in the library meeting room on the second Monday of every month.

There are three types of deliberations.

1. A Review: This is an informal discussion between the members of the Agency and the applicant concerning any activity that is proposed anywhere within 100 feet of the wetlands. The applicant should bring all information available so that the Agency can determine whether a formal application is necessary, what additional information is needed and whether or not a site visit is appropriate. Reviews are also performed under certain circumstances as a requirement for Planning and Zoning.
2. Application for Permit is a formal discussion. A submission of all information necessary for the Agency to make a decision and determine whether the proposed activity will have a significant impact on the wetlands in the area or adjacent to the area is required. There may be prudent alternatives. The regulations and application forms are available at the Town Hall Building Department.
3. Public Hearings are held when the activity may have a significance impact on the wetlands or the public interest would be served by allowing any interested parties to testify concerning the activity and allowing their input to be used in the decision making process. Any applicant should familiarize themselves with the regulations, application forms and fee schedule. Help is available in the Town Hall Building Department.

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SECTION 1
TITLE AND AUTHORITY

- 1.1 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Durham".
- 1.2 The Inland Wetland and Watercourses Agency of the Town of Durham was established in accordance with an ordinance adopted September 15, 1973 and shall implement the purposes and provisions of the Inland Wetland and Watercourses Act in the Town of Durham.
- 1.3 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.
- 1.4 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 Durham pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2
DEFINITIONS

2.1 As used in these regulations:

- a. "Act" means the Inland Wetland and Watercourses Act, Sections 22a-36 through 22a-45 of the General Statutes, as amended.
- b. "Agency" means the Inland Wetlands and Watercourses Agency of the Town of Durham.
- c. "Bog" are usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.
- d. "Clear-cutting" means the harvest of timber in a fashion which removes all trees down to a 2" diameter at breast height.
- e. "Commission Member" means a member of the Inland Wetlands and Watercourses Agency of the Town of Durham.
- f. "Commissioner of Environmental Protection" means the Commissioner of the State of Connecticut Department of Environmental Protection.

- g. "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.
- h. Date of receipt is what is understood when the word submission is used in Public Act 96-157. Date of receipt of an application shall be the day of the next regulatory scheduled meeting of such Inland Wetlands Agency, immediately following the day of submission to such Inland Wetlands Agency or its agent of such application provided such meeting is no earlier than three business days after receipt, or thirty five days after such submission, whichever is sooner.
- i. "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
- j. "Designated Agent" shall be understood to be that person designated as the Wetland Enforcement Officer and/or the Chairman of the Durham Inland Wetland and Watercourses Agency or an individual designated by the Agency to carry out its functions and purposes.
- k. "Discharge" means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.
- l. "Disturbing 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.
- m. "Essential to farming operations" means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.
- n. "Farming" means using any tract of land for growing crops; raising livestock or other agricultural use.
- o. "Feasible" means able to be constructed or implemented consistent with sound engineering principles.
- p. "Forest Practice", means any activity which may alter the physical or vegetative characteristics of any forest land which is undertaken in connection with the harvest of commercial forest products unless such harvest is undertaken pursuant to the conversion of forestland to other uses.

- q. "Gardening" means the tilling of soil, planting, cultivating and harvesting of vegetable matter.
- r. "Grazing" means using any tract of land to feed or supply farm animals with grass or pasture, to tend farm animals, or feeding or growing silage and herbage.
- s. "Harvesting of Crops" means gathering plants or animals or plant or animal products which have been grown to be harvested.
- t. "License" means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Inland Wetland Agency.
- u. "Management Practice" means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include but are not limited to erosion and sedimentation controls restrictions on land use or development; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; construction setbacks from wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.
- v. "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.
- w. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, sand, gravel, clay, bog, mud, debris, sand, refuse or waste.
- x. "Municipality" means the Town of Durham, Middlesex County, Connecticut.
- y. "Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.

