

**TOWN OF FARMINGTON  
REGULATIONS  
FOR  
INLAND WETLANDS**



**FARMINGTON TOWN HALL**  
One Monteith Drive  
Farmington, Connecticut 06032-1053

# FARMINGTON, CONNECTICUT

## INLAND WETLANDS AND WATERCOURSES REGULATIONS (Amended to December 7, 2007)

# INLAND WETLANDS AND WATERCOURSES REGULATIONS

## TOWN OF FARMINGTON, CONNECTICUT

### Section I. TITLE AND AUTHORITY

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

- A. These regulations shall be known as the "Inland Wetlands and Watercourses Regulation of the Town of Farmington."
- B. These regulations have been prepared by the Farmington Inland Wetlands and Watercourses Agency in accordance with the provisions of an Act Concerning Inland Wetlands and Watercourses (Public Act 155, 1972 as amended) and as authorized by the Town Council of the Town of Farmington in Ordinance No. 69, adopted October 23, 1973.
- C. The Farmington Inlands Wetlands and Watercourses Agency, or designee as provided herein, shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms,

conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Farmington pursuant to sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

- D. 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.

## Section 2. DEFINITIONS

A. As used in these regulations:

1. “Agency” means the Farmington Inland Wetlands and Watercourses Agency.
2. “Act” means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.
3. “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.
4. “Essential to the farming operation” means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.
5. “Farming” shall be consistent with the definition as noted in section 1-1 (q) of the Connecticut General Statutes.
6. “Nurseries” means places where plants are grown for sale, transplanting, or experimentation.
7. “Person” means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
8. “Soil Scientist” means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.
9. “Material” means any substance, solid or liquid, organic or inorganic, including, but not limited to, soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.
10. “Waste” means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the State.
11. “Pollution” means harmful thermal effect, or the contamination or rendering unclean or impure of any waters of the State by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation

activity.

12. "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any of the waters of the State, including, but not limited to, change in odor, color, turbidity or taste.
13. "Discharge" means the emission of any water, substance or material into waters of the State whether or not such substance causes pollution.
14. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, bulldoze, dragline, or blast.
15. "Deposit" includes, but shall not be limited to, fill, grade. Dump, place, discharge or emit.
16. "Regulated activity" means any operation within or use of or having an effect upon a wetland or watercourse involving removal, relocation or deposition of material, cutting, removing or destroying any vegetation or any obstruction, construction, alteration or pollution of such wetlands or watercourses, but shall not include the specified activities in Section 4. of these regulations. Furthermore, any clearing, grubbing, grading, cutting or removal of vegetation, paving, excavating, construction, deposition or removing of material and discharge of material including storm water on land located within one hundred and fifty (150) feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity (otherwise known as the upland review area). This distance shall be measured from the actual boundary limit of the wetlands as determined by a soil scientist or from the ordinary high water mark of a water body or watercourse. In the case where a wetland or watercourse is located on a parcel of land other than that upon which such regulated activity is to be conducted and it is not possible to field determine such wetland limit or ordinary high water mark, the Agency or its agent may apply such distance based upon information available including but not limited to personal observation, aerial photography, remote sensing imagery, soils maps, and/or the Towns Official Wetlands and Watercourses Map.

In addition, the Agency may find that any other activity located within such upland review area or any activity located in any other non-wetland or non-watercourse area that is likely to impact or affect wetlands or watercourses is a regulated activity.

- a. "Regulated area" means inland wetlands and watercourses or upland review area.
17. "License" means the whole or any part of any permit, certificate or approval or similar form of permission which may be required of any persons by the provisions of these regulations or sections 22a-36 to 22a-45 inclusive.
    - a. "Permit" means an approval to conduct a regulated activity under the licensing authority of the Agency;
    - b. "Permittee" means the person to whom such permit has been issued.

