

INLAND WETLANDS AND WATERCOURSES REGULATIONS
FOR THE
TOWN OF WILTON, CONNECTICUT

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APPENDIX

SECTION 1
PURPOSE, TITLE AND AUTHORITY

- 1.1 The inland wetlands and watercourses of the Town of Wilton are an indispensable, irreplaceable, and fragile natural resource with which the citizens of the Town have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the Town of Wilton and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the Town 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 Town. It is, therefore, the purpose of these regulations to protect the citizens of the Town 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 Town 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 Town of Wilton, 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 Wilton."

- 1.3 The Inland Wetlands Commission of the Town of Wilton was established in accordance with an ordinance adopted May 22, 1990 and effective September 1, 1990 and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Wilton.
- 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 Commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications, or deny permits for all regulated activities on regulated areas, inland wetlands and watercourses in the Town of Wilton 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 of the General Statutes, as amended.
 - b. "Clear-cutting" means the harvest of timber in a fashion which removes all trees down to a two inch diameter at breast height or removal of vegetation in a manner which significantly alters the natural or indigenous character of the regulated area.
 - c. "Commission" means the Inland Wetlands Commission of the Town of Wilton.
 - d. "Commission member" means a member of the Inland Wetlands Commission of the Town of Wilton.
 - e. "Commissioner of Environmental Protection" means the Commissioner of the State of Connecticut Department of Environmental Protection.
 - f. "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.
 - g. "Days" are calendar days, except as otherwise noted.
 - h. "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
 - i. "Designated agent" means an individual(s) designated by the Commission to carry out specific functions and purposes subject to the Commission's review.
 - j. "Discharge" means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.
 - k. "Disturb the natural and indigenous character of the land" means that the activity will significantly alter regulated areas by removal or deposition of material, clearcutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.
 - l. "Emergency" pertains to an event, circumstance or condition which, in the opinion of the Commission or its designated agent, endangers the public health and safety or the health and safety of one or more residents of the Town of Wilton, as certified in writing by one or more of the following Town agencies: the Department of Environmental Affairs, the Department of Public Works, the Department of Environmental Health, the Police Department or the Fire Department.

- m. "Essential to the farming operations" means that the activity proposed is necessary and indispensable to sustain farming activities on a farm.
- n. "Farming" means use of property for the purpose of raising or harvesting any agricultural or horticultural commodity that is subject to and previously documented by the filing of a farm business declaration with the Internal Revenue Service of the federal government.
- o. "Feasible" means able to be constructed or implemented consistent with sound engineering principles.
- p. "Grubbing" means the digging out and uprooting of stumps, roots, and other below ground vegetative material.
- q. "Intermittent watercourse" means those waterways which are characterized by non-persistent flow. For purposes of these regulations, intermittent watercourses are delineated by a defined permanent channel and banks and two or more of the following characteristics:
 - 1. Evidence of scour or deposits of recent alluvium or detritus.
 - 2. The presence of standing or flowing water for a duration longer than a particular storm incident. Ordinarily, the presence of water is supported by a component, however small, of groundwater outflow or exfiltration.
 - 3. The presence of hydrophytic vegetation.
- r. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.
- s. "Municipality" means the Town of Wilton, Fairfield County, Connecticut.
- t. "Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.
- u. "Permit" means the whole or any part of any license, certificate, or approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Inland Wetlands Commission.
- v. "Permittee" means the person to whom such permit has been issued.
- w. "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- x. "Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any wetlands or watercourses of the Town of Wilton by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any wetlands or watercourses. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

- y. "Prudent" means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.
- z. "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 and watercourses, but shall not include the specified activities in section 4 of these Regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, construction, depositing or removal of material and discharging of stormwater on the land within one hundred (100) feet of a wetland or within one hundred (100) feet of a watercourse is a regulated activity. The Commission may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

"Regulated activities" are considered Minor, Intermediate and Significant as defined below:

1. "Minor Regulated Activity" means those activities which would result in no greater than a minimal impact on any wetland or watercourse. Additionally, the following shall apply: .
 - a. No activity shall be considered Minor Regulated Activity unless it occurs solely within the regulated area exclusive of a wetland or watercourse.
 - b. No septic installation or activity requiring the deposition or removal of more than 100 cy of material shall be considered a Minor Regulated Activity.
2. "Intermediate Regulated Activity" means:
 - a) Any operation within or use of a wetland, watercourse, or regulated area within the Town of Wilton involving removal or deposition of less than 100 cy of materials, placement of any obstruction, construction, alteration or pollution of such wetlands, watercourses or regulated area, but shall not include the activities specified in Section 4 of these regulations;
 - b) Locating any waste disposal system or any portion thereof including, without limitation, curtain drains, berms and fill within regulated areas;
 - c) Permanent outdoor or underground storage of petroleum based products in excess of 100 gallons for residential, commercial or industrial uses within the regulated areas; and
 - d) Clearcutting or grubbing in a wetland or regulated area, except as permitted in Section 4 of these Regulations.
3. "Significant Regulated Activity" means any activity including, but not limited to, the following activities, which may have a substantial effect on any regulated area.

