

INLAND WETLANDS  
AND  
WATERCOURSES REGULATIONS  
OF THE  
TOWN OF NORTH STONINGTON

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Effective

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**INLAND WETLANDS AND WATERCOURSES REGULATIONS  
FOR THE  
TOWN OF NORTH STONINGTON, CONNECTICUT**

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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 or 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 imperiled 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 North Stonington".
- 1.3** The Inland Wetlands and Watercourses Agency of the Town of North Stonington was established in accordance with an ordinance adopted 7/15/73, and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of North Stonington.
- 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 terms, conditions, limitations or modifications, or deny permits for all Regulated Activities affecting inland wetlands and watercourses in the Town of North Stonington pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## SECTION 2

### DEFINITIONS

#### 2.1 As used in these regulations:

- a. **"ACT"** means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes.
- b. **"AGENCY"** or **"COMMISSION"** means the Inland Wetlands and Watercourses Commission of the Town of North Stonington.
- c. **"BOGS"** are land areas that are generally characterized by the presence of surface water, poor or very poor drainage, deposits of peat, and highly acidic conditions.
- d. **"BUILDING"** means a structure having a roof supported by walls and used or intended for the shelter of persons or animals.
- e. **"C.G.S."** means the Connecticut General Statutes.
- f. **"CLEAR-CUTTING"** means the harvest of timber products in a manner that removes every tree having a diameter of two inches or more when measured at a height of four feet above the average ground level at the base of the tree.
- g. **"COMMISSION"** or **"AGENCY"** means the Inland Wetlands and Watercourses Commission of the Town of North Stonington.
- h. **"COMMISSION MEMBER"** means a member or seated alternate of the Inland Wetlands and Watercourses Commission of the Town of North Stonington.
- i. **"COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION"** means the Commissioner of the State of Connecticut Department of Energy and Environmental Protection.
- j. **"CONNECTICUT GENERAL STATUTES"** means the most current version of the Connecticut General Statutes, as they may have been amended, unless the context expressly requires a different meaning.
- k. **"CONTINUAL FLOW"** means a flow of water that persists for an extended period of time. Although this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, it recurs in prolonged succession.
- l. **"DEPOSIT"** includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.
- m. **"DESIGNATED AGENT"** means an individual(s) designated by the Agency to carry out its functions and purposes.

- n. **"DISCHARGE"** means emission of any water, substance, or material into wetlands or watercourses, whether or not such substance causes pollution.
- o. **"DISTURBING THE NATURAL AND INDIGENOUS CHARACTER OF THE WETLAND OR WATERCOURSE"** means causing a significant, perceptible change in physical, biological, or chemical characteristics of a wetland or watercourse.
- p. **"DULY AUTHORIZED AGENT"** has the same meaning as "DESIGNATED AGENT".
- q. **"ESSENTIAL TO THE FARMING OPERATION"** means that the proposed activity is necessary and indispensable to sustain farming activities on an existing farm.
- r. **"FARMING"** shall be consistent with the definition set forth in Section 1-1(q) of the Connecticut General Statutes.
- s. **"FEASIBLE"** means able to be constructed or implemented consistent with sound engineering principles.
- t. **"GARDENING"** means the tilling of soil, and the planting, cultivating, and harvesting of vegetable matter.
- u. **"GRAZING"** means using any tract of land to feed or supply farm animals with grass or pasture, to tend farm animals, or to grow silage and herbage.
- v. **"HARVESTING OF CROPS"** means gathering plants or animals or plant or animal products that have been grown to be harvested.
- w. **"LICENSE"** has the same meaning as "PERMIT."
- x. **"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 sediment controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; and confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.
- y. **"MARSHES"** are land areas with soils that exhibit aquatic 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 usually at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water-table fluctuations are encountered.

- z. **"MATERIAL"** means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, mud, peat, debris, sand, refuse, or waste.
- aa. **"MUNICIPALITY"** means the Town of North Stonington, New London County, Connecticut.
- bb. **"NURSERIES"** means places where plants are grown for sale, transplanting or experimentation.
- cc. **"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 under the provisions of these Regulations.
- dd. **"PERMITTEE"** means the person to whom a permit has been issued.
- ee. **"PERSON"** means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- ff. **"POLLUTION"** means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the State by reason of erosion, or by 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.
- gg. **"PRUDENT"** means economically and otherwise reasonable in the 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.
- hh. **"REGULATED ACTIVITY"** means any operation within or use affecting a wetland or watercourse by removal or deposition of material, or any obstruction, construction, alteration, or pollution of such wetlands or watercourses, whether or not they appear on the official Inland Wetlands and Watercourses Map of the Town of North Stonington, except as may be provided by State law or by Section 4 of these Regulations.
- ii. **"REGULATED AREA"** means any inland wetland or watercourse as defined in these Regulations, whether or not they appear on the official Inland Wetlands and Watercourses Map of the Town of North Stonington, as well as land within 100 feet in a horizontal direction of any wetland or watercourse.
- jj. **"REMOVE"** includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.
- kk. **"RENDERING UNCLEAR 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.