18. "Wetlands" means land, including submerged land as defined in this regulation, not regulated pursuant to Section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the National 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.
19. "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, public or private, vernal or intermittent, 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, inclusive, of the Connecticut General Statutes. An intermittent watercourse shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics:
  - a. Evidence of scour or deposits of recent alluvium or detritus.
  - b. The presence of standing or flowing water for duration longer than a particular storm event.
  - c. The presence of hydrophytic vegetation.
20. "Significant impact" means any activity, including, but not limited to, the following activities which may have a major effect:
  - a. Any activity involving deposition or removal of material, which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
  - b. Any activity, which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
  - c. Any activity, which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
  - d. Any activity, which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
  - e. Any activity, which is likely to cause or has the potential to cause pollution or a wetland or watercourse
  - f. Any activity, which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
  - g. Any activity, which damages or destroys unique wetland or watercourse areas or

such areas having demonstrable scientific or educational value.

21. "Town" refers to the Town of Farmington.
22. "Clear cutting" means the harvest of timber in a fashion, which removes all trees down to a two-inch diameter at breast height.
23. "Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.
24. "Disturbing the natural and indigenous character of the land" means that the activity will significantly alter the inland wetland or watercourse by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow or will result in the pollution of the wetland or watercourse.
25. "Bog" is a watercourse distinguished by evergreen trees and shrubs and underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
26. "Marshes" are watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.
27. "Swamps" are watercourses that are distinguished by the dominance of wetland trees and shrubs.
28. "Feasible" means able to be constructed or implemented consistent with sound engineering principles.
29. "Prudent" means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.
30. "Management Practice" means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.
31. "Upland Review Area" means any area not consisting of wetland soils or classified as a watercourse under these regulations located one hundred and fifty (150) feet measured horizontally from the boundary limit or ordinary high water mark of any wetland,

watercourse or water body.

### Section 3. INVENTORY OF REGULATED AREAS

- A. Areas of regulated soil types and watercourses are shown on the inventory map entitled “Official Inland Wetlands and Watercourses Map Farmington, Connecticut, however the definitions of wetlands and watercourses in Section 2.A.18. and 2.A.19. respectively of these regulations shall govern for purposes of determining whether any area within the Town is in fact a regulated area. Copies of said map are available for inspection in the offices of the Town Clerk and Planning Department of the Town of Farmington. The Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses. In cases where an applicant disputes the designation of any part of his land as a regulated area or upland review area he shall have the burden of proving that designation inapplicable.
- B. To prove himself exempt from these regulations, the applicant must present documentation by a Soil Scientist that the land in question, or a portion of it, does not contain a watercourse or have a soil type classified by the National Cooperative Soils Survey as poorly drained, very poorly drained, alluvial or floodplain.
- C. The Agency and the Town Planner shall monitor and maintain general surveillance of the regulated areas within the Town to ensure that no unauthorized regulated activities occur.
- D. The Agency shall maintain a current inventory of regulated areas within the Town. The Agency may amend its map as more accurate information becomes available.

### Section 4. PERMITTED USES AS OF RIGHT AND NONREGULATED USES

- A. The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
  - 1. Grazing, farming, nurseries, gardening and harvesting of crops, and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purpose 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 cropland, the mining of topsoil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale.
  - 2. 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 the Town Plan and Zoning Commission as of the effective date of promulgation of these regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, which ever is earlier, and further provided that no residential home shall be permitted as of

right pursuant to this subdivision unless the permit was issued on or prior to July 1, 1987.

3. Boat anchorage or mooring, not to include dredging or dock construction.
  4. Uses incidental to the enjoyment and maintenance of residential property, such property defined as the largest minimum residential lot size, which is presently 80,000 square feet (R80 Zone). Such incidental uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse or diversion or alteration of a watercourse.
  5. Construction and operation by water companies as defined in Section 16-1 or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-403 of the Connecticut General Statutes.
  6. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a. of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. The term maintenance as it applies here shall mean the removal of accumulated leaves, soil and other debris whether by hand or machine while the pipe remains in place.
- B. The following operations and uses shall be permitted as a nonregulated use in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
1. Conservation of soil, vegetation, water, fish, shellfish and wildlife.
  2. Outdoor recreation including play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.
- C. All activities in wetlands or watercourses or upland review areas involving filling, excavation, dredging, clear cutting, grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Sections 5. and 6. of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with section 6 of these regulations.
- D. Any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse, which may disturb the natural and indigenous character of the land, shall, prior to commencement of such operation or use, notify the Town Planner and submit sufficient

