

**INLAND WETLANDS AND WATERCOURSES REGULATIONS  
FOR THE  
TOWN OF NEW FAIRFIELD, CONNECTICUT**

**TABLE OF CONTENTS**

<b>SECTION</b>	<b>PAGE</b>
<input type="checkbox"/> <b>1 TITLE AND AUTHORITY</b>	<b>3</b>
<input type="checkbox"/> <b>2 DEFINITIONS</b>	<b>4</b>
<input type="checkbox"/> <b>3 INVENTORY OF REGULATED AREAS</b>	<b>8</b>
<input type="checkbox"/> <b>4 PERMITTED USES AS OF RIGHT AND NON-REGULATED USES</b>	<b>9</b>
<input type="checkbox"/> <b>5 ACTIVITIES REGULATED BY THE STATE</b>	<b>10</b>
<input type="checkbox"/> <b>6 REGULATED ACTIVITIES TO BE LICENSED</b>	<b>11</b>
<input type="checkbox"/> <b>7 APPLICATION REQUIREMENTS</b>	<b>11</b>
<input type="checkbox"/> <b>8 APPLICATION PROCEDURES</b>	<b>17</b>
<input type="checkbox"/> <b>9 PUBLIC HEARINGS</b>	<b>18</b>
<input type="checkbox"/> <b>10 CONSIDERATIONS FOR DECISION ON PERMITS</b>	<b>19</b>
<input type="checkbox"/> <b>11 DECISION PROCESS AND PERMIT</b>	<b>21</b>
<input type="checkbox"/> <b>12 BOND AND INSURANCE</b>	<b>23</b>
<input type="checkbox"/> <b>13 ENFORCEMENT</b>	<b>23</b>
<input type="checkbox"/> <b>14 AMENDMENTS</b>	<b>25</b>
<input type="checkbox"/> <b>15 APPEALS</b>	<b>26</b>
<input type="checkbox"/> <b>16 CONFLICT AND SEVERANCE</b>	<b>27</b>
<input type="checkbox"/> <b>17 OTHER PERMITS</b>	<b>27</b>
<input type="checkbox"/> <b>18 EFFECTIVE DATE OF REGULATIONS</b>	<b>27</b>
<input type="checkbox"/> <b>19 APPLICATION FORM</b>	<b>27</b>
<input type="checkbox"/> <b>20 APPLICATION FEES</b>	<b>28</b>
<input type="checkbox"/>	

**SECTION 1 TITLE AND AUTHORITY**

□

**1.1 Intent.** The Inland Wetlands and Watercourses of the Town of New Fairfield are an indispensable and irreplaceable but 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 New Fairfield and the state, 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 New Fairfield. 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 town'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 New Fairfield 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 and the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

□

**1.2 Title.** These Regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of New Fairfield."

□

**1.3 Inland Wetlands Agency.** The New Fairfield Conservation Commission was designated the Inland Wetlands Agency of the Town of New Fairfield and was authorized to promulgate, to enact, and to administer these Regulations pursuant to an ordinance entitled "An Ordinance Authorizing the Conservation Commission to Promulgate Regulations Protecting the Wetland and Watercourses of the Town." Said ordinance became effective June 8, 1973 and is designed to implement the provisions of the "Inland Wetland and Water Courses Act" in the Town of New Fairfield.

□

**1.4 Adoption.** 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 Authority to Enforce.** 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 or requiring the use of Inland Wetlands and Watercourses in the Town of New Fairfield pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

□

**1.6 Upland Review Area Authority.** Under the Act the Commission has broad authority to issue permits not only for activities in Wetlands or Watercourses themselves, but for activities located elsewhere when such activities are likely to impact or affect Wetlands or Watercourses. Therefore, these Regulations shall also apply to areas surrounding Wetlands and Watercourses known as "Upland Areas" or "Upland Review Areas" as defined herein. The relationship between a Wetland or Watercourse and its surrounding Upland Area is complex. Upland land clearing, excavating, filling, and other construction activities, if not properly planned and executed, can have significant impacts on adjacent Wetlands and Watercourses. An

Deleted: ¶

Upland Area activity that is likely to impact or affect Wetlands or Watercourses is a Regulated Activity under these Regulations. In addition to requiring permits for activities within defined Upland Review Area boundaries, the Commission has authority to regulate proposed activities located in more distant upland areas if it finds that the activities are likely to impact or affect a Wetland or Watercourse.