- ll. "SIGNIFICANT ACTIVITY"** on wetlands or watercourses means any activity, including, but not limited to, the following activities, that may have a major effect or substantial impact on an inland wetland or watercourse:
1. Any deposition or removal of material in or from a Regulated Area in a manner that will or may cause a substantial effect on the physical, chemical or biological characteristics of a wetland or watercourse, whether at or outside the area for which the activity is proposed.
  2. Any activity that substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
  3. Any activity that substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life; to prevent flooding; to supply water; to assimilate waste; to facilitate drainage; to provide recreation or open space; or to perform other functions.
  4. Any activity that is likely to cause or has the potential to cause measurable turbidity, siltation or sedimentation in a wetland or watercourse.
  5. Any activity that causes measurable diminution of flow of a natural watercourse or groundwater levels of the Regulated Area.
  6. Any activity that is likely to cause or has the potential to cause pollution of a wetland or watercourse.
  7. Any activity that damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- mm. "SOIL SCIENTIST"** means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.
- nn. "STRUCTURE"** means anything constructed, erected or assembled that requires a location on or within the ground, or attachment to something having a location on or within the ground. The term "Structure" includes, but is not limited to, any building, manufactured home, paved area, storage tank, sign, wall (retaining or otherwise), swimming pool, fence, telecommunications equipment or facility, and any other man-made utility and infrastructure.
- oo. "SUBMERGED LAND"** means land that is inundated by water on a seasonal or more frequent basis.
- pp. "SUBSTANTIAL,"** in relation to an effect, impact or change, means that such effect, impact or change is or would be readily perceptible, either visually or with common measuring devices.
- qq. "SWAMP"** means land areas with soils that exhibit aquic moisture regimes and are dominated by wetland trees and shrubs.
- rr. "TOWN"** means the Town of North Stonington, New London County in the State of Connecticut.
- ss. "VERNAL POOL"** means a seasonal, generally shallow body of water in a defined depression or basin that lacks a fish population (a self-sustaining number of native fish) and supports or is capable of supporting breeding and development of amphibian or invertebrate species recognized as obligate to vernal pools.

- tt. **"WASTE"** means sewage or any natural or man-made substance, liquid, gaseous, solid or radioactive, that may pollute or have the potential to pollute any of the wetlands or watercourses of the Town.
- uu. **"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, that are contained within, flow through or border upon the Town of North Stonington or any portion thereof, and that are not regulated pursuant to Section 22a-28 through 22a-35 inclusive of the Connecticut General Statutes. 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.
- vv. **"WETLANDS"** means land, including submerged land as defined in Section 2.1.00 of these Regulations, that is not regulated pursuant to Section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, and that consists of any of the soil types designated as poorly drained, very poorly drained, alluvial or floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the U. S. Department of Agriculture (USDA), whether mapped or unmapped per the Inland Wetlands and Watercourses Map of the Town of North Stonington. Such areas may include filled, graded, or excavated sites which possess an aquatic soil moisture regime as defined by the USDA Cooperative Soil Survey.
- ww. **"UPLAND REVIEW AREA"** means land areas situated within 100 feet from the boundary of any inland wetland or watercourse.

## **SECTION 3**

### **INVENTORY OF REGULATED AREAS**

- 3.1** The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, North Stonington, 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 of the Inland Wetlands Commission. In all cases, the precise location of the wetlands and watercourses shall be determined by the actual character of the land, the distribution of the wetland soil types, and locations of watercourses. Where soil classifications are required, such determination shall be made by field inspection and testing conducted by a certified soil scientist. Where watercourse determinations are required, such determination may be made by other qualified individuals having appropriate training or experience. However, areas designated as wetlands or watercourses on the Inland Wetlands and Watercourses Map shall be presumed to be wetlands and watercourses, respectively, unless the Agency makes a contrary finding based on evidence it receives. The Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of wetlands and watercourses.



- 3.2** The Agency or its designated agent(s) shall monitor and maintain general surveillance of all Regulated Areas. 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 map amendments are subject to the public hearing process outlined in Section 16 of these Regulations. However, whenever the Agency is considering an application for a permit for a Regulated Activity, nothing in these Regulations shall be deemed to preclude the Agency from making a decision based upon the actual character of the land, the distribution of the wetland soil types and locations of watercourses, where such factors have been demonstrated by competent evidence to be different from those shown on the official map.

## **SECTION 4**

### **PERMITTED USES AS OF RIGHT AND NONREGULATED USES**

Section 22a-40 of the Connecticut General Statutes contains a list of operations and uses that are either nonregulated or permitted in inland wetlands and watercourses as of right. For informational purposes, the operations and uses allowed by that Statute as of the date of enactment of these Regulations are set forth in Sections 4.1 and 4.2 below. It is the intention of the Agency that the uses described in Sections 4.1 and 4.2 shall be deemed to be coextensive with, and not any more or less inclusive than, those specified in that Statute, as it may be amended.

- 4.1** The following operations and uses were permitted in inland wetlands and watercourses, as of right, pursuant to CGS Section 22a-40, as of the time of enactment of these Regulations:
- a.** Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by or under the authority of, the Department of Energy and Environmental Protection, for purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subsection shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purpose of sale.
  - b.** A residential home (i) for which a building permit has been issued, and/or (ii) on a subdivision lot, provided the permit was issued or the subdivision was approved by the Planning and Zoning Commission on or before July 1, 1974, and further provided that 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, and has not expired. Any person claiming a use of wetlands permitted as a right under this subsection shall document the validity of that claim 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 or her right hereunder.
  - c.** Boat anchorage or mooring, not to include dredging or dock construction.