information for the Town Planner to determine whether the operation or use is a permitted or nonregulated use of the wetland or watercourse. The Town Planner shall rule in writing within ten business days of receiving such notification whether the proposed operation or use requires a permit as a regulated activity. The decision of the Town Planner may be appealed to the Agency. The Agency shall rule on such appeal at its next regularly scheduled meeting.

Section 4A. ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF DEP

- A. The Commissioner of the Department of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- B. The Commissioner of the Department of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- C. The Commissioner of the Department of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Environmental Protection under sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- D. The Commissioner of the Department of Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials onto 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.

Section 5. GENERAL REQUIREMENTS

- A. No person shall henceforth conduct a regulated activity in a regulated area of the Town of Farmington without first obtaining a permit for such activity from the Agency or its designee. Prior to conducting a regulated activity for which zoning or subdivision approval is required the applicant shall have received a valid certificate of zoning or subdivision approval, special permit or variance ensuring that the activity complies with the Zoning and/or Subdivision Regulations of Farmington. Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 11 of these regulations and any other remedies as provided by law.
- B. The Agency and the Town Planner or his designee shall have the right of free access at reasonable times to the portion of the property under consideration. The property owner may

require that such persons have a letter of authorization from the Chairman or Secretary of the Agency prior to permitting such access.

- C. Changes in regulations, including boundaries, shall be made pursuant to Section 22a-42a. of the Connecticut General Statutes.
- D. No portion of a septic system (including primary or reserve area) shall be located within 75 feet of a wetland area or watercourse (from the mean water line) except for wetlands consisting of alluvial soils. However upon submission of an application for regulated activity the Agency may approve the placement of a septic system closer than 75 feet to a wetland area or watercourse in conjunction with the repair of an existing septic system.

Section 6. APPLICATION PROCEDURE FOR REGULATED ACTIVITIES AND CHANGES IN REGULATIONS AND BOUNDARIES OF REGULATED AREAS

- A. Any person wishing to undertake a regulated activity within a regulated area or to change the regulations or the boundaries of the regulated area shall apply for a permit to the Agency as follows:
  - 1. All applications shall be submitted not less than 7 days prior to the date of a regular meeting of the Agency in order for the application to be included on the agenda for said meeting. If an application for regulated activity requires a public hearing such hearing shall commence within 65 days of the official date of receipt of the application. The hearing may be continued by a majority vote of the members of the Agency in attendance, however all hearings shall be completed within 35 days of their commencement. Action shall be taken within 35 days after completion of the public hearing. In the absence of a public hearing, action shall be taken on applications within 65 days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than 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.

The agency may delegate to its duly authorized agent (the Town Planner or Zoning Enforcement Officer), after having completed the comprehensive training course offered by the Department of Environmental Protection, the authority to approve an activity that is located within the upland review area which is deemed to be accessory to a residential use (a one family or two family home) including but not limited to accessory structures, maintenance of landscaped or natural areas, minor land clearing, grading, drainage improvements or utility installations when such agent finds that the activity would result in no greater than a minimal impact on any area of wetlands or watercourse. Request for such approval shall be made on a form provided by the Agency and the applicant shall provide any other information the agent may reasonably require. The agent shall render a decision on such application no later than thirty days from the date it is submitted. Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish at their expense, notice of the approval in a newspaper having a general circulation in the town wherein the

activity is located or will have an effect. Any person may appeal such decision of the 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. The agency shall, at its discretion, sustain, alter or reject the decision of its agent or require an application for a permit in accordance with these regulations.