- a) Any activity involving a deposition or removal of material which will or may have a substantial effect on any regulated area, inland wetland or watercourse. Any activity involving more than 100 cy will be considered a Significant Regulated Activity. In cases where excavation is proposed for the purpose of constructing a foundation, the applicant shall only consider 50% of the excavated volume for portions of the foundation more than 25 feet from a wetland and/or 50 feet from a watercourse; or
 - b) Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
 - c) Any activity which substantially diminishes the natural capacity of an inland wetland, watercourse, or regulated area to provide flood control, to support desirable fisheries, wildlife, or other biological life; or to supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions; or
 - d) Any activity which causes substantial turbidity, siltation or sedimentation, and or thermal pollution in a wetland, watercourse or regulated area; or
 - e) Any activity which causes a substantial change of flow of a natural watercourse or the groundwater levels of the regulated area; or
 - f) Any activity which causes or has the potential to cause pollution of a wetland, watercourse or regulated area; or
 - g) Any activity which destroys unique wetlands, watercourses, or regulated areas having demonstrable scientific or educational value.
- aa. "Regulated area" means any activity or operation within or use of a wetland, watercourse or regulated area, as defined herein.
- 1. All wetlands and watercourses in the Town of Wilton as defined in these regulations;
 - 2. Area immediately adjoining wetlands and watercourses in the Town of Wilton as this area is needed to provide protection from the adverse impacts of unregulated land uses. The minimum distance is one hundred (100) feet from wetlands, and one hundred (100) feet from the edge of watercourses. These distances may be expanded at the commission's discretion when activities beyond these minimum distances may impact or affect the wetland or watercourse;

3. All slopes or portions thereof, with a grade in excess of 20% within 100 feet of a wetland or within 100 feet from a watercourse. This regulated area includes all land measuring from the toe of the slope to the point on the slope where the grade drops to 10% or less for a distance of at least fifty (50) feet.
- bb. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clearcut timber, bulldoze, dragline or blast.
 - cc. "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any regulated area, including, but not limited to, change in odor, color, turbidity or taste.
 - dd. "Soil Scientist" means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.
 - ee. "Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.
 - ff. "Town" means the Town of Wilton, Connecticut.
 - gg. "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.
 - hh. "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to Sections 22a-28 through 22a-35 of the General Statutes, as amended. See 2.1.hh for an expanded definition of an intermittent watercourse. Examples of bog, marsh, and swamp species are listed in the booklet entitled "Inland Wetland Plants of Connecticut," W.A. Niering and R. H. Goodwin (May 1983), The Connecticut Arboretum, Connecticut College, New London, CT, on file in the office of this Commission. The following are general descriptions of these watercourses:
 1. "Bogs" are areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.
 2. "Marshes" are 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 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.
 3. "Swamps" are areas with soils that exhibit aquatic moisture regimes and are dominated by wetland trees and shrubs.
- ii. "Wetlands" means land, including submerged land as defined in Section 2.1 ff. of these regulations, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial 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). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

SECTION 3
INVENTORY OF WETLANDS AND WATERCOURSES

- 3.1 The map entitled "Inland Wetlands and Watercourses Map for the Town of Wilton, 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 and the Inland Wetlands Commission. Said map shall be considered a guide. For the purpose of submitting an application to conduct regulated activities or receiving a declaratory ruling, the precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a Certified Soil Scientist where soil classifications are required, or, where watercourse determinations are required, by any other qualified individual. For the purpose of revising the "Inland Wetlands and Watercourses Map for the Town of Wilton," the commission 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 person who disputes the designation of land as a wetland, watercourse, or regulated area on the Inland Wetlands and Watercourses Map, may petition the Commission to change the designation in accordance with Section 15 of these regulations. Each petition 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 wetland designation is inapplicable. Documentation in accordance with Section 14 of these regulations shall be required of the petitioner when the Commission requires an accurate delineation of wetlands and watercourses.
- 3.3 The Commission or its designated agent(s) shall inventory and maintain current records of all wetlands and watercourses within the Town. The Commission may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the Town. Such map amendments are subject to the public hearing process outlined in Section 15 of these regulations.