- d. Uses incidental to the enjoyment or maintenance of residential property. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of more than one cubic yard of material from or into a wetland or watercourse, or diversion or alteration of a watercourse without a permit.
  - e. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies, except as provided in Sections 22a-401 through 22a-410 of the Connecticut General Statutes.
  - f. Maintenance relating to any drainage pipe that existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property that is zoned as residential but that 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 were permitted as nonregulated uses in wetlands and watercourses, pursuant to CGS Section 22a-40, as of the time of enactment of these Regulations, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
- a. Conservation of soil, vegetation, water, fish, shellfish, 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.
  - c. Removal or management of non-native invasive species as detailed in an approved written plan developed by a qualified environmental professional (including but not limited to a landscape architect, environmental engineer, soil scientist or wetlands ecologist).
- 4.3** Movement of equipment in or through wetlands or watercourses must be reviewed by the Inland Wetlands Enforcement Officer to determine whether such activity requires a permit.
- 4.4** All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, clearing, and grading or any other alteration or use of a wetland or watercourse that is not specifically allowed pursuant to CGS Section 22a-40 and that is defined as a Regulated Activity by these Regulations shall require a permit from the Agency in accordance with Section 6 of these Regulations.

- 4.5** 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 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 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 may make such ruling on behalf of the Agency at any time. Notwithstanding the foregoing provisions, if there is any change in State law regarding the definition or qualifications of an activity to be a use permitted as of right or a nonregulated use before such use has actually commenced, no ruling made by the Agency under this section shall protect the proposed use from the effect of such change.

## **SECTION 5**

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

State law delegates to the Commissioner of Energy and Environmental Protection the exclusive authority to regulate certain types of activities that may affect inland wetlands or watercourses. For informational purposes, Sections 5.1 through 5.4 describe certain categories of activities for which the Agency understands that such a delegation has been made to the Commissioner. It is the intention of the Agency that the categories of activities described in Sections 5.1 through 5.4 shall be deemed to be coextensive with, and not any more or less inclusive than, the activities for which State law, as it may be amended, has actually delegated such authority to the Commissioner.

- 5.1** The Commissioner has exclusive jurisdiction over activities undertaken in Regulated Areas 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.
- 5.2** The Commissioner has exclusive jurisdiction over activities in tidal wetlands, designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.3** The Commissioner has exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner under Section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner under Sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from the Agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4** The Commissioner has jurisdiction over the discharge of dredged or fill materials into wetlands and watercourses pursuant to Section 401 of the Federal Clean Water Act, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of that Act.

## **SECTION 6**

### **REGULATED ACTIVITIES SUBJECT TO PERMIT**

- 6.1** Except as set forth in Section 4 of these Regulations, no person shall conduct or maintain a Regulated Activity without first obtaining a permit for such activity from the Agency.
- 6.2** Any person found to be conducting or maintaining a Regulated Activity without a permit, or violating any other provision of these Regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 15 of these Regulations and any other remedies as provided by law.

## **SECTION 7**

### **APPLICATION REQUIREMENTS FOR REGULATED ACTIVITIES**

- 7.1** Any person intending to undertake a Regulated Activity shall apply for a permit on a form entitled "Application for Regulated Activity Permit". An application shall include an application form and such information as prescribed by Section 7.5 and, in the case of a Significant Activity, by Section 7.6 of these Regulations. Application forms may be obtained in the office of the Agency.
- 7.2** If an application to the Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-26 of the Connecticut General Statutes, submit an application for a permit to the Agency in accordance with this Section, no later than the day the application is filed with the Planning and Zoning Commission.
- 7.3** No application shall be deemed complete unless it shall be in such form and contain such information as the Agency deems necessary for a fair and informed determination of the issues. The Agency shall inform the applicant of any such necessary information that is not already specified in these Regulations.
- 7.4** A prospective applicant may, before submitting an application, ask the Agency to determine whether or not a proposed activity would constitute a Significant Activity, as defined in these Regulations.
- 7.5** All applications shall include a completed application form entitled "Application for Regulated Activity Permit," containing, or accompanied by other documents containing:
- a.** The name, home and business mailing addresses, and telephone numbers of (i) the owners of record; (ii) the applicants (if different from the owners); and (iii) an individual person who will be the principal contact for the Agency with respect to the conduct and completion of any Regulated Activities for which a permit is issued. In the event of any change in the identity of the owners of record or of the contact person, the current owners must file with the Agency a written statement identifying the new owners and/or contact person, with the home and business mailing addresses and telephone numbers of all such persons. The failure of the current owners to file such a notice shall operate to suspend any

permit, and no further Regulated Activities may be conducted until such notice is filed with the Agency.

- b.** If the owner is not the applicant, the signature of the owner or the owner's agent or other legal representative, signifying knowledge of and consent to the application.
- c.** If the applicants are not the owners of record of the property, the nature of the interest the applicants have in the property (e.g., lease or option or contract to purchase).
- d.** The geographical location of the land that is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), and wetland vegetation;
- e.** The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures that 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.** Alternatives that would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen. The Agency may require such alternatives to be diagrammed 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 that are made inevitable by the proposed Regulated Activity and that may have an impact on wetlands or watercourses, drawn at an appropriate scale, and 11"x17" reduced copies of all larger plans;
- 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.** A completed DEEP reporting form (see Section 7.10). To the extent necessary or appropriate, the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Energy and Environmental Protection as may be required by the Regulations of Connecticut State Agencies;
- k.** Any other information the Agency deems necessary to the understanding of what the applicant is proposing; and
- l.** Submission of the appropriate filing fee.