2. All applications shall be submitted on a form entitled "Application for Approval of Inland Wetlands and Watercourses Activity or Change in Regulation" (hereinafter called "Application"). The application shall contain the information described in this section and any other information the Agency may reasonably require and deemed necessary for a fair and informed determination thereon by the Agency. Application forms may be obtained in the office of the Town Planner. Incomplete applications may be denied.
  3. The official date of receipt of such application shall be the date of the next regularly scheduled meeting of the Agency immediately following the date of filing said application or thirty-five (35) days after filing, whichever is sooner.
  4. The application must be signed by the property owner of record or the holder of an option to purchase such property.
- B. There shall be a minimum application fee as set forth in Chapter 98 of the Farmington Code of Ordinances.

The Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not be limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts. The Agency or the duly authorized agent shall estimate the complex application fee which shall be paid pursuant to these regulations within ten days of the applicant's receipt or notice of such estimate. Any portion of the complex application fee in excess of the actual cost shall be refunded to the applicant no later than thirty days after publication of the agency's decision.

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

1. the activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or
2. the amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.

- C. At any time during the review period, the Agency or the Town Planner may require the applicant to provide additional information about the wetlands and/or watercourses in question and/or the proposed activity.
- D. If the Agency finds, based on the information before it, that the proposal will involve a significant activity or activity described below, the applicant shall be required to submit such pertinent information set forth in Section 6.E. of these regulations.
  - 1. A significant activity includes that which will have significant impact, and or an activity which may cause:
    - a. Substantial turbidity, siltation or sedimentation in a stream, lake or reservoir; the destruction or impairment of an identified aquifer or recharge area; a substantial reduction of an inland wetland or watercourse's natural flood storage capacity; the construction or alteration of a watercourse channel which might result in increasing the volume or velocity of water leading to upstream or downstream flooding; or
    - b. A decrease in the minimum low flow of a watercourse during periods of drought; or
    - c. The actual or potential pollution of an aquifer or watercourse; or
    - d. A reduction of the natural capacity of an inland wetlands or watercourse to support desirable biological life and/or function effectively as part of the total wetland ecosystem including loss of productivity of an economic resource; or
    - e. A loss of unique areas of wetlands and/or undisturbed areas of wetlands valuable for scientific or educational purposes; or
    - f. A reduction of the wetlands or watercourses suitability for recreation which may result from destruction of wildlife habitat, scenic values, or historic features; or
    - g. A conflict with the Plan of Conservation of Development or open space plan, which may result from incompatible uses, loss of amenities; or
    - h. The creation of conditions which may adversely affect the health, welfare and safety of the individual or the community, which may be incurred when unsuitable development occurs in swamps, marshes, along watercourses or in areas subject to flooding.
- E. All applications shall include the following information as set forth in the application form or by the submission of additional data (See Section 14 for submission requirements in conjunction with application (petition) for amending these regulations or the Inland Wetlands and Watercourses Map):
  - 1. The applicant's name, address and telephone number. If the applicant is a Limited Liability Corporation or a Corporation, the managing member's or responsible corporate officer's name, address and telephone number;

2. The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application;
3. Applicant's interest in the land;
4. The geographical location of the property which is to be affected by the proposed activity, including but not limited to a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, a computation of the area(s) (in acres or square feet) of wetland or watercourse disturbance, soil type(s) and vegetation;
5. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (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;
6. A site plan showing existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
7. 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;
8. Authorization for the members and agents of the Agency to inspect the property, at reasonable times, both before and after a final decision has been issued.
9. Alternative which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen ; all such alternatives shall be diagramed on a site plan or drawing.