- z. "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 Wetland Agency.
- aa. "Permittee" means the person to whom such permit has been issued.
- bb. "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- cc. "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 or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion resulting from any filling or excavation activity.
- dd. "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 a alternative is imprudent.
- ee. "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.
- ff. "Regulated area" means any inland wetland or watercourse as defined in these regulations.
- gg. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.
- hh. "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.
- ii. "Significant impact activity" means any activity, including, but not limited to, the following activities which may have a substantial or major effect or a significant impact on the area for which an application has been filed or on another part of the inland wetland or watercourse

system:

1. Any activity involving a deposition or removal of material which will or may have a substantial effect or 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, 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 creates conditions which may adversely affect the health, welfare and safety of any individual or the community; or
 8. Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.
- jj. "Soil Scientist" means an individual duly qualified in accordance with standards set by the Federal Office of the Personnel Management.
- kk. "Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.
- ll. "Swamps" are areas with soils that exhibit aquic moisture regimes and are dominated by wetland trees and shrubs.
- mm. "Town" means the Town of Durham, Middlesex County in the State of Connecticut.

- nn. "Waste" means sewage or any natural or man-made substances, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the Town.
- oo. "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. 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 of 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.
- pp. "Wetlands" means land, including submerged land not regulated pursuant to section 22a-28 through 22a-35, inclusive, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as may be amended from time to time, of the National Resources Conservation Service of the U.S. Department of Agriculture.

SECTION 3 INVENTORY OF REGULATED AREAS

- 3.1 The map of regulated areas, entitled "Official Town of Durham, Connecticut, Inland Wetland and Watercourses Map" delineates the general location and boundaries of inland wetlands and the location of watercourses. Copies of this map are available for inspection in the office of the Town Clerk or the Inland Wetland Agency. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland types, and locations of watercourses. The Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.
- 3.2 Any owner who disputes the designation of any part of his or her 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. The Agency

may require such an owner to provide an accurate delineation of regulated areas in accordance with Section 15 of these regulations.

- 3.3 The Agency or its designated agent(s) shall maintain a current inventory of regulated areas within the town. The Agency may amend its map as more accurate information becomes available. Any person may petition for an amendment to the map. Petitioners shall bear the burden of proof for all requested map amendments. Such proof may include, but not be limited to, aerial photography, remote sensing imagery, resource mapping or other available information. 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, harvesting of crops and farm ponds of three acres or less essential to the farming operation. The provisions of this section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, and activities conducted by, or under the authority of the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement of mosquito control, 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, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as a right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations,

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

- c. Boat anchorage or mooring, not to include dredging or deck construction;
- d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than five 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.
- e. Construction and operation, by water companies as defined by Section 16-1 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.
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a 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 the 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.

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

- a. Conservation of soil, vegetation, water, fish, shell-fish, 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 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 shell-fishing, and cross-country skiing, where otherwise legally permitted and regulated;

- 4.3 All activities in 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, which may disturb the natural and indigenous character of the land, shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a regular 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 of the Agency may make such ruling on behalf of the Agency at any time.
- 4.5 No person shall remove or deposit material, discharge substances or alter or obstruct water flow within one hundred (100) feet (lateral distance) of any watercourse or mapped wetland boundary without, prior to commencement of such operation or use, notifying the Agency on a form provided by it, and providing the Agency with sufficient information to enable it to properly determine that the proposed operation and use is not a regulated activity or will not become a regulated activity during the course of its implementation.
- 4.6 Any activity, regardless of its distance from a regulated area, which may contribute to pollution and/or sedimentation of a regulated area is subject to enforcement by the Agency. Areas of disturbed earth in excess of 10% slope due to construction or earth disturbance activities shall be seeded and mulched by October 15th or covered with an erosion control blanket approved by the Town Engineer.

SECTION 5 ACTIVITIES REGULATED BY THE STATE

- 5.1 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 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 in excess of fifty thousand (50,000) gallons per day or 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 and other activities, in or affecting wetlands or watercourses, undertaken by any department, Agency or instrumentality of the state of Connecticut, except any local or regional board of education, (1) after an advisory decision on such license or permit has been rendered to the commissioner by the Wetland Agency of the municipality within which such wetland is located or (2) thirty-five (35) days after receipt by the commissioner of such application, whichever occurs first.
- 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.
- 5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under dam repair or removal order issued by the Commissioner of Environmental Protection under Section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under Sections 22a-403 or 22a-41 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or dam construction permit shall not be required to obtain a permit from a Municipal Wetlands Agency for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.