SECTION 4
PERMITTED USES AS OF RIGHT & NONREGULATED USES

- 4.1 The following operations and uses shall be permitted in inland wetlands, watercourses, and regulated areas as of right:
- a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less which are essential to the farming operation, and activities conducted by, or under the authority of the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this section 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, clearcutting 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 or regulated areas 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 section 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 section 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 information requested by the Commission or its designated agent to document his entitlement;
 - c. Boat anchorage or mooring, not to include dredging or dock construction;
 - d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than 2 acres and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of material from or into a regulated area, or diversion or alteration of a watercourse.
 - e. Construction and operation, by water companies as defined by Section 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 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 non-regulated uses in wetlands, watercourses, and regulated areas, provided they do not disturb the natural and indigenous character of the wetlands or watercourses by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include minor work to control erosion, or to encourage proper fish, wildlife, and silvicultural management practices.
 - b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing and cross-country skiing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands, watercourses, or regulated areas involving filling, dredging, clearcutting, grading, excavation, erection of structures or any other alteration or use of a wetland, watercourse, or regulated area not specifically permitted by this section shall require a permit from the Commission 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 non-regulated operation involving the use of a wetland, watercourse or regulated area that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation or use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of the wetland, watercourse, or regulated area. The Commission shall rule that the proposed operation or use is a permitted or a non-regulated 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 Commission following the meeting at which the request was received. The designated agent for the Commission may make such ruling subject to Commission review.

SECTION 5
ACTIVITIES REGULATED BY THE STATE AND
THE UNITED STATES OF AMERICA

- 5.1 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 Wilton, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.
- 5.2 In addition to any permit or approval required by the Commission, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- a. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-410 of the General Statutes, as amended;
 - b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349 of the General Statutes, as amended;
 - c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the State pursuant to Sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to Sections 22a-28 through 22a-35 of the General Statutes, as amended;
 - d. Diversion of water including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day, or any change in the instantaneous flow of any surface waters of the State where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to Sections 22a-365 through 22a-378 of the General Statutes, as amended;
 - e. Discharges into the waters of the State pursuant to Section 22a-430 of the General Statutes, as amended;
 - f. Discharge of fill or dredged materials into the wetlands and watercourses of the State pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.
- 5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, (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 days after receipt by the Commissioner of such application, whichever occurs first.
- 5.4 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.

SECTION 6
REGULATED ACTIVITIES SUBJECT TO PERMIT

- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Commission of the Town of Wilton.
- 6.2 The Commission shall regulate any operation within or use of a wetland or watercourse and any regulated activity or portion thereof within the regulated area as specified under Section 2.1.y. of these regulations involving removal or deposition of material, 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 Commission, or violating any other provision of these regulations or any permit issued pursuant thereto, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.

SECTION 7
APPLICATION REQUIREMENTS

- 7.1 Any person wishing to undertake a regulated activity shall apply for a permit on a form entitled "Town of Wilton Inland Wetlands Commission - Application for Permit."
An application shall include an application form and such information as prescribed by Subsections 7.3, 7.4, 7.5 and 7.6 of these regulations. Application forms may be obtained in the office of the Wilton Inland Wetlands Commission.
- 7.2 All applications shall contain such information that is necessary for a fair and informed determination of the issues. The Commission, upon request from an applicant, may waive certain application requirements.
- 7.3 All applicants shall certify as to 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. A substantial 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 substantial portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage and 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; or
 - e. Any portion of the property is within the watershed to any water company which has filed a Watershed Boundary Map on the land records.
- 7.4 All applications, including Minor Regulated Activities, Intermediate Regulated Activities and Significant Regulated Activities, shall provide the following information in writing and shall be on a form provided by the Commission and available from the office of the Commission.
- a. The applicant's name, home and business addresses and telephone numbers;
 - b. The land 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. A location map at a scale of 1" = 800' identifying the geographical location of the property involved;
 - d. A site plan at a scale that provides sufficient detail to show existing and proposed conditions in relation to regulated areas, including the identification of 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 and watercourses, and erosion and sedimentation controls,
 - e. A title block and legend of symbols used for each plan or map indicating the name of the project, landowner and applicant, name and signature of the person preparing the map or plan, date prepared, revision dates, north arrow and scale;

- f. Names and addresses of adjacent property owners as shown in the records of the Tax Assessor, Town of Wilton, these names shall also be shown on the site plan;
 - g. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
 - h. Authorization for the Commission members and their designated agent(s) to inspect the property at reasonable times, both before and after a final decision has been issued and after completion of the project;
 - i. All application materials shall be submitted, with the appropriate number of copies as specified on the application form, to comprise a complete application or as is otherwise directed, in writing, by the Commission or its designated agent. The Commission reserves the right to request additional copies of submitted information as needed to properly address the proposal.
 - j. Submission of the appropriate filing fee, based upon the fee schedule, as well as fees to cover outside technical assistance if deemed appropriate by the Commission, which fees may be assessed during the application review process if required by the Commission;
 - k. Any other information the Commission or its designated agent deems necessary for the review and evaluation of the application.
- 7.5 An application proposing an activity deemed by the Commission or its designated agent to be an Intermediate or Significant Regulated Activity shall include the following information in addition to information specified in Sections 7.3 and 7.4:
- a. A map at a scale not exceeding 1" = 40', identifying the geographical location of the property to be affected by the proposed activity, adjacent lands, names of adjacent property owners, adjacent regulated areas, such as upstream and downstream areas as may be identified by the Commission or its designated agent, and other pertinent features including, but not limited to, existing property line survey to a precision of A-2 accuracy, proposed property lines, existing topography to a precision of T-2 accuracy, spot elevations, roads and drives, drainage structures, buildings and their utilities, soil types, stone walls, the limits of inland wetlands, watercourses and all regulated areas, lands protected as open space or by private conservation easements, existing trails and types of vegetative cover. If more than one sheet is required to show the property in its entirety, then an additional Summary Map shall be provided on one sheet;
 - b. The purpose and description of the proposed activity, including other management practices and mitigation measures which encompass, 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;