If the proposed activity involves a significant activity, additional information based upon the nature and anticipated effects of the activity, including but not limited to the following, shall be provided as required by the Agency:

1. Site plans for the proposed use or operation and the property which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses and other pertinent features of the development drawn by a licensed surveyor, professional engineer or landscape architect registered in the State of Connecticut or by such other qualified persons;
2. Engineering reports and analyses and additional drawings to fully described the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses;

3. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U. S. Soil Conservation Service (the Agency may require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated onto the site plans);
  4. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions;
  5. Description of how the applicant will change, diminish or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and with each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;
  6. Analysis of chemical or physical characteristics of any fill material;
  7. Information from the State of Connecticut Natural Diversity Data Base concerning the subject property or properties in the immediate vicinity of the subject property;
  8. Measures, which mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or action which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.
- F. A public hearing is required on all applications involving a change in regulations or boundaries of regulated areas. A public hearing is also required for all applications involving a significant activity or where the Agency determines that a public hearing would be in the public interest or where the Agency receives a petition requesting a hearing, signed by a minimum of twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, filed not later than fourteen (14) days after the date of receipt of an application. Notification of all hearings concerning proposed regulations or amendments thereto shall be sent by the Agency to the Commissioner of Environmental Protection at least thirty-five (35) days before such hearing. Public hearings held in conjunction with an application for a regulated activity or applications (petitions) to amend these regulations or the Inland Wetlands and Watercourses map shall be held no later than sixty-five (65) days after the receipt of such application.
1. With respect to applications to undertake regulated activities: Notice of the hearing shall be published 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. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard.
  2. With respect to applications (petitions) for change in regulations or boundaries of regulated areas: Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing in a newspaper having a substantial circulation in the Town of Farmington, 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, and a copy of such proposed regulation or boundary shall be filed in the office of the Farmington Town Clerk for public inspection at least ten days before such hearing, and may be published in full in such paper.

- G. Notice of all applications for a regulated activity involving a wetlands or watercourse any portion of which is within 500 feet of the boundary of another municipality shall be sent by the applicant by Certified Mail return receipt requested to the Inland Wetlands Commission of such municipality on the same day it is submitted to the Agency.
- H. When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 25-32a, 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 land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.
- I. The Agency is required to notify the Clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:
  - 1. Any portion of the property affected by a decision of the agency is within 500 feet of the boundary of an adjoining municipality;
  - 2. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - 3. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality;
  - 4. Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

The applicant shall provide such information required by the Agency in determining whether such application must be sent to the adjoining municipality.

## Section 7. DECISION PROCEDURE

- A. The Agency, which shall function as a legislative body in carrying out the purpose of these regulations, shall consider the following in making its decision on the application:
  - 1. Evidence offered at any public hearing.

2. Any reports from other Town departments, government or quasi-government agencies and commissions and technical reports from organizations which promote the preservation or protection of wetland or water body resources:

The Agency shall submit all applications involving significant activities to the Farmington Conservation Commission and may submit applications to any other agency or organization, which may undertake additional studies or investigations.

3. Information submitted with the application.
  4. All relevant facts and circumstances as they affect inland wetlands and watercourses, reasonably known to the Agency as a result of its observations or experiences, and all relevant facts and circumstances referred to in Section 8.A. below.
- B. All action on the application shall be in conformance with Section 8. of these regulations and shall be in writing.
1. Action shall be taken on the application (petition) for a change in the regulations or the boundaries of the inland wetland area within 65 days after the completion of a public hearing; a public hearing on said application (petition) shall be held within 65 days after receipt of such application (petition). The applicant (petitioner) may consent to one or more extensions of one or both of the aforementioned time periods provided the total extension of all such periods shall not be for longer than 65 days, or may withdraw such application (petition). Failure of the Agency to act within any time period specified in the subsection or any extension thereof, shall not be deemed to constitute approval of the application (petition).
- C. The Agency shall notify the applicant by Certified Mail of its decision within fifteen (15) days of the date of the decision and the Agency shall cause notice of its order in issuance, denial, revocation or suspension of a permit to be published in a newspaper having general circulation in the Town of Farmington. The Agency shall send a copy of all adopted regulations, boundaries or changes thereto to the Commissioner of Environmental Protection no later than then (10) days after they have been adopted. 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 days thereafter.
- D. The Agency shall file all of its decisions concerning regulations, boundaries or changes thereto with the Town Clerk and shall cause the administrative officer or agent designated by the Agency to maintain a record of all applications.
- E. The Agency may cause to be posted conspicuously a sign on the premises of the inland wetland or watercourse indicating those regulated activities authorized by the Agency.
- F. Any permit issued by the Agency in conjunction with an application for site plan, special permit, subdivision or resubdivision shall be valid for a period of five (5) years from the expiration of the appeal period. Any permit issued for any other activity shall be valid for a period of two (2) years from the expiration of the appeal period. Any appeal of such permits shall extend these time periods the length of such appeal. The Agency may establish a