SECTION 6
REGULATED ACTIVITIES TO BE LICENSED

- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands and Watercourses Agency of the Town of Durham.
- 6.2 The Agency shall regulate any operation within or use of a wetland or watercourse involving removal or deposition of material, forest practice in any land including wetlands, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses 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 Town of Durham Inland Wetlands and Watercourses Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 13 of these regulations and any other remedies as provided by law.

SECTION 7
APPLICATION REQUIREMENTS

- 7.1 Any person intending to conduct a regulated activity or amend a permit to conduct such activity or requires a review of the proposed activity or wishes to conduct an informal review of such proposed activity shall apply for a permit or review on a form provided by the Town of Durham Inland Wetlands and Watercourses Agency.
- 7.2 No application shall be deemed complete unless it shall be in such form and shall contain such information as is necessary for a fair and informed determination thereon by the Agency. The Agency shall inform the applicant of such necessary information.
- 7.3 The Agency and the applicant may hold a pre-application meeting to determine whether or not the proposed application involves a significant impact activity. Whenever possible the determination relative to significant impact activities should be made at the pre-application meeting. The Agency should state the reasons why the activity was deemed significant in writing.
- 7.4 If an application to the Town of Durham 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), 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 other application is filed with such Planning and Zoning Commission.

- a. The applicant's name, home and business address and telephone numbers;
- 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 wetland or watercourse 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 minimized pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority; restore, enhance and create productive wetland or watercourse resources;
- f. Alternatives considered and subsequently rejected by the applicant and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan or drawing;
- 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. Names and mailing addresses of adjacent land owners;
- i. Statement by the applicant 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 members and agents of the Agency to inspect the subject land, at reasonable times, both before and after a final decision has been issued;
- k. A completed DEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
- l. Any other information the Agency or applicant deems necessary to the understanding of 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.

7.5 If the proposed activity involves a significant impact activity as determined by the Agency in these regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:

- a. A site plan or map to be drawn at a scale of 1"=40', or other scale approved by the Agency, with the horizontal control which is based upon a monumented Class A-2 survey and the vertical control for elevation and sound of which is based upon U.S. Geological Survey datum and the Connecticut coordinate system. Sheet size shall be 24" X 36", or other approved size. Such map shall be prepared and sealed by a licensed surveyor or professional engineer registered in the State of Connecticut, or by such other person acceptable to the Agency. Wetland boundaries shall be determined by a certified soil scientist, and shown on the map. Such maps shall depict the flag locations defining the boundaries of the regulated soil types are depicted, along with their appropriate numerical designations, and located by a licensed land surveyor at an accuracy of an A-2 survey standard as established by the State of Connecticut Board or Registry for Professional Engineers and Land Surveyors.
- b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses;
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil 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 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 with each reasonable alternative, and a description of why each alternative considered was deemed neither feasible nor prudent. 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 wetlands or watercourses resources;
- f. Analysis of chemical or physical characteristics of any fill material;
- g. Measures which would mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources;

7.6 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;
- d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

7.7 Six copies of the complete application shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Inland Wetland

Agency.

- 7.8 Any application to extend, renew or amend the expiration date of a previously issued permit shall be filed with the Agency not later than sixty-five (65) days prior to the expiration date for the permit in accordance with Subsections 8.4 through 8.8 of these Regulations. Any application for renewal or extension shall be made in accordance with this Section provided:
- a. The application may incorporate by reference the documentation and record of the original application;
 - b. The application shall 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 application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
 - e. The Agency may accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity. 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;
 - f. The Agency shall evaluate the application pursuant to Section 10 of these Regulations and grant the application as filed, grant it with any terms or limitations, or deny it.
- 7.9. 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 may be valid for more than ten (10) years.