- c. Alternatives considered by the applicant and why the proposal set forth in the application was chosen. These alternatives shall be depicted on a supplemental site plan and submitted to the Commission as part of the application;
 - d. The calculated (1) total area (square feet) of wetlands and linear feet of watercourses on the subject property and (2) total area (square feet and/or linear feet) of regulated area that would be disturbed by the proposed activities;
 - e. All wetland boundaries on the subject property shall be identified by a Certified Soil Scientist and located in the field and on the map by a licensed surveyor. The soil scientist shall consecutively number the survey tapes that mark boundary lines of all wetlands on the property. The original signature of the soil scientist shall be on the map(s) which depict his or her work. Watercourses shall be delineated by a Certified Soil Scientist, geologist, ecologist or other qualified individual and located in the field and on the map by a Licensed Surveyor;
 - f. Soil sample data to include all areas on the property that lie within, or partially within, an area containing poorly drained, very poorly drained, alluvial and/or floodplain soils. The soil type must be consistent with the categories established by The National Cooperative Soils Study of the United States Soil Conservation Service. A soils report prepared and signed by a soil scientist that includes the name of the applicant and project, the location of and limits of the property, the date(s) and method(s) of the soil investigations, a brief soil description of each soil mapping unit investigated, the set of consecutive numbers used on survey tapes to identify the wetland boundaries appearing on the plan shall be submitted;
 - g. Description of the chemical and physical characteristics of any proposed fill material to establish the desired type or quality of fill material to be used in all regulated areas;
 - h. If the proposed activity might affect a watercourse, the applicant shall be required to submit information relative to the present character and the projected impact of the proposed activity upon the watercourse; and
 - i. Measures which mitigate the impact of the proposed activity. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant.
- 7.6 The Commission may determine that an activity involves a Significant Regulated Activity as defined in Section 2.1.x. of these regulations. The Commission shall state, for the record, the reasons for a Significant Regulated Activity determination. If the Commission determines that the proposed activity involves a Significant Regulated Activity, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required in addition to that specified in Sections 7.3, 7.4 and 7.5:
- a. A site plan at a scale not to exceed 1" = 40' accurate to the level of an A-2 survey for the proposed land use on the subject property which will be

affected indicating details of: existing and proposed conditions; wetland, watercourse and regulated area boundaries; land contours at two (2) foot intervals, or as specified by the Commission; a compass rose indicating true north; boundaries of land ownership; proposed alterations and uses of wetlands, watercourses and regulated areas; and other pertinent features of the proposed land use drawn by a Licensed Surveyor or Professional Engineer registered in the State of Connecticut or by such other qualified person. All maps shall be stamped and sealed by the licensed professional responsible for their preparation;

- b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses. The Erosion and Sedimentation Control Plan is to include a site specific construction sequence. All reports shall be signed and sealed by the Professional Engineer, licensed in the State of Connecticut, responsible for their preparation;
- c. Biological evaluation prepared by an ecologist or other qualified professional that provides a description of the ecological communities and functions of the wetlands, watercourses, or regulated areas involved with the application. The report should also describe the extent of the presence of plant species commonly associated with swamps, bogs, and marshes. Also, the evaluation should include the probable effect of the proposed activity upon floral and faunal species and upon wetland functions. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands, watercourses or regulated areas involved in the application and each alternative. The report shall be signed by the professional responsible for its preparation;
- d. Map and description that identifies watershed boundaries which influence the subject regulated area and a map and description identifying where the subject area falls within the watershed of the named watercourses of Wilton shown U.S.G.S. topographic survey maps; and
- e. Envelopes addressed to adjacent neighbors, with first class postage and no return address shall be provided by the applicant.