Notwithstanding the foregoing provisions, the Agency may excuse compliance with any of the specific requirements of this Section 7.5 (other than subsection l) if it does not find that the information is necessary to enable the Agency to determine whether the proposed activities would cause or create the risk of detrimental impacts to wetlands or watercourses. The applicant shall also be required to acknowledge that the proper processing of the application and the monitoring of activities under any subsequent permit may require site inspections by the members or Designated Agent of the Commission at reasonable times. The Commission or the Designated Agent shall, where feasible, provide appropriate notice to the applicant or landowner of any such inspections.

**7.6** If the proposed activity involves a Significant Activity as defined in Section 2.1 of these Regulations, the following additional information shall be required, except as follows. The Agency may excuse compliance with any of the specific requirements of this Section 7.6 if it does not find the information is necessary to enable the Agency to determine whether the proposed activities would cause or create the risk of detrimental impacts to wetlands or watercourses. In addition, the Agency may require additional information if it determines that such information is needed properly to evaluate the potential effects of the activity.

- a.** Site plans for the proposed activity and the land that would be affected.
- b.** Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to wetlands and watercourses.
- c.** 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 and watercourse functions.
- d.** A biological evaluation of any wetlands or watercourses pertinent to the proposed activity including:
  - 1. Dominant botanical species, rare species and forest age classes of flora;
  - 2. Habitat value of the affected property for all wildlife species;
  - 3. Depth of water table below surface or level of water if inundated;
  - 4. The location of all vernal pools.
- e.** A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative and a description of why each alternative considered was deemed neither feasible nor prudent.
- f.** The effect of the proposed activity or use upon a watercourse, including existing PH or alkalinity/acidity level; turbidity or solids in parts per million; bacterial count in coliforms per milliliter; and flow, if any, in cubic feet per second; together with an estimate of any changes in these measurements that may result from the proposed use.
- g.** Best management practices and other measures that would mitigate the impact of the proposed activity. Such measures may include, but are not limited to, plans or actions that avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats; that prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage; or that otherwise safeguard water resources.

**7.7** In addition, the Agency may require such other data as it deems necessary to evaluate the application in light of the purposes and policies of the Regulations.

**7.8** The applicant shall certify whether:

- a.** Any portion of the property on which the Regulated Activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- b.** Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c.** Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
- d.** Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

- 7.9** The applicant shall submit to the Agency five (5) copies of the application form and all supporting materials, including 11"x17" reduced copies of all larger plans.
- 7.10** The applicant shall complete a reporting form during the application process which provides the Commissioner of the Department of Energy and Environmental Protection with information necessary to monitor properly the inventory of State wetlands. The reporting form shall include the following: the name of the applicant, the name of the project, a project description, the area of wetlands and/or lineal feet of watercourses to be altered.

## **SECTION 8**

### **APPLICATION PROCEDURES**

- 8.1** All applications for a Permit shall be filed with the Agency.
- 8.2** When an application to conduct or cause to be conducted a Regulated Activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within five hundred feet of the boundary of another municipality, the applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the Inland Wetlands Agency of such other municipality. The applicant shall furnish a copy of the return receipt to the Inland Wetlands Agency of the Town of North Stonington.
- 8.3** If a public hearing is to be held on any application for a permit, notice of the public hearing shall be mailed by the applicant by certified mail in accordance with Section 9.4 of these regulations.
- 8.4** The Agency shall, in accordance with Section 8-7d(f) of the Connecticut General Statutes, 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 on which the Regulated Activity is proposed is located within 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.

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.

- 8.5** When an application is filed to conduct or cause to be conducted a Regulated Activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the Connecticut General Statutes, 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 Town of North Stonington and with the Agency. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of submission 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.

- 8.6** For purposes of Section 9 of these Regulations, the date of receipt of the application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency or thirty-five days after such submission, whichever is sooner.
- 8.7** At any time during the review period, the Agency may require the applicant to provide additional information about the Regulated Area or Regulated Activity that is the subject of the application, or about other wetlands or watercourses that may be affected by the Regulated Activity. Requests for such additional information shall not stay the time limitations as set forth in Section 9 of these Regulations.
- 8.8** If a public hearing is to be held on any application for a permit, all documentary evidence in support of the application shall be filed with the Agency and available for public inspection no less than fifteen (15) days prior to the day of the hearing or any reconvening thereof. All other persons wishing to present documentary evidence in the proceeding should file such evidence on or before the date on which the public hearing is commenced. Nothing in this Section 8.8 shall prohibit the Agency, in the exercise of its discretion, from receiving evidence from any person at a later time. However, the Agency may refuse to consider any information and documentary evidence, including but not limited to any proposed modifications to the applicant's site plans or Regulated Activities, that is submitted after the aforesaid dates if it determines that the Agency's members, staff or consultants would not have sufficient time to review such information or evidence properly or thoroughly before the public hearing is closed.
- 8.9** All applications shall be open for public inspection.
- 8.10** Incomplete applications may be denied.

## **SECTION 9**

### **PUBLIC HEARINGS ON REGULATED ACTIVITY PERMITS**

- 9.1** No later than sixty-five (65) days after the date of receipt of an application, the Agency may hold a public hearing on such application, in accordance with Section 9.2. 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 after 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 after 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 may be withdrawn by the applicant or, if not withdrawn, shall be denied by the Agency.