SECTION 8 APPLICATION PROCEDURES

- 8.1 All applications shall be filed with the Building/Sanitation office of the Town of Durham.
- 8.2 In the case of any application where any portion of the wetland or watercourse for which the regulated activity is proposed is located within 500 feet of the boundary of Middletown, Middlefield, Wallingford, North Branford, Guilford, Madison, Killingworth or Haddam, the applicant shall give written notice, in accordance with P.A. 87-533, of the proposed activity, certified mail return receipt requested, to the adjacent Municipal Wetland Agency on the same day of filing an inland wetland permit application with the Durham Inland Wetland Agency. Documentation of such notice shall be provided to the Durham Inland Wetland Agency. 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 in the watershed of a water company as defined in Section 16 of the Connecticut 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 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.
- 8.3 The inland wetlands 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:
- a. Any portion of the property affected by a decision of such agency is within five hundred feet of the boundary of the adjoining municipality;
 - b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or,
 - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

- 8.4 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the agency, immediately following the day of submission to such agency or its agent of such petition, application, request or appeal of thirty-five (35) 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. (The Agency shall not exceed the required sixty-five (65) day time limit in taking action on an application pending the receipt of additional information as stated in Section 11.2 of these regulations.)
- 8.6 All applications shall be available for public inspection.
- 8.7 Incomplete applications may be denied.

SECTION 9 PUBLIC HEARINGS

- 9.1 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 the wetlands or watercourses, a petition signed by at least twenty-five (25) persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the Agency not later than fourteen (14) days after the date of receipt of such application, or the agency finds that a public hearing regarding such application would be in the public interest. The Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the Agency on or before the fourteenth day after the receipt of the application. Such hearing shall be held no later than sixty-five (65) days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard and may be represented by agent or by attorney.
- 9.2 All applications for which a public hearing for a regulated activity has been

scheduled shall be required to post a minimum of one (1) sign notifying the public of the hearing relating to the application.

All sign(s) shall be the responsibility of the applicant and shall be posted on the property in question in accordance with the following:

- a. Sign(s) shall be posted at least seven (7) days prior to the date of the public hearing (eight days if the seventh day is a holiday). Sign(s) shall be firmly secured to the ground to prevent vandalism. Parcels having frontage on more than one (1) street shall be required to provide one (1) sign on each street having frontage. The location of the sign(s) shall be shown on the plan and approved by the Inland Wetlands and Watercourses Agency.
 - b. Sign(s) shall be constructed of durable material (wood or metal), 36" X 36" in size. All signs shall be painted white and shall have black lettering having a minimum height of two (2) inches with a letter stroke of one quarter (1/4) inch.
 - c. The sign(s) shall advertise the date, time and place of the public hearing.
 - d. The format for the sign shall be obtained at the Town Hall Building Department.
 - e. The Wetlands Enforcement Officer shall file a report with the Agency that the sign was observed in place in accordance with the above requirements.
 - f. An applicant who fails to display the sign(s) shall be required to file a new application.
 - g. The sign(s) shall be taken down within one (1) week after the public hearing is closed.
- 9.3 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.4 Notice of the public hearing shall be mailed by the applicant by certified mail, return receipt requested, to the owner(s) of record of abutting land and all parties of record, as shown in the records of the Durham Assessor's Office, no less than fifteen (15) days prior to the day of the hearing, and proof of the receipt

or attempted delivery of such notice(s) shall be presented by the applicant at the public hearing.

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

SECTION 10 CONSIDERATIONS FOR DECISION

- 10.1 The Agency may consider the following in making its decision on an application:
- a. The application and its supporting documentation;
 - b. Public comments, evidence and testimony from a public hearing;
 - c. Reports from other agencies and commissions including but not limited to the Town of Durham:
 - 1. Conservation Commission;
 - 2. Planning and Zoning Commission;
 - 3. Building Official;
 - 4. Health Officer;
 - d. The Agency may also consider comments on any application from the Middlesex County Soil and Water Conservation District, the Midstate Regional Planning Agency or other regional organizations; 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.
 - e. Non-receipt of comments from agencies and commissions listed above within the proscribed time shall neither delay nor prejudice the decision of the Agency.
- 10.2 **Criteria for Decision.** In carrying out the purposes and policies of Section 22a-36 to 22a-45 inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses
- b. the applicant's purpose for, and any feasible and prudent alternatives to the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.
- c. the relationship between the short-term uses and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long term productivity of such wetlands or watercourses.
- d. irreversible and irretrievable loss of wetland or watercourses resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage; (2) maintain or enhance existing environmental quality; or, (3) in the following under of priority; restore, enhance and create productive wetland or watercourse resources;
- e. the character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
- f. impacts of the proposed 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 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.