7.7 Any application to extend the expiration date of a previously issued permit shall be filed with the Commission at least sixty-five (65) days prior to the expiration date for the permit in accordance with Section 8 of these regulations. Any application for extension shall be made in accordance with this subsection provided:

- a. The application shall state the name, address and telephone number of the permit holder, the address or locational description of the property involved, and the date of issuance and expiration of the permit;
- b. The application may incorporate by reference the documentation and record of the original application;
- c. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;

- d. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses on the property for which the permit was issued;
 - e. Pursuant to the criteria for a decision established in Section 10.2, the Commission may accept a late application to extend the expiration date of a permit if the following conditions are met:
 - 1) The authorized work is ongoing
 - 2) The public interest or environment is best served by not interrupting the activity
 - 3) The permit is likely to be extended
 - f. The Commission shall evaluate an application to extend an existing permit pursuant to Section 10 of these regulations and grant the application as filed, grant it with any terms, conditions, limitations, or modifications or deny it.
- 7.8 The Commission's designated agent shall be empowered to temporarily authorize regulated activity in an emergency in the absence of a formal application. Any activity authorized pursuant to this Section shall be reviewed by the Commission at its next regularly scheduled meeting. The Commission may ratify such temporary authorization and issue a permit approving the same, or may seek additional information or impose such additional special conditions as it may deem appropriate.
- 7.9 Any application to renew a permit shall be granted upon request of the permit holder unless the Commission 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 Prior to the submission of a wetlands application, the applicant may meet with the Commission and/or its designated agent to discuss the application requirements and review pre-application plans.
- 8.2 All applications shall be filed for receipt with the Inland Wetlands Commission office of the Town of Wilton. The application fee shall be paid at the time of filing. A schedule of fees shall be available at the Inland Wetlands Commission office.
- 8.3 In the case of any application where any portion of the wetlands or watercourse on which the regulated activity is proposed is located within 500 feet of the boundary of any adjoining municipality, the applicant shall give written notice [in accordance with Public Act 87-533], of the proposed activity, certified mail - return receipt requested, to the adjoining municipal wetlands agency on the same day of filing an inland wetlands permit application with the Wilton Inland Wetlands Commission. Documentation of such notice shall be provided to the Wilton Inland Wetlands Commission.
- 8.4 The Commission shall 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 and 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 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, watercourse or regulated area, 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 and the Commissioner of Public Health in a format prescribed by said commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the Wilton land records and with the Wilton Inland Wetlands Commission. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.

- 8.6 The date of receipt of any application shall be the sooner of:
- a) the day of the next regularly scheduled meeting of the Commission immediately following the day of submission to the Commission or:
 - b) thirty-five days after such submission, whichever is sooner.
- 8.7 At any time during the review period, the Commission may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or the wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitations as set forth in Subsection 11.2 of these regulations.
- 8.8 All applications shall be open for public inspection.
- 8.9 Incomplete applications shall be denied.

SECTION 9
PUBLIC HEARINGS

- 9.1 A public hearing shall not be held on applications unless deemed by the Commission to involve a Significant Regulated Activity or the Commission determines it is in the public interest. A petition requesting a hearing and containing the signatures of twenty-five (25) or more persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, submitted not later than fourteen (14) days after receipt of such application, shall also be considered as adequate public interest for the purpose of scheduling a public hearing. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.
- 9.2 The public hearing shall be held within sixty-five (65) days after the receipt of the application.
- 9.3 Notice of the public hearing shall be published by the Commission 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 the Town where the affected wetland or watercourse is located.
- 9.4 Notice of the public hearing shall be mailed to the owner(s) of record of adjacent land not less than ten (10) days prior to the day of the hearing.
- 9.5 In the case of any application which is subject to the notification provisions of Subsections 8.3, 8.4, and 8.5 of these regulations, a public hearing shall not be conducted until the water company, the Commissioner of Public Health, and/or clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

SECTION 10
CONSIDERATIONS FOR DECISION

- 10.1 The Commission may consider the following among other things in making its decision on an application:
- a. The application and its supporting documentation;
 - b. Public comments, evidence and testimony from a public hearing or meeting;
 - c. Reports from other agencies, commissions, consultants and Town staff, including but not limited to the Town of Wilton:
 1. Inland Wetlands Commission;
 2. Conservation Commission;
 3. Planning and Zoning Commission;
 4. Town Engineer; and
 5. Office of Environmental Health.
 - d. The Commission may also consider comments on any application from:
 1. The Fairfield County Soil and Water Conservation District;
 2. The Southwestern Regional Planning Agency;
 3. The Connecticut Department of Environmental Protection;
 4. The United States Army Corps of Engineers;
 5. The U.S. Environmental Protection Agency;
 6. U.S. Fish and Wildlife Service;
 7. USDA - Natural Resources Conservation Service; and
 8. Agencies of adjoining 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 in subdivisions 10.1.c and d above within the prescribed time shall neither delay nor prejudice the decision of the Commission.
- 10.2 For the purposes of this section, (1) “wetlands or watercourses” includes aquatic plants or animal life and habitats in wetlands or watercourses, and (2) “habitats” means areas or environments in which an organism or biological population normally lives or occurs.
- 10.3 Standards and Criteria for Decision.
- In carrying out the purposes and policies of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:
- a. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