- 
- 

## **SECTION 2 DEFINITIONS**

- 

**2.1 Construction of Language.** For the purpose of these Regulations, the following terms, phrases, and words shall have the meanings herein. When not inconsistent with the context, words used in the present tense include the future, and the singular include the plural; the word "shall" is mandatory; the word "may" is permissive; and the words "used for" include "arranged for", "designed for", "intended for", "maintained for", or "occupied for." In the case of any difference of meaning or implication between the text of these controls and any caption, illustration, summary, table, or illustrative table, the text shall control. In interpreting expressions and terms used in these Regulations, they are to be given meanings according to their commonly approved usage of language. The Commission may rely upon commonly recognized dictionaries of the English language such as recent editions of the "The Merriam-Webster Dictionary of the English Language." The words "these Regulations", "the Regulations", "said Regulations", "the Wetlands Regulations", and "said Wetlands Regulations" shall be deemed to refer to the "Inland Wetlands and Watercourses Regulations" of the Town of New Fairfield herein contained as the same may, from time to time, be modified and amended.

- 

### **2.2 Definitions. 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. **"Bogs"** are usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

- 

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

- 

d. **"Commission"** means the Conservation Commission acting as the Inland Wetlands and Watercourses Commission of the Town of New Fairfield.

- 

e. **"Commission Member"** means a member of the Conservation Commission acting as the Inland Wetlands and Watercourses Commission of the Town of New Fairfield.

- 

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

- 

g. **"Continual Flow"** means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

- 

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

- 

i. **"Designated Agent"** means an individual designated by the Commission to carry out its functions and purposes.

- 

j. **"Discharge"** means emission of any water, substance, or material into Wetlands or Watercourses whether or not such substance causes pollution.

- 

k. **"Disturbing the natural and indigenous character of the land"** means that the activity will alter the Inland Wetlands and Watercourses by reason of removal or deposition of material, clear

cutting, alteration or obstruction of water flow, or will result in the Pollution of the Wetland or Watercourse.

- 
- l. **"Essential to Farming"** means that the proposed activity is necessary and indispensable to sustain farming activities in an existing form.
- 
- m. **"Farming"** means use of land for the growing of crops, raising of livestock or other agricultural use, but does not include the raising or keeping of animals for recreational purposes.
- 
- n. **"Feasible"** means able to be constructed or implemented consistent with sound engineering principles.
- 
- o. **"Grubbing"** means to clear of roots, stumps, rocks and debris by digging, scraping or other surface and subsurface disturbance.
- 
- p. **"License"** means the whole or any part of any permit, certificate of approval or similar form of permission that may be required of any person by the provisions of these Regulations under the authority of the Commission.
- 
- q. **"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 time when water flows are low and fish and wildlife will not be adversely affected.
- 
- r. **"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 ground surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.
- 
- s. **"Material"** means any substance, solid or liquid, gaseous, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or Waste.
- 
- t. **"Municipality"** means the Town of New Fairfield, Fairfield County, Connecticut.
- 
- u. **"Nurseries"** means land used for propagating trees, shrubs or other plants for transplanting, sale or for use as stock for grafting.
- 
- v. **"Ordinary High Water Mark"** means a mark on the land caused by the presence and action of water, which presence and action is so common and usual and so long continued in all ordinary years so as to mark upon the land a distinction between the abutting upland and the Watercourse. Such mark may be found by examining the bed and bank of any Watercourse and ascertaining thereon an abrupt change in characteristics of soil or vegetation or slope of the land.
- 
- w. **"Percent Slope"** is the slope determined by dividing the difference in elevation between two points by the distance between the points (rise/run) and multiplying the result by 100. In the field this slope is measured on the shortest straight line transect from any Wetland or Watercourse boundary to the highest up gradient point on the adjacent land utilizing sufficient numbers and locations of transects and utilizing the steepest slope measurement for non-uniform slopes so as to provide the most conservative calculation from the standpoint of Wetland and Watercourse protection.
- 