- h. 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.
 - i. Measures which would mitigate the impact of any aspect of the proposed regulated activity(s). 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 or enhance the wetland's or watercourse's natural capacity to support fish and wild life, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage, and to provide recreation and open space.
- 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 regulated activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. However, the Agency is not precluded from seeking advice from its own experts on information already in the record of the public hearing provided no new evidence or testimony is offered by the Agency's experts. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that this application is consistent with the purposes and policies of these regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

SECTION 11
DECISION PROCESS AND PERMIT

- 11.1 The Agency, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed, or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage; (b) maintain or enhance existing environmental quality; or, (c) in the following order of priority; restore, enhance and create productive wetland or watercourse resources.
- 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 and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall, as applicable and in accordance with Section 10 of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 11.4 The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen day period, the applicant may provide for the publication of such notice within ten (10) 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 Durham Planning and Zoning Commission within fifteen days of the date of the decision.
- 11.6 If the Agency denies the permit or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The Agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for the purposes of appeal.
- 11.7 If the Agency denies a permit, the application shall not be resubmitted unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial. Such submittal shall take the form of a new application.
- 11.8 Any permit issued by the Agency for the development of land for which an approval is required under Section 8-3 or 8-26 of the Connecticut General Statutes shall be valid for five (5) years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two (2) years and not more than five years.
- 11.9 No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.
- 11.10 All permits shall expire upon the completion of the acts specified therein.
- 11.11 If a bond or insurance is required in accordance with Section 12 of these regulations, no permit shall be issued until such bond or insurance is provided.
- 11.12 General provisions in the issuance of all permits:
 - a. The Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked;
 - b. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Durham,

and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity;

- c. If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under Sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained;
- d. In constructing the authorized activities, the permittee shall implement such management practices 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;
- 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 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 development 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 7.5 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Section 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 (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen (15) days after the publication date of the notice and the Agency shall consider such appeal at its next regularly

scheduled meeting provided such meeting is no earlier than three (3) business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.

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 cash bond in such an amount and in a form approved by the Agency.
- 13.2 The cash bond 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 to be determined by the Agency commensurate with the regulated activity.

SECTION 14 ENFORCEMENT

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations.
- 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.
- 14.3 If the Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:
 - a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (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 section shall not delay or 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 applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application, including application plans. Prior to revoking any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. At the public hearing, the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by personal service or certified mail within fifteen (15) days of the date of its decision;
- 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 a of this Section or other enforcement proceedings as provided by law.

SECTION 15 AMENDMENTS

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Durham 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 changes in inland wetland 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 section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3 These regulations and the Official Town of Durham, Connecticut Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments at least thirty-five days before the public hearing on their adoption.
- 15.4 Petitions requesting changes or amendments to the "Official Town of Durham, Connecticut Inland Wetlands and Watercourses Map" shall contain, at least, the following information:
 - a. The petitioner's name, mailing address and telephone number;
 - b. The address, or location, of the land affected by the petition;
 - c. The petitioner's interest in the land affected by the petition;
 - d. Maps 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 Inland Wetlands and Watercourses Map for the Town of Durham, 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 photograph and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4 the petition shall include:

- a. the name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
- b. the names and mailing addresses of the owners of abutting land;
- c. documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soils scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
- d. map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.

15.6 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 regulations and the Inland Wetland and Watercourses Map. Notice of the hearing shall be published in a newspaper having general circulation in the municipality where the land that is 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 Inland Wetlands and Watercourses Map within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Agency shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days or may

withdraw such petition. Failure of the Agency to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.