- 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 and watercourses. This consideration should include, but is not limited to, the alternative of requiring actions of a different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including consideration of the extent to which the proposed regulated activity would foreclose a future ability to protect, enhance or restore such resources. This requires recognition that the inland wetlands and watercourses of the State of Connecticut are an indispensable, irreplaceable and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion, obstruction or change of water flow including low flows, and by the erection of structures and other uses.
- e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed regulated activity, or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community.
- f. The environmental impact of the proposed regulated activity on the inland wetland or watercourse including the effects on the inland wetland's and watercourse's capacity to support desirable biological life, 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.
- g. Measures which would mitigate the impact of any aspect of the proposed regulated activity. Mitigation measures which may be considered as a condition of issuing a permit for such activity include but are not limited to, measures to (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: 1. restore, 2. enhance, and 3. create productive wetland or watercourse resources. Appropriate mitigation measures are those which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife,

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

- 10.4 In the case of any application which received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses or a petition received in accordance with Sec. 9.1, a permit shall not be issued unless the Commission finds on the basis of the record that the proposed alteration or destruction of wetlands or watercourses is unavoidable and that a feasible and prudent alternative to the alteration and destruction of wetlands or watercourses does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in Sections 10.1 and 10.3 of these regulations. This finding and the reasons therefore shall be stated in the record of the decision by the Commission in writing. A conclusion that a feasible and prudent alternatives does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his/her application is consistent with the purposes and policies of these regulations and sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- 10.5 In reaching its decision on any application after a public hearing, the Commission 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 Commission in its decision.
- 10.6 The commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 In the case of an application which is denied on the basis of a finding that there may be a feasible and prudent alternative(s) to the proposed regulated activity which may have less adverse impacts on the wetlands or watercourses, the Commission shall propose on the record in writing the type(s) of alternative(s) which the applicant may investigate. This subdivision shall not be construed to shift the burden from the applicant to prove that (s)he is entitled to the permit or to present alternatives to the proposed regulated activity. Further, the types of alternatives proposed by the Commission shall not be deemed to be all-inclusive.

SECTION 11
DECISION PROCESS AND PERMIT

- 11.1 The Commission may grant the application as filed; grant it upon such terms, conditions, limitations or modifications necessary to carry out the purposes of the Act; or deny the application. An application deemed incomplete by the Commission must either be withdrawn by the applicant or denied by the Commission.
- 11.2 No later than sixty-five (65) days after receipt of an application, the Commission shall act upon such application or it may hold a public hearing on such application. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within sixty-five (65) days after completion of a public 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 extension of any such period shall not be for longer than sixty-five (65) days, or the applicant may withdraw such application. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.
- 11.3 The Commission shall state upon its record the reasons and basis for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 11.4 The Commission shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its decision 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 (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.
- 11.5 If an activity authorized by 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 Wilton Planning and Zoning Commission within fifteen days of the date of the decision.
- 11.6 If the Commission denies the application, or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the application or permit to the Commission's satisfaction. The Commission shall determine whether the proposed modification requires the filing of a new application. The rejection of the modified application by the Commission shall be equivalent to the denial of an application for the purposes of appeal.
- 11.7 The duration of any permit shall be for five (5) years from the date of the decision, unless otherwise specified in the permit. The Commission may also establish a specific time period within which any regulated activity shall be conducted. Permit extensions shall be at the discretion of the Commission and in accordance with Section 7.7 of these regulations. Extensions may be subject to the calling of an

additional public hearing. All permits shall expire upon the completion of the acts specified therein.

11.8 General provisions in the issuance of all permits:

- a. In evaluating applications in which the Commission relied in whole or in part on information provided by the applicant, 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 Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Wilton, 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 inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance, special exception, and/or federal or state approvals, no work pursuant to the wetland permit may begin until such approvals are obtained.
- d. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.

SECTION 12
ACTION BY DULY AUTHORIZED AGENT

- 12.1 The Commission delegates to its designated agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the proposed regulated activity is considered to be a "Minor Regulated Activity." The designated agent shall complete the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes prior to issuing permits for Minor Regulated Activities.
- 12.2 Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9, and 11 of these regulations, such agent may approve or extend such an activity at any time.
- 12.3 Within ten (10) days of the date of such approval the office of the Commission shall publish 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 Commission within fifteen (15) days after the publication date of the notice. The Commission shall consider such appeal at its next regularly schedule meeting provided such meeting is no earlier than three (3) business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with section 7.5 or 7.6 of these regulations.