Deleted: ¶

- x. **"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 Commission.
- 
- y. **"Permittee"** means the person to whom such permit has been issued.
- 
- z. **"Person"** means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- 
- aa. **"Pollution"** means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the Town of New Fairfield 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 or excavation activity.
- 
- bb. **"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.
- 
- cc. **"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 Wetland or Watercourse, and in areas adjacent to a Wetland or Watercourse, excluding the specified activities in Section 4 of these Regulations, but including, without limitation, activities in Upland Review Areas as defined at Section 2.2mm of these Regulations and any of the following within a minimum of two hundred feet (200') measured horizontally from the mean water line of Lake Candlewood, Squantz Pond, Ball Pond, Marjorie Lake Reservoir, and the mean water line of Ball Pond Brook, one hundred fifty feet (150') measured horizontally from the mean water line of and/or terminal edge of all other watercourses; and one hundred fifty feet (150') of any wetland boundary, subject to the provisions of Section 10.6 of these Regulations:
  - 1) Any clearing, Grubbing, filling, grading, paving, excavating, constructing, depositing or removal of material and discharging of storm water on the land;
  - 2) Clear-cutting or grubbing of land, except as permitted in Section 4 of these Regulations;
  - 3) Excavating, mining, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition within said Setback or Upland Review Areas, when the area of the ground cover destroyed, removed, or disturbed by such activity is cumulatively more than two thousand (2,000) square feet;
  - 4) Disposal, treatment, storage or management of hazardous materials as defined in Connecticut General Statutes Section 22a-115, as amended.
- dd. **"Regulated Area"** means any "Wetland", "Watercourse", "Setback", or "Upland Review Area" as defined in these Regulations.
- 
- ee. **"Remove"** includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.
- 
- ff. **"Rendering unclean or impure"** means any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity, taste, or pH.
- 

Deleted: ¶

- gg. **"Setback" or "Setback Area"** means that geographical area within a specified distance from a Wetland or Watercourse that is subject to these Regulations. See Section 2.2 cc of the Regulations.
- hh. **"Significant Activity"** means any activity that alters or destroys wetlands including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland Wetland or Watercourse system:
  - 1. Any activity involving a deposition or removal of material that will or may have a major effect or significant impact on the Regulated Area or on another part of the Inland Wetland or Watercourse system; or
  - 2. Any activity that substantially diminishes the natural channel or may inhibit the natural dynamics of a Watercourse system; or
  - 3. Any activity that substantially changes the natural capacity of an Inland Wetland or Watercourse to support desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate Waste, facilitate drainage, provide recreation or open space or other functions; or
  - 4. Any activity that causes substantial turbidity, siltation or sedimentation in a Wetland or Watercourse; or
  - 5. Any activity that causes a substantial diminution of flow of a natural Watercourses, or groundwater levels of the Regulated Area, or
  - 6. Any activity that causes or has the potential to cause Pollution of a Wetland or Watercourse; or
  - 7. Any activity that destroys Wetland or Watercourse areas having demonstrable scientific or educational value; or
  - 8. Any activity proposed on slopes of twenty-five percent (25%) or more.
- ii. **"Soil Scientist"** means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management (formerly the US Civil Service Commission).
- jj. **"Swamps"** are areas with soils that exhibit aquatic moisture regimes and are dominated by Wetland trees and shrubs.
- kk. **"Submerged Lands"** means those lands which are inundated by water on a seasonal or more frequent basis.
- ll. **"Town"** means the Town of New Fairfield, Fairfield County in the State of Connecticut.
- mm. **"Upland Review Area"** means the Setback Areas described at Subsection 2.2 cc of these Regulations plus any additional non-Wetland/non-Watercourse areas for which activities are proposed that are determined by the Commission as likely to have an impact or affect on Wetlands or Watercourses. The width of an Upland Review Area will be such minimum stated Setback width measured horizontally as set forth in these Regulation plus an enlarged width that is in proportion to the slope upward from the Wetland or Watercourse boundary ("Percent Slope"). The minimum horizontally measured Setback (Upland Review Area), shall be enlarged at least ten feet (10') measured horizontally for each one percent (1%) of slope measured from the Wetland or Watercourse boundary. Thus, if the basic one hundred fifty foot (150') wide review area has a fifteen percent (15%) slope upward from the ordinary high water line or wetland soil boundary, a minimum additional one hundred fifty feet (150') will be added to the horizontal width of the Upland Review Area or at least three hundred feet (300').