- 9.2** The Agency shall not hold a public hearing on an application unless (1) the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses; or (2) a petition requesting a hearing, and signed by at least twenty-five persons who are eighteen years of age or older and who reside in the Town of North Stonington, is filed with the Agency not later than fourteen days after the official date of receipt of such application; or (3) 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 official date of receipt of the application. Any public hearing shall be held no later than sixty-five days after the official date of receipt of the application. All applications and maps and documents relating thereto shall be open for public inspection.
- 9.3** The Agency shall publish notice of the public hearing 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 or watercourse is located.
- 9.4** The applicant shall mail notice of the public hearing by certified mail to the owner(s) of record, as determined by the current Assessor's files, of all abutting land and, if the applicant is not the owner of the property that is the subject of the application, to the owners of the property. Such notices shall be mailed no less than fifteen (15) days prior to the day of the hearing. The applicant must give proof of such mailing to the Agency at or before the commencement of the hearing.
- 9.5** In the case of any application which is subject to the notification provisions of Section 8.2 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(s) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.
- 9.6** If a public hearing is to be held on any application for a permit, all documentary evidence regarding the application shall be filed with the Agency in accordance with Section 8.8 of these Regulations.

## **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 and organizations including but not limited to, conservation commissions, planning and zoning commissions, building officials, health officers and conservation organizations;
  - d.** The Agency may also consider comments on any application from the Natural Resources Conservation Service, regional planning agencies or other regional organizations; agencies in adjacent municipalities that may be affected by the proposed activity, and other technical agencies or conservation organizations;

- e. Non-receipt of comments from agencies and commissions listed above within any time provided by law shall neither delay nor prejudice the decision of the Agency.
- f. Advice received from Agency staff or Agency consultants after a public hearing regarding evidence or testimony received before the close of the public hearing. Such advice should be limited to comments or interpretations of materials that were received before the close of the public hearing; it should not include new or additional factual information to which the parties to the public hearing had no opportunity to be apprised or heard.

**10.2 Criteria for Decision.** In carrying out the purposes and policies of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcement, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. The environmental impact of the proposed action on wetlands and watercourses, including the effects on the capacity of the inland wetlands and watercourses to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.
- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed Regulated Activity, which alternatives would cause less or no environmental impact to wetlands or watercourses. This consideration should include, but is not limited to, the alternative of taking no action, or postponing action pending further study, and 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 and long-term impacts of the proposed Regulated Activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- d. Irreversible and irretrievable loss of wetland or watercourse resources 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 that may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to: (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority; restore, enhance and create productive wetland or watercourse resources
- e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property that is caused or threatened by the proposed Regulated Activity. This criterion includes recognition of potential damage from erosion, turbidity, or siltation, 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; and
- f. Impacts of the proposed Regulated Activity on wetlands or watercourses outside the area for which the activity is proposed, and future activities associated with, or reasonably related to, the proposed Regulated Activity that are made inevitable by the proposed Regulated Activity and that may have an impact on wetlands or watercourses.

**10.3** In the case of any application that 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 Section 10.2. The finding and the reasons therefore shall be stated on the record and included in the Agency's minutes.

- 10.4** If an application is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed Regulated Activity that may have less adverse impacts on wetlands or watercourses, the Agency shall, to the extent required by state law, propose on the record in writing the types of alternatives the applicant may investigate, provided this section shall not be construed to shift the burden from the applicant to prove entitlement to the permit or to present alternatives to the proposed Regulated Activity.
- 10.5** For purposes of Section 10, the terms "wetlands" and "watercourses" include aquatic, plant or animal life and habitats in wetlands or watercourses, and the term "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6** The Agency shall not deny or condition an application for a Regulated Activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical, chemical or biological characteristics of such wetlands or watercourses.
- 10.7** 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 these Regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- 10.8** The time within which the Agency must render a decision on an application is set forth in Section 9.1 of these Regulations.

## **SECTION 11**

### **DECISION PROCESS AND PERMIT**

- 11.1** The Agency, or its duly authorized agent acting pursuant to Section 13 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 that would mitigate the impacts of the Regulated Activity and 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 time within which the Agency must render a decision on an application is set forth in Section 9.1 of these Regulations.
- 11.2** To the extent required by state law, the Agency shall state upon its record and in its minutes the reasons and basis for its decision. Such decision shall be based fully on the materials properly received into the Agency's record 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.

- 11.3** The Agency shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days after the date of the decision by certified mail and the Agency shall cause notice of its order in the issuance or denial of the permit to be published in a newspaper having general circulation in the Town of North Stonington. The failure of the Agency to provide such notice or to make such publication shall not be deemed to nullify, invalidate or otherwise affect such decision except as may be required by state law. In addition, state law may allow the applicant to provide for the publication of a notice of decision in the event the Agency fails to make timely publication.
- 11.4** If an activity authorized by the inland wetland permit also involves an activity which requires zoning or subdivision approval, the Agency will provide a copy of its decision and report on the application to the Town of North Stonington Planning and Zoning Commission as may be required by state law. The failure of the Agency to submit any such decision or report to the Planning and Zoning Commission shall not be deemed to nullify, invalidate or otherwise affect such decision except as may be required by state law.
- 11.5** If the Agency denies the permit as incomplete 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. If the modifications relate to an application that was granted, as aforesaid, the Agency shall determine whether the proposed modification requires the filing of new application.
- 11.6** In accordance with C.G.S. Section 22a-42a(d)(2), any permit issued under this section for the development of property for which an approval is required under C.G.S. Sections 8-3, 8-25 or 8-26 shall be valid for five years, provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued under this section for any other activity shall be valid for not less than two years and not more than five years. If the Agency fails to designate a specific duration, the term of the permit shall be deemed to be five years. Any such permit shall be renewed upon application of the permit holder, as provided in Section 12 of these Regulations, unless the agency finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no permit shall be valid for more than ten years. All activities specified on a permit must be completed by the expiration of the permit or the permittee will be in violation of the North Stonington Inland Wetlands Regulations and may be subject to penalties as specified in the Connecticut General Statutes.
- 11.7** If a bond or insurance is required in accordance with Section 14 of these Regulations, no Regulated Activities may lawfully begin until the bond is posted according to the requirements in Section 14.1.
- 11.8** **General conditions on the issuance of all permits:**
- a. When the Agency has issued a permit, and later finds that the applicant provided false, deceptive, incomplete or inaccurate information upon which the Agency relied in granting the permit, the Agency may, after providing a hearing to the applicant or the applicant's successor, modify, suspend or revoke the permit.
  - b. The Agency has no legal power to determine ownership rights or other legal interests in property. Therefore, in accepting, or granting any permit under, an application in which the applicant has claimed ownership rights or other legally