- 15.9 The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetland and Watercourses Map 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 General Statutes, as amended.
- 16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

SECTION 17 CONFLICT AND SEVERANCE

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

SECTION 19 EFFECTIVE DATE OF REGULATIONS

- 19.1 These regulations including the Inland Wetlands and Watercourses Map 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 Durham.

- 19.2 An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of receipt of such application shall not be required hereafter to comply with any change in inland wetland regulations including changed 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 grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed apply (1) to the establishment amendment change of boundaries of inland wetlands or watercourses or to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

SECTION 20 APPLICATION FEES

- 20.1 Method of Payment. All fees required by these regulations shall be submitted to the Agency by certified check or money order payable to the Town of Durham at the time the application is filed with the Agency.
- 20.2 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 20.6 of these Regulations.
- 20.3 The application fee is not refundable.
- 20.4 Fee Schedule. Application fees shall be based on the following schedule:

Reviews

a.	Informal Discussion of Proposed Activity	NO CHARGE
b.	Review of Proposed Permitted Uses As of Right	\$30.00
c.	Review Non-Regulated Uses	\$30.00
d.	Review of Subdivision with Wetlands and Watercourses on the Property but no activity in a regulated area or within 100' of a Regulated area	\$50.00

- e. Review of an activity within 100' of a Regulated area, with NO Activity within the Regulated area \$20.00 + \$75.00/lot

Renewal or Amendment to a Permit \$50.00

Amendments Map Petition

- Less than 500 linear feet of regulated Areas \$150.00
- 500 to 1,000 feet \$250.00
- More than 1,000 feet \$200+\$10.00 for each 100 feet over

Permit for Disturbance of a Regulated Area

- Public Hearing \$270.00
- Less than 2,500 square feet \$140.00
- 2,500 to 5,000 square feet \$420.00
- 5,000 to 10,000 square feet \$1,100.00
- 10,000 square feet plus \$20.00 + \$.10/sq.ft.

20.5 Exemption. Boards, commissions, councils and departments of the Town of Durham are exempt from all fee requirements under Section 2 of these regulations.

20.6 Waiver. The applicant may petition the Agency to waive, reduce or allow delayed payment of the fee required by Section 2 of these Regulations. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this section. 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 21 RECORDS RETENTION AND DISPOSITION

- 21.1 The Agency and the Town Clerk for the Town of Durham shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/ disposition schedules set for in Subsection 21.2.
- 21.2 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.

RECORD TITLE	MINIMUM RETENTION REQUIRED IN AGENCY	TOWN CLERK
Applications (inc. supporting materials)	10 years	-
Decision Letters	10 years	Permanent
Approved Site Plans	10 years	-
Legal Notices Staff and Public	10 years	Permanent
Written Testimony (hearing records)	10 years	-
Minutes of Meetings & Public Hearings	15 years	Permanent
Tapes, Audio-Inland Wetlands Matters	4 years	-
Notices of Violation and Orders	10 years	-
Text of Changes Adopted in Regulations	Continuous Update	Permanent
General Correspondence Issued or Received	5 years	-

**SECTION 22
EFFECTIVE DATE OF REGULATIONS**

22.1 These regulations are effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having a general circulation in the Town of Durham, Connecticut.

DURHAM INLAND WETLANDS AND WATERCOURSES AGENCY

APPLICATION FOR PERMIT
(Inland Wetlands and Watercourses Act - Public Act 155)

General information to be supplied by all applicants for a permit:

1. Name of Applicant _____
Address _____
_____ Indicate if other than property owner.
Applicant's interest in property (lessee, licensee, etc.)
2. Name of Property Owner _____
Address _____
3. Location of Property _____
Include lot number as shown on Tax Assessor's Map
4. Description of proposed activity and location of property:
Include listing of all proposed regulated activities.
5. Number of areas of wetland included in application:
Include soil drainage classification(s) or natural soils group classification (s).

The applicant understands that this application is to be considered complete only when all information and documents required by the Agency have been submitted.