SECTION 13
BOND AND INSURANCE

- 13.1 Upon the issuance of a permit and prior to the initiation of any on-site permit related activity, the applicant may, at the discretion of the Commission, be required to file a bond with such surety and in such an amount and form approved by the Commission. The amount of the bond shall be based on an estimate, presented by the applicant, of the costs of proposed mitigation and/or improvements within the regulated area, or; the applicant may be required to provide an itemized estimate of the costs of proposed mitigation and/or improvements within the regulated area to enable the Commission to determine the amount of the bond. The Commission reserves the right to seek additional expert opinion regarding the estimated costs of improvements.
- 13.2 The release or reduction of the bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.
- 13.3 All bonding for erosion and sedimentation controls must be submitted in a letter of credit, passbook, or cash form. This will provide the Commission and/or its designated agent immediate access to funds to respond to erosion and sedimentation or wetland emergencies.
- 13.4 The Commission may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount commensurate with the regulated activity.
- 13.5 In requiring a bond, the Commission reserves the right to use all or portions of the posted bond to respond to emergencies associated with the protection of regulated areas or implement conditions of the permit as specified in the resolution. In situations other than emergencies, the Commission shall notify the applicant of its intent to use the bond ten (10) days prior.

SECTION 14 ENFORCEMENT

- 14.1 The Commission or its designated agent(s) shall have 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 Commission or its designated agent(s) may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.
- 14.3 If the Commission or its designated agent(s) finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act, these regulations or terms of an issued wetlands permit, the Commission or its designated agent may:
- a. Issue a letter of investigation or 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 Commission, and prescribing the actions necessary to resolve the matter. Any person receiving such notice may request to appear upon the agenda of the next regularly scheduled meeting of the Commission. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subdivision 14.3.b of this section or other enforcement proceedings as provided by law.
 - b. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) days of the issuance of such order the Commission 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 Commission 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 Commission shall publish notice of its decision in a newspaper having general circulation in Wilton. The original order shall be effective upon issuance and shall remain in effect until the Commission 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 General Statutes, as amended.
 - c. Suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans.

Prior to revoking any permit, the Commission 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 and scheduling a meeting within ten days. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision.

- 14.4 As established by ordinance, the Commission may impose fines for violations of the Inland Wetlands and Watercourses Regulations adopted pursuant to Section 22a-42 of the Connecticut General Statutes.
- 14.5 Failure to follow the written directives of the Commission shall constitute a violation of these regulations.
- 14.6 Properties requiring re-inspection for incomplete or unacceptable work or properties requiring a disproportionate number of inspections relative to the scope of the project may be subject to an additional compliance inspection fee as set forth in the attached Schedule of Fees.

SECTION 15 AMENDMENTS

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Wilton may be amended, from time to time, by the Commission 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 Inland Wetlands and Watercourses Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to the regulated area, taking effect after the date of such receipt and any appeal of the decision of the Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this subdivision shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands and watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of such receipt.
- 15.3 These regulations shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Commission 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, at least thirty-five (35) days before the public hearing on their adoption. Application forms and fee schedules shall be adopted as part of the Commission regulations.
- 15.4 The "Inland Wetlands and Watercourses Map for the Town of Wilton, Connecticut" shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes. The Commission shall provide the Commissioner of Environmental Protection with a copy of any map amendment and boundary change no later than ten (10) days after its adoption.
- 15.5 All petitions to amend the Inland Wetlands and Watercourses Map for the Town of Wilton shall be submitted in writing and shall contain at least the following information:
 - a. The applicant's name, address and telephone number;
 - b. The owner's name (if not the applicant), address, telephone number, and a written consent to the proposed action set forth in the application;
 - c. Applicant's interest in the land;
 - d. The geographic location of the property involved in the petition including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas;
 - e. The reasons for the requested action;
 - f. The names and addresses of adjacent property owners as shown in the records of the tax assessor of Wilton;

- g. Names of municipalities within 500 feet of the property;
 - h. A map showing any proposed development of the property;
 - i. Documentation by a soil scientist that the land in question does not have a soil type classified by the National Cooperative soils survey as poorly drained, very poorly drained, alluvial, or flood plain. Such documentation includes a map of the land in question signed by a soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted;
 - j. Watercourses shall be delineated by a Certified Soil Scientist, geologist, ecologist or other qualified individual for review by the Commission.
- 15.6 Within sixty-five (65) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Commission shall hold a public hearing to consider the petition. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after the close of the hearing. The public hearing shall be concluded within thirty-five (35) days. The petitioner may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be for longer than sixty-five (65) days or may withdraw such petition. The failure of the Inland Wetlands Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.7 A public hearing shall be held on proposals to amend the Inland Wetlands and Watercourses Map or Regulations. Notice of the hearing shall be published by the Commission in a newspaper having general circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than twenty-five (25) days nor less than fifteen (15) days, and the last not less than two (2) days, before such hearing. Owners of property affected by any such amendments shall be notified not less than two (2) days nor more than fifteen (15) days before any such hearing. A copy of such proposed boundary or regulations change shall be filed in the office of the Town Clerk for public inspection at least ten days before such hearing.
- 15.8 The Commission shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

SECTION 16
APPEALS

- 16.1 Appeal on actions of the Commission 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 Commission 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 provisions, which impose the most stringent standards for the use of wetlands, watercourses, or regulated areas shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.
- 17.2 If there is a conflict between any provision of these regulations and any provision of the act, the provisions of the act shall govern.