sufficient interests in the property to make the application, the Agency shall assume that the applicant has the legal right to make such application and to conduct the proposed activities on the subject property. Nevertheless, no such permit shall be deemed to create a property right or interest in any person would not otherwise be entitled to claim such interest. All permits shall be 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 employ construction management practices consistent with the terms and conditions of the permit, utilizing Connecticut DEEP regulations, standards, policies or guidelines to control stormwater discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- d. All permits issued that have not been completed within five years from the original date of approval, or within any period of extension granted by the Agency pursuant to Sections 11.6 and 12, will be subject to formal review by the Agency and will require a new application.

**11.9 Schedule of Construction of Regulated Activity:**

Within fifteen (15) days after receiving approval of a Regulated Activity the applicant will forward to the North Stonington Inland Wetlands office a schedule for commencing and completing the Regulated Activity. The Applicant shall confirm or revise the schedule fifteen (15) calendar days prior to commencement of construction. No Regulated Activities may begin until the sixteenth day after the schedule is submitted unless the Agency has expressly authorized such commencement when granting the permit.

**11.10 Construction of a Regulated Activity:**

The Agency may require the following as part of a condition of approval:

- a. That the construction of a Regulated Activity shall be under the supervision of a properly qualified professional engineer, wetlands scientist, or other relevant professional. The names, addresses, and telephone numbers of all such persons shall be provided to the Agency prior to the commencement of the permitted activities.
- b. That any such professionals submit periodic reports to the Agency at intervals chosen by the Agency. Such reports should contain a description of any work already completed, work anticipated and scheduled for subsequent periods, and reports of any problems. The failure to submit a required report may result in appropriate enforcement by the Agency or its authorized Agent.

## **SECTION 12**

### **EXTENSION, TRANSFER AND MODIFICATION OF REGULATED ACTIVITY PERMITS**

- 12.1** Any application to modify or to extend the expiration date of a previously approved 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 Section 8. The Agency may accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and, during the pendency of the application, allow the continuation of work beyond the expiration date if, in the Agency's judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting

the activity. Except as may otherwise be provided by law, applications for extensions or modifications of permits granted under previous regulations shall be reviewed and decided in accordance with the current regulations. If an application is for an extension of time:

- a. The application shall state the reason why the authorized activities were not initiated or completed within the time originally provided in the permit;
- b. 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;
- c. 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.

**12.2** The Agency shall evaluate any application for modification pursuant to Section 10 of these Regulations and grant the application as filed, grant it with any appropriate terms, conditions or limitations, or deny it without prejudice with respect to the filing of a subsequent permit application.

**12.3** Applications for renewals of expired permits shall be processed in accordance with Section 11.6 of these Regulations.

**12.4** In the event any change is made in the identity of the owners of record or of the contact person designated on the application form under which the permit was issued, and the current owners have not filed with the Agency a written statement identifying the new owners and/or contact person pursuant to Section 7.5.a of these Regulations, the permit shall be automatically suspended, and no further Regulated Activities may be conducted until such notice is filed with the Agency.

## **SECTION 13**

### **ACTION BY DULY AUTHORIZED AGENT**

**13.1** The Agency delegates to its Duly Authorized Agent the authority to approve or extend a permit for an activity that is not located in a wetland or watercourse when such Agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses, provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made in accordance with Section 7 on the "Application for Regulated Activity Permit", a form provided by the Agency, and shall contain the information specified in Section 7.5 of these Regulations and any other information the Agency or Designated Agent may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed elsewhere in these Regulations, such Agent may approve or extend such an activity at any time. Notwithstanding the foregoing provisions, the Agency may, by written notice to its agent, temporarily rescind or suspend the delegation of authority to issue permits.

**13.2** Any person receiving such approval from such Designated Agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the Town of North Stonington. Any person may appeal such decision of such Agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting, provided such meeting is no earlier than three business days

after receipt by such Agency or its Agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its Designated Agent or require an application for a permit in accordance with Section 7 of these Regulations.