The undersigned warrants the truth of all statements contained herein and in all supporting documents according to the best of his knowledge and belief.

This form received by Agency

Date _____
By _____

_____ Applicant
_____ Authorized Agent

Supporting documents completed and received:
Date _____
By _____

_____ Address
_____ Telephone # _____

Site Plan and Environmental Information

The applicant shall submit a map or maps and such information concerning the proposed regulated activity (ies) as the Agency indicates below:

1. Sheet sizes
 - ___ a. 8 1/2" x 11" or, multiples thereof
 - ___ b. 24" x 36" or, multiples thereof

2. Graphic scale for site plan information

	Information required
	Scale Outside Regulated
	<u>Required* Area (list)</u>
___ a. Regulated area	1" = 40'
___ b. Area directly involved in regulated activity	1" = 40'
___ c. Property boundaries	1" = 200'min
___ d. Additional area _____ in width	1" = 200'min

3. ___ North Arrow

4. Title block in lower right corner of sheet showing:
 - ___ a. Name of project
 - ___ b. Name of owner/applicant and/or developer
 - ___ c. Date and subsequent date of revisions
 - ___ d. Legible signature of person responsible for drawing plan
 - ___ e. Legible signature of person responsible for drawing plan. Professionals certifying plan shall be appropriate to nature of activities proposed. Such site information about the proposed uses or effects of the regulated area must be certified by a licensed land surveyor, professional engineer, professional, architect, or professional landscape architect, any of which must be registered in the State of Connecticut.

-
- These are suggested examples of scale. Other appropriate scales may be used to conform with town requirements.

- _____ 1. Any proposed on-site sewage disposal system shall be certified by a registered sanitary engineer and a letter of approval submitted by the Town of Durham Department of Health.

- 5. _____ Location of any water courses or inland wetlands covered by the site plan as defined in Section 2 of these regulations are in Section 4 of Public Act 155.
 - _____ a. Boundaries and symbol of soil mapping unit(s).

- 6. _____ Site areas of permit and designation of each activity.

- 7. _____ Existing and proposed buildings or other structures.
 - _____ a. Location
 - _____ b. Floor Elevation

- 8. _____ Location, size and composition of sidewalks, off-street parking and loading including driveway entrances and exits, parking and loading spaces, and traffic islands and barriers.
 - _____ a. Percent of regulated area to be covered with impermeable surface.

- 9. _____ Location of tree stands, shrubs and other significant vegetation, both existing and planned.

- 10. _____ Source of water supply.

- 11. _____ Proposed method of sewage disposal.
 - _____ a. Proposed design and specifications of on-site sewage disposal certified by a sanitary engineer.

- 12. _____ Design of existing and proposed storm drainage system including elevations by contour at not less than five foot intervals. Additional detail may be required.

- 13. _____ Proposed grading by not less than five foot contours of any materials to be moved. Additional details may be required.

- 14. _____ Location of all percolation pits, test pits and observation holes.

15. Physical Data

- _____ a. Material to be deposited and/or excavated
 - _____ 1. Area
 - _____ 2. Volume
 - _____ 3. Physical composition (texture, components) of material to be deposited.
 - _____ 4. Chemical composition of all toxic materials, whether such materials are enclosed in containers or deposited openly.
 - _____ 5. Potential chemical reactions of deposited materials yielding toxic products or concentrations of products.
 - _____ 6. Final height of filled area above seasonal high water table.
 - _____ 7. Texture and composition of soil left after excavation
 - _____ 8. Slope of excavation
 - _____ 9. Depth to water table or water level if inundated after excavation.

16. Watercourse Data

- a. Open water characteristics
 - _____ 1. Size of ponds or lakes
 - _____ 2. Maximum depth and if possible volume of water
- b. Stream characteristics
 - _____ 1. Intermittent or permanent
- c. _____ Known flood levels to be indicated on map
- d. Discharges, if any
 - _____ 1. Type
 - _____ 2. Frequency and volume
 - _____ 3. Chemical composition
- e. Creation of new water bodies

17. Biological Data

	<u>Percent of</u> <u>Regulated Area</u>	<u>Dominant Species</u>
Tree		
Shrub		
Grasses, Weeds, etc.		
Aquatic		
Pasture		
Cultivated Area		

18. Probable effects of changes on:
____ a. Vegetation
____ b. Wildlife
19. Measures to protect regulated area from:
____ a. Erosion and sedimentation
____ b. Leaching of pollutants
____ c. Direct discharge of pollutants
____ d. Increased flooding and surface runoff hazards
20. Other site information as the Agency deems necessary to meet the objectives of these regulations and Public Act 155 (List).