specific time period within which any regulated activity shall be conducted. Any permit shall be renewed by the Agency upon request in writing by the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new 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 five (5) years. Any application to renew or amend an existing permit shall be filed with the Agency at least 30 days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under section 6 of these regulations provided:

1. the application may incorporate the documentation and record of the prior application;
2. the application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized by the permit;
3. the application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
4. the application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
5. the Agency may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity.

## Section 8. PERMIT DECISIONS

A. Pursuant to Section 22a-41. of the Connecticut General Statutes, all decisions in granting a permit or granting a permit with modifications or denying a permit shall take into consideration all the factors listed below. In granting permits with conditions or modifications the Agency may include any reasonable measures which could mitigate the impacts of the regulated activity and which would prevent or minimize pollution or other environmental damage; maintain or enhance existing environmental quality or in the following order of priority: restore, enhance and create productive wetland or watercourse resources.

1. The environmental impact of the proposed regulated activity on wetlands or watercourses;
2. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives could cause less or no environmental impact to wetlands or watercourses;
3. 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;

4. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (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;
  5. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
  6. 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. In regards to applications for a regulated activity in which a public hearing was held 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 it's finding the Agency shall consider the facts and circumstances set forth in Subsection A. of this section. Such finding shall be stated on the record in writing. In the case of an application, which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity, which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record in writing the types of alternatives, which the applicant may investigate. This subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- C. The Agency in accordance with these regulations may grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- D. For the purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant 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.
- E. 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 characteristics of such wetlands or watercourses.
- F. When considering applications within the upland review area, the Agency may permit or

require the planting of landscape material to mitigate the effects of such activity or to protect or enhance the function of such wetland, water body or watercourse as demonstrated by evidence submitted into the record.

- G. If the Agency denies the permit after application, the applicant may attempt to modify his proposal and resubmit.
- H. If a bond is required in accordance with Section 10. of these regulations, no permit shall be issued until such bond or insurance is provided.
- I. No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.
- J. The Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
- K. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Farmington, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.

#### Section 9. OTHER PERMITS AND LICENSES

- A. Nothing in these regulations shall obviate any requirement for the applicant to obtain any other assent, permit or license required by law or regulations by the government of the United States or of the State of Connecticut or any other political subdivision thereof. The obtaining of such assents, permits or licenses is solely the responsibility of the applicant.

#### Section 10. BOND AND INSURANCE

- A. The applicant, upon approval of the application and prior to the issuance of a permit, at the discretion of the Agency may be required to file a performance bond and/or a maintenance bond in an amount and with sureties and in a form approved by the Agency.
- B. The bond and sureties shall be conditioned on compliance with all provisions of these regulations and conditions imposed on application approval.
- C. Applicant may be required to carry public liability insurance against liability which might result from proposed operation or use covering any and all damage which might occur within two (2) years of completion of such operations, in an amount to be determined by the Agency commensurate with the projected operation. A certificate of insurance shall be filed with the Agency.

#### Section 11. ENFORCEMENT

- A. Any person who shall commit, take part in or assist in any violation of any provision of these regulations or of conditions imposed by the Agency upon a permit shall be served with

a written order by certified mail, at the direction of the Agency, or its designated agent, stating the nature of the violation and providing a specified time within which such violation shall cease and satisfactory corrective measures shall be taken by the violator. Violators shall be fined in accordance with penalties set forth in Chapter 91 of the Farmington Town Code. Each violation of this act shall be a separate and distinct offense, and, in the case of continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. Within ten (10) 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.