## **SECTION 14**

### **BOND AND INSURANCE**

- 14.1** The Agency may require, as a permit condition, the filing of a bond with such surety, and in such amount and form, as may be approved by the Agency.
- 14.2** 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.
- 14.3** For the purpose of this Section, a bond shall mean one of the following:
- a.** A surety bond issued by a company licensed to do business in the State of Connecticut, accompanied by the Power of Attorney of the person executing the bond for the company. Such company shall have offices in New London County and must submit certification from its home office that the local office in New London County has authority to pay out the full value of the bond.
  - b.** A bond secured by an assigned passbook savings account or a certificate of deposit representing funds deposited in a financial institution that is on the list of those approved for deposit of Town funds.
  - c.** Cash or certified check in the required amount deposited with the Treasurer of the Town of North Stonington.
  - d.** An irrevocable letter of credit (original document).
- 14.4** Bonds shall be executed in accordance with the sample forms supplied by the Agency, with proper reference made to all maps and plans describing the Regulated Activity covered by the bond, and shall be satisfactory to the Agency or its agent(s) and to the Agency's legal counsel as to form, sufficiency and manner of execution.
- a.** Bonds secured by a passbook savings account or certificate of deposit shall be accompanied by the savings passbook(s) or certificate of deposit passbook(s) which shall remain in the possession of the Town until final release of the bond
  - b.** When the bond is secured by a passbook savings account or a certificate of deposit, the total amount in any single account or certificate may not exceed the maximum amount per account guaranteed by the Federal Deposit Insurance Corporation. Where the total amount of the bond required exceeds FDIC coverage for a single account, additional accounts shall be established to ensure that all deposited funds are FDIC insured.
- 14.5** Where a bond has been posted and work covered by the bond has not been completed within the terms of such bond, the Town may declare the bond to be in default and require that all work be completed regardless of the extent of development at the time the bond is declared to be in default.
- 14.6** Upon written request from the permittee, the bond shall be released by the Agency or its Agent(s) after approval of the completed Regulated Activity. Upon written request from the permittee and a determination by the Agency or its Agent(s) that a substantial portion

of the work guaranteed by the bond has been completed, the Agency or its Designated Agent may approve partial release(s) of the surety.

## **SECTION 15**

### **ENFORCEMENT**

- 15.1** The Agency may appoint an Agent or Agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these Regulations. In carrying out the purposes of this Section, the Agency or its Duly Authorized Agent shall take into consideration the criteria for decision under Section 10.2 of these Regulations.
- 15.2** When a permit has been issued to conduct Regulated Activities, the Agency or its Designated Agent, upon receiving the consent of the owner, or authorized agent of the owner, of the affected property, may make regular inspections of such activities at reasonable hours. Nothing herein shall be deemed to prevent the Agency from requiring, as a condition of approval of any permit, the opportunity to inspect and monitor any permitted Regulated Activities.
- 15.3** When a permit to conduct Regulated Activities has expired, or Regulated Activities have been conducted without a permit, the Agency or its Designated Agent, upon receiving the consent of the owner, or authorized agent of the owner, of the affected property, or to the extent otherwise allowed by law, may inspect such activities at reasonable hours. Nothing herein shall be deemed to prevent the Agency or its Designated Agent from conducting inspections of such activities without the owner's consent, to the extent such inspections may otherwise be allowed by law.
- 15.4** If the Agency or its Duly Authorized Agent finds that any person is conducting or maintaining any activity, facility or condition that 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 days of the completion of the hearing, notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the Town of North Stonington. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended.
  - b.** Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation and 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 direct 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 a proper application for the necessary permit. A notice of violation shall not be deemed to be an order of, or an official finding of facts by, the Agency and shall not be binding on the Agency or on the person receiving the notice. Failure to carry out the action(s) directed in a notice of violation may result in the issuance of the order provided in Subsection "a" of this Section or other enforcement proceedings as provided by law.

- c. 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 that warrants the intended action. At the hearing the permittee shall be given an opportunity to show compliance with the permit and any and all requirements for retention of the permit.

- 15.5** The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by personal service or by certified mail within fifteen (15) days after the date of its decision.

## **SECTION 16**

### **AMENDMENTS**

- 16.1** These Regulations and the Inland Wetlands and Watercourses Map of the Town of North Stonington may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 16.2** An application filed with the Agency that is in conformance with the applicable Inland Wetlands and Watercourses Regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in such Regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt. The provisions of this subsection shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 16.3** These Regulations and the Inland Wetlands and Watercourses Map of the Town of North Stonington shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Energy and Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.
- 16.4** Applications requesting changes or amendments to the Inland Wetland and Watercourses Map of the Town of North Stonington shall contain at least the following information:
- a. A completed application form entitled "Application for Inland Wetland Boundary/Inland Wetland Regulation Amendment"

- b. A map prepared to the following standards:
  1. The size of the map shall be 18"x24" or 24" x 36".
  2. The map shall be prepared at an appropriate scale.
  3. The map shall be prepared by a Land Surveyor licensed in the State of Connecticut in accordance with the Regulations of Connecticut State Agencies Sections 20-300b-1 through 20-300b-20 and the "Standards for Surveys and Maps in the State of Connecticut", as adopted by the Connecticut Association of Land Surveyors, Inc. on September 26, 1996.
- c. The map shall contain the following:
  1. Inland wetlands and watercourses boundaries and designation of type of wetlands and watercourses as defined in Sections 2.1.vv and 2.1.uu and provided by a Soil Scientist.
  2. A locus map showing the geographical location of property.
  3. Property boundary lines of the subject land parcel.
  4. Owners of record of the subject property and adjoining properties.
  5. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey.
  6. The inland wetlands boundaries and watercourses as shown on the Inland Wetlands and Watercourses Map of the Town of North Stonington.
- d. A soils report prepared and certified by a soil scientist.
- e. A list of the U.S. Global Positioning System (GPS) coordinates of each inland wetland boundary point shown on the map and the GPS coordinates of at least three points located on the property boundary of the subject land parcel.