TOWN OF DURHAM INLAND WETLANDS AND WATERCOURSES AGENCY
APPLICATION FOR REVIEW

NAME OF APPLICANT: _____

ADDRESS: _____ PHONE: _____

NAME OF OWNER: _____

ADDRESS: _____ PHONE: _____

SIGNATURE OF APPLICANT: _____

LOCATION OF PROPERTY: _____

ASSESSOR'S MAP # _____ LOT # _____

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SEE SECTION 20.4 OF THESE REGULATIONS
FOR APPROPRIATE FEE SCHEDULES.

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DESCRIPTION OF PROPOSED ACTIVITY

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FOR COMMISSION USE ONLY

FEE RECEIVED: _____ FOR COMMISSION: _____

DATE OF MEETING: _____

ACTION TAKEN BY COMMISSION: _____

MORE INFORMATION REQUIRED TO COMPLETE REVIEW: _____

APPLICANT TO RETURN WITH APPLICATION FOR PERMIT _____

REVIEW COMPLETE ____ SATISFACTORY ____ UNSATISFACTORY ____

CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION

Statewide Inland Wetlands and Watercourses Activity Reporting Form

In accordance with the requirements of Section 22a-39-14 of the Regulations of Connecticut State Agencies, this form is to be completed for each action. Completed forms for all reportable actions during a calendar month shall be mailed to the Commissioner by the local agency no later than the 15th day of the month following the month in which the action was taken. (See instructions on back.)

1. TOWN: _____
2. LOCATION: (Original scale copy of the USGS Quad Map with the site outlined of pinpointed)
USGS QUAD NUMBER: _____ OR NAME: _____
3. APPLICANT'S OR VIOLATOR'S NAME: _____
4. PROJECT NAME: _____
5. ACTIVITY TYPE CODE: (See list of codes on back, Max of 4 Codes) [_____]
If type code is 12 or 13, briefly describe the activity:

6. ACTIVITY PURPOSE CODE: (See list of codes on back, max. of 4 codes) ... [_____]
7. ACREAGE OF WETLANDS AND WATERCOURSES ALTERED: (or proposed to be altered, temporary or permanent) (for all agency permits, denials and enforcement actions)
 - A. Wetland Soil(s) Area Altered: [_____ ACRES]
Wetland Soil Symbols (e.g. lg, PkA, Rn) ... _____
 - B. If soil type is not available specify the area as follows:
Swamp [_____ ACRES]
Bog [_____ ACRES]
Marsh [_____ ACRES]
 - C. Open Water body Area Altered: [_____ ACRES]
8. ACREAGE OF WETLANDS OR WATERCOURSES CREATED: .. [_____ ACRES]
9. LINEAR FEET OF STREAM ALTERATION: [_____ ACRES]
10. TOTAL ACREAGE OF PROJECT SITE: [_____ ACRES]

<p>For Local Agency Use Only</p> <p>11. Reporting Month: _____</p> <p>12. Public Hearing Held Y N</p> <p>13. Action: Enter Letter ____</p> <p style="margin-left: 20px;">A. Permit issued</p> <p style="margin-left: 20px;">B. Permit denied</p> <p style="margin-left: 20px;">C. Permit extend/amend</p> <p style="margin-left: 20px;">D. Map amendment</p> <p style="margin-left: 20px;">E. Enforcement</p> <p style="margin-left: 20px;">F. Jurisdictional ruling</p> <p>14. Agent: _____</p>	<p>For State Use Only</p> <p>GIS Code: _____</p> <p>Date Received: _____</p>
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