Deleted: ¶

The Upland Review Area may also include such additional areas of non-Wetland and non-Watercourse areas and widths as the Commission determines on a case by case basis are likely to have an impact on Wetlands and Watercourses. In determining such additional Upland Review Areas the Commission may consider the sedimentation and erosion effect of cuts and fills on steep slopes; the presence of highly erodible soils found adjacent to the Wetlands and Watercourses; and the management of existing storm water discharges so as to improve degraded resources and to minimize the opportunity for Pollution and alteration of Wetland or Watercourse habitats.

For example, the Commission may consider the influence of the texture, cohesiveness and organic content of soil in the creation of rills and gullies as a result of erosion by water and the resulting likelihood of Pollution caused by sedimentation; the permeability of a particular soil and the rate at which groundwater travels through it when considering the potential for the Upland Review Area to renovate wastewater discharges to groundwater that may subsequently discharge to a Wetland or Watercourse (particularly when septic system leaching fields and storm water filtration trenches are proposed adjacent to Wetlands or Watercourses); the impact of shallow soils on steep slopes, particularly with respect to the danger or long-term erosion and/or surface seepage causing excessive sheet flow.

In making determinations as to the extent of the Upland Review Area the Commission may consider the input and publications of the United States Department of Agriculture, Natural Resources Conservation Service and the Connecticut Department of Environmental Protection. Such resources may include, without limitation, *Highly Erodible Soil Map Units of Connecticut*, USDA-NCRS (1986) as revised, for the identification of highly erodible soils and evaluating erosion potential from construction activity; *Seepage and Pollutant Renovation* (DEP Bulletin #7) and *Carrying Capacity of Public Water Supply Watersheds* (DEP Bulletin #11).

nn. **"Waste"** means sewage or any substance, liquid, gaseous, solid or radioactive, that may pollute or tend to pollute any of the waters of the Town.

oo. **"Watercourses"** means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, that 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. Intermittent Watercourses shall be delineated by a defined permanent channel and bank and the occurrence of 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, and (3) the presence of hydrophytic vegetation.

pp. **"Wetlands"** means land, including submerged land as defined in Section 2.1 (kk) 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, and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the US 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 REGULATED AREAS**

**3.1 Mapping.** The map of Regulated Areas, entitled "State of Connecticut Department of Environmental Protection Designated Inland Wetlands and Watercourses, dated October 1972, Town of New Fairfield," delineates the general location and boundaries of Inland wetlands and the general location of Watercourses. Copies of this map are available for inspection in the office of the Town Clerk or through the Inland Wetlands and Watercourses Commission. In all cases, the precise location of Regulated Areas shall be determined by any combination of the following: aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations, the actual character of the land, the distribution of Wetland soil types and locations of Watercourses and/or other information in determining the location of

the boundary of Wetlands and Watercourses. Such determinations shall be made by field inspection and testing conducted by a soil scientist where soil classifications are required, or where Watercourses determinations are required, by other qualified individuals. In determining the Regulated Area, Upland Review Areas shall be identified as set forth in these Regulations.

**3.2 Petition to Amend Boundaries.** Any property owner who disputes the designation of any part of his or her land as a Regulated Area on the Inland Wetlands and Watercourses Map, may petition the Commission to change the designation. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances that support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with Section 14 of these Regulations may be required when the Commission requires an accurate delineation of Regulated Areas.

**3.3 Inventory.** The Inland Wetlands and Watercourses Commission or its designated agent(s) shall inventory and maintain current records of all Regulated Areas 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 14 of these Regulations.

#### **SECTION 4 PERMITTED USES AS OF RIGHT AND NON-REGULATED USES**

**4.1 Permitted Activities.** The following operations and uses shall be permitted in Inland Wetlands and Watercourses, as of right:

a. Grazing, farming, nurseries, gardening, and harvesting of crops and farm ponds of three (3) acres or less essential to the farming operation. The provisions of this section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of Watercourses with continual flow, filling or reclamation of Wetlands or Watercourses with continual flow, Clear Cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from Wetlands or Watercourses for the purposes of sale;

b. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Planning Commission as of the effective date of promulgation of municipal Regulations pursuant to subsection (b) of Connecticut General Statutes Section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987. Any person claiming a use of Wetlands permitted as of right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographical contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement;

c. Boat anchorage or mooring, not to include dredging or dock construction;

d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site containing a residence and permitted anywhere in the Town. 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 into a Wetland or Watercourse, or diversion or alteration of a Watercourse;

e. Construction and operation, by water companies as defined by Section 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-410 of the General Statutes;