**16.5** Any person who submits a petition to amend the Inland Wetlands and Watercourses Map of the Town of North Stonington shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information. If such person is the owner, developer or contract purchaser of the land that 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 16.4, 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 the subject land. Such documentation shall, at a minimum, include the report of the soil scientist documenting the location of wetland soils on the land and a map of the land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types.

**16.6** Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual. The Agency acknowledges that many watercourses may be readily identified by lay persons.

**16.7** A public hearing shall be held on applications to amend the Inland Wetlands and Watercourses Map of the Town of North Stonington. Notice of the hearing shall be published in a newspaper having substantial circulation in the Town of North Stonington 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 such hearing. A copy of

such proposed boundary change shall be filed in the office of the North Stonington Town Clerk for public inspection at least ten days before such hearing.

- 16.8** Within sixty-five (65) days after the actual date of receipt of a complete application for a change in the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the application. The Agency shall complete the public hearing within thirty-five (35) days after the hearing commences. The Agency shall act upon the change(s) requested in such application within sixty-five (65) days after the close of the hearing. 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 of all extensions for all separate parts of the process does not exceed sixty-five (65) days, 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.
- 16.9** The Agency shall make its decision and state in writing the reasons why any change in the Inland Wetlands and Watercourses Map of the Town of North Stonington was made.
- 16.10** Within ninety (90) days following approval of a boundary change a mylar signed by the Chairman of the Inland Wetlands Agency showing the final map shall be filed by the applicant at its expense in the office of the North Stonington Town Clerk. Any map not so filed within the prescribed ninety (90) days shall become null and void. However, the filing date of the final map may be extended by mutual consent of the applicant and the Agency.

## **SECTION 17**

### **APPEALS**

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

## **SECTION 18**

### **CONFLICT AND SEVERANCE**

- 18.1** If there is a conflict between or among 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 part of these Regulations shall not affect the validity of any other part that can be given effect without such invalid part.
- 18.2** If there is a conflict between the provisions of these Regulations and the provisions of the Act, the provisions of the Act shall govern.

## SECTION 19

### OTHER PERMITS

- 19.1** 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 North Stonington, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Energy and Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

## SECTION 20

### APPLICATION FEES

- 20.1** Method of Payment. All fees required by these regulations shall be submitted to the Commission by certified check or money order payable to the Town of North Stonington at the time the application is filed with the Commission.
- 20.2** No application shall be granted or approved by the Commission unless the correct application fee is paid in full or unless a waiver has been granted by the Commission pursuant to subsection 4 of these regulations.
- 20.3** The application fee is not refundable.
- 20.4** Definitions. As used in this section:
- a. "Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.
  - b. "Commercial Uses" means activities carried out on property developed for business purposes, whether profit or nonprofit.
  - c. "Other Uses" means activities other than Residential or Commercial Uses.
- 20.5** Fee Schedule. Application fees shall be based on the following schedule:
- a. PERMITTED AND UNREGULATED USES - (See Section 4 of these Regulations).
    - (1) Permitted Uses as of Right - no charge, unless State Fee required
    - (2) Non-Regulated Uses - no charge, unless State Fee required
  - b. REGULATED ACTIVITY - (See Section 2.1.hh and Section 6 of these Regulations).
    - (1) Residential Uses - \$100.00 base fee plus \$50.00 per lot for review of plans of property divisions, including but not limited to subdivisions, as defined in C.G.S. Section 8-18..
    - (2) Commercial Uses - \$100.00 base fee plus \$50.00 per each acre or part thereof on which any development is proposed.
    - (3) Other Uses - \$70.00\*
  - c. APPLICATION EVALUATION FEE – Where, in the judgment of the Commission, the proper review of an application would require the assistance of professional consultants, such as, but not limited to, engineers, scientists, and lawyers, the actual fees and expenses charged by such professionals shall be paid by the Applicant. The Commission shall submit to the Applicant, upon receipt, all invoices for such fees and expenses and the Applicant shall be obliged to make full payment within 30 days. No Regulated Activities may be initiated under any permit until the Applicant has paid all such fees and expenses, unless the Commission expressly allows such activities to commence at an earlier time under the terms of approval of the permit.

- d. MAP AMENDMENT PETITIONS - (See Section 16 of these Regulations). - \$50.00
- e. MODIFICATION OR RENEWAL OF PREVIOUS APPROVAL – (See Section 12 of these Regulations) \$50.00 (There shall be no fee for correcting typographical or other immaterial errors).
- f. STATE FEE - \$60.00 for each application, or as may otherwise be required by state law.
- g. PREMATURE ACTIVITY FEE – The commencement of a Regulated Activity before the issuance of a necessary permit for such activity requires the Commission to consider additional factors, such as existing impacts to wetlands and watercourses and the potential effects of remediating such impacts. Therefore, the fees set forth in subsection b, above, shall be doubled for all applications for permits for Regulated Activities in situations in which such Activities have commenced without a necessary permit.

**20.6** Exemption. Board, Commissions, councils and departments of the Town of North Stonington are exempt from all fee requirements under these Regulations.

**20.7** Waiver. The applicant may petition the Commission to waive, reduce or allow delayed payment of the fees required by these Regulations. Such petitions shall be in writing and shall state fully the facts and circumstances the Commission should consider in this determination under this section. The Commission may waive all or part of the application fee if the Commission 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 application 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 Commission shall state upon its record the basis for all actions under this subsection.

## **SECTION 21**

### **EFFECTIVE DATE OF REGULATIONS**

**21.1** These Regulations shall become effective upon filing in the Office of the North Stonington Town Clerk.