SECTION 18
RECORDS RETENTION AND DISPOSITION

- 18.1 The Commission and the Town Clerk for the Town of Wilton shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedules set forth by the public records administrator of the Connecticut State Library.

SECTION 19
EFFECTIVE DATE OF REGULATIONS

- 19.1 These regulations including the Inland Wetlands and Watercourses Map, application forms, fee schedule 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 Wilton.

APPENDIX

- SCHEDULE A. U.S. ARMY CORPS INFORMATION BULLETIN
- SCHEDULE B. TOWN OF WILTON IWC APPLICATION FOR MINOR REGULATED ACTIVITIES.
- SCHEDULE C. TOWN OF WILTON IWC APPLICATION FOR INTERMEDIATE REGULATED ACTIVITIES.
- SCHEDULE D. TOWN OF WILTON IWC APPLICATION FOR SIGNIFICANT REGULATED ACTIVITIES.
- SCHEDULE E. TOWN OF WILTON IWC APPLICATION TO EXTEND PERMIT EXPIRATION DATE.
- SCHEDULE F. TOWN OF WILTON IWC APPLICATION FOR CHANGE TO THE INLAND WETLANDS MAP.
- SCHEDULE G. FEE SCHEDULE.
- SCHEDULE H. NOTICE OF PERMIT TRANSFER.

SCHEDULE A

IF YOU PERFORM WORK IN A WATERWAY OR WETLAND... ...YOU MAY NEED A FEDERAL PERMIT

America's waterways and wetlands are valuable natural resources, performing many important functions. Through a number of laws, the United States Army Corps of Engineers is responsible for assuring that a balance is maintained between development and preservation of these vital natural resources.

Many property owners, developers, contractors, farmers, cranberry bog owners, planners and engineers may not be aware of U.S. Army Corps of Engineers jurisdiction over filling in inland waters and wetlands. Some may also not know that even though certain activities are exempt from regulation by local Conservation Commissions or the state, these activities are not exempt from federal Clean Water Act requirements. Permits must be obtained from the Corps of Engineers before such work can legally be undertaken. For example, any filling in wetlands or placing of excavated material in wetlands under Corps of Engineers jurisdiction since July 25, 1985, September 1, 1976 or July 1, 1977 (depending on where the property is located) that would raise the wetland surface or convert wetland areas to any other uses would require a Corps permit. This would include conversion of wetlands to cranberry bogs or to farmland for the growing of crops. Conversion of wetland areas to uplands for industrial, commercial or residential use would require a Corps permit. This would also apply to any fill placed in any waterway (river, lake, stream or pond) as well.

Performing any work not authorized by a Corps permit or failing to comply with conditions of a Corps permit may subject the responsible parties to criminal and/or civil liability, including removal of unauthorized fill and substantial fines and may lead to lengthy delays in completing projects subject to Corps jurisdiction. Also, the Corps is required by federal regulations to take whatever steps are necessary, including Federal Court action, to stop any ongoing unauthorized work.

A Corps of Engineers permit is required under Section 404 of the Clean Water Act (33 U.S.C. 1344) for those activities involving the discharge of dredged or fill material in all waters of the United States, including not only navigable waters, but also inland rivers, lakes and streams and their adjacent wetlands. In inland waters, our jurisdiction under the Clean Water Act extends landward to the ordinary high water mark of any waterbody and to the landward limit of any wetland.

The term "wetlands" is defined by federal regulation to mean "...those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to

support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions..." (33 C.F.R. Part 323.2). Wetlands generally include swamps, marshes, bogs and similar areas. Wetland limits will be determined in the field by Corps personnel when necessary. These limits are often different from those under state and local laws.

Even if a Corps permit has been issued, it is a limited form of authorization containing a stated set of conditions which must be complied with by those performing the work in wetlands or waterways.

Violations of the Clean Water Act (33 U.S.C. 1251, et. seq.) are punishable by civil fines of up to \$25,000 per day of violation and criminal fines of \$2,500 to \$25,000 per day of violation and up to a year imprisonment for each day of violation. Also, there are possible substantial administrative penalties for violations.

If anyone doing work in inland waterways or wetlands in New England has any questions about particular permits or about the extent of Corps jurisdiction, they should contact us at one of our toll free numbers: from Massachusetts 1-800-362-4367 and 1-800-343-4789 from other New England states. Suspected violations of any federal statute concerning unauthorized filling in waterways or wetlands may also be reported in writing or by using the toll-free numbers. Anonymous reports will be accepted.

It is the close working relationship between the U.S. Army Corps of Engineers and interested citizens that allows the Corps to balance the development needs of New England with the protection of our wetlands and waterways that they so richly deserve.