- B. The Agency and/or its agent shall make regular inspections of all activities for which permits have been issued under these regulations. Such activities shall be open to inspection at all reasonable times. The owner, applicant or his agent shall have such permit readily available and shall produce the same for inspection by such agent of the Agency upon request.
- C. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by Certified Mail that the original order remains in effect, that a revised order is in effect or that the order has been withdrawn. In addition, the Agency may suspend or revoke a permit if it finds after the hearing that the applicant has not complied with the terms or conditions of such permit or exceeded the scope of the work as set forth in the application. The permittee shall be notified of the Agency's decision to suspend, revoke or maintain such permit by Certified Mail within fifteen (15) days of the date of its decision.
- D. The Agency shall cause notice of the aforementioned decisions to be published in a newspaper having general circulation in the Town of Farmington.
- E. The Agency or its designated agent, prior to initiating the process found in Section 11.A. of these regulations, may issue a notice of violation to such person violating the provisions of these regulations or permit. Such notice may prescribe the necessary action and steps to correct the violation including the halting of work in wetlands or watercourses. The Agency or its designated agent may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file a proper application for the necessary permit.
- F. The Agency may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct, which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

- G. The Agency may file a certificate of violation order on the land records in the office of the Town Clerk. Such certificate shall be released upon compliance with such order.

## Section 12. CONFLICT AND SEVERANCE

- A. Where there is a conflict between the provisions of these regulations and the Inland Wetlands and Watercourses Act, Section 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, the provisions of the said Act shall govern. Where there is a conflict among the provisions of these regulations, the provision, which imposes the most stringent standards for the use of wetlands and watercourses, shall govern. The invalidity of any word, clause, sentence, section, part or provision of these regulations shall not affect the validity of any other part, which can be given effect without such invalid part or parts.

## Section 13. EFFECTIVITY

- A. These regulations including boundaries of inland wetlands and watercourses shall not become effective or be established until after a public hearing in relation thereto is held by the Agency, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing in a newspaper having a substantial circulation in the Town of Farmington at least twice at intervals of not less than two 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, and a copy of such proposed regulation or boundary shall be filed in the office of the Farmington Town Clerk for public inspection at least ten (10) days before such hearing, and may be published in full in such paper.
- B. These regulations shall become effective upon filing in the office of the Town Clerk of Farmington, Connecticut, after approval thereof by the Commissioner of Environmental Protection and publication of notice of promulgation in a newspaper having general circulation in the Town.

## Section 14. AMENDMENTS

- A. These regulations and the Official Inland Wetlands and Watercourses Map may from time to time be amended by the Agency in accordance with changes in the General Statutes or regulations of the State Department of Environmental Protection, and as new information regarding soils, hydrology or botanical species, peculiar to inland wetlands and watercourses in the Town of Farmington becomes available.
- B. Any application filed with an inland wetlands agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such agency with respect to such application shall not be dismissed by the superior court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (a) to the establishment, amendment or change of boundaries of inland wetlands or watercourses; or (b) to any change in regulations necessary to make such regulations

consistent with the provisions of the Act as of the date of such receipt.

- C. These regulations and the Official Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a. of the Connecticut General Statutes as amended.
- D. Applications (petitions) requesting changes or amendments to the Inland Wetlands and Watercourses Map shall contain at least the following information:
  - 1. the petitioner's name, mailing address and telephone number;
  - 2. the address, or location of the land affected by the petition;
  - 3. the petitioner's interest in the land affected by the petition;
  - 4. map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
  - 5. the reason for the requested action.
- E. Any person who submits an application (petition) to amend the Inland Wetlands and Watercourses Map shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 14.D, the petition shall include:
  - 1. the name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
  - 2. the names and mailing addresses of the owners of abutting land;
  - 3. documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
  - 4. map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- F. Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.

## Section 15. APPEALS

- A. 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.

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

As Amended Effective December 7, 2007