Deleted: ¶

f. Maintenance relating to any drainage pipe which existed before the effective date of any Town regulations adopted pursuant to General Statutes 22a42a or July 1, 1974, whichever is earlier, provided such pipe is on property that is zoned as residential but that does not contain hydrophytic vegetation. For purposes of this subsection, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

**4.2 Permitted Activities in Wetlands and Watercourses that Do Not Disturb the Natural and Indigenous Character.** The following operations and uses shall be permitted as non-regulated uses in Wetlands and Watercourses, provided they do not disturb the natural and indigenous character of the Wetland or Watercourse by removal or deposition of material, alteration or obstruction of water flow or Pollution of the Wetland or Watercourse:

a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture Management Practices;

b. Outdoor recreation including the use of play and sporting areas, golf courses, field trails, 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 Permits Required.** All activities in Wetlands or Watercourses involving filling, excavation, dredging, Clear Cutting, clearing or grading, or any other alteration or use of a Wetland or Watercourse not specifically permitted by this Section shall require a permit from the Commission in accordance with Section 6 of these Regulations.

**4.4 Permitted or Non-Regulated Operations or Uses.** To carry out the purposes of this Section, any person proposing to carry out a permitted or non-regulated operation or use of a Wetland or Watercourse, that may disturb the natural and indigenous character of the Wetland or Watercourse, shall, prior to commencement of such operation or use, notify the Commission on a form provided by it, and provide the Commission with the information requested on the form and such other information as may be requested by the Commission to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of the Wetland or Watercourse. The Commission or its designated agent 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, if so authorized, may make such ruling on behalf of the Commission at any time or may refer the decision to the Commission as a whole.

**SECTION 5 ACTIVITIES REGULATED BY THE STATE**

**5.1 Permits Required.** 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-411 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-349a 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 piping, culverting, channelization, relocation, damming, or other alteration of the location of flow change in the instantaneous flow of any surface waters of the state where the tributary watershed area above the point of such alteration is one hundred (100) acres or larger pursuant to Sections 22a-365 through 22a-378a of the General Statutes, as amended;

e. Discharge 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 US Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

**5.2 State Agency Permits.** The Commissioner of Environmental Protection shall have exclusive jurisdiction over Regulated Activities and other activities, in or affecting Wetlands or Watercourses, undertaken by any department, agency or instrumentality of the state of Connecticut, except any local or regional board of education, pursuant to Sections 22a-39 through 22a-45a of the Connecticut General Statutes.

**5.3 Tidal Wetlands.** The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal Wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the General Statutes.

**5.4 Dam Construction, Repair, or Removal.** The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under Section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under Sections 22a-403 or 22a-41 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or dam construction permit shall be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said order or to carry out the activities authorized by said dam permit.

## **SECTION 6 REGULATED ACTIVITIES TO BE LICENSED**

**6.1 Permits Required.** Subject to the provisions of Section 4 hereof, no person shall conduct or maintain a Regulated Activity without first obtaining a permit for such activity from the Inland Wetlands and Watercourses Commission of the Town of New Fairfield.

**6.2 Commission to Regulate.** The Commission shall regulate any operation within or use of a Wetland or Watercourse involving removal or deposition of material, or any obstruction, construction, alteration or Pollution, of such Wetlands or Watercourses and any other Regulated Activity, unless such operation or use is permitted or non-regulated pursuant to Section 4 of these Regulations.

**6.3 Violations.** Any person found to be conducting or maintaining a Regulated Activity without the prior authorization of the Town of New Fairfield Inland Wetlands and Watercourses Commission or violating any other provision of these Regulations, or operating under a permit that has expired, or has been revoked, shall be subject to the enforcement proceedings and penalties prescribed in Section 13 of these Regulations and any other remedies as provided by law.

## **SECTION 7 APPLICATION REQUIREMENTS**

**7.1 Applications Required.** Any person intending to conduct a Regulated Activity shall, prior to commencement of such activity, operation or use, apply for a permit on a form provided by the Commission. Application forms may be obtained from the Environmental Enforcement Officer in the

Town's land use office. Applicant or applicant's agent must be present to represent the Application at the regularly scheduled Commission meeting at which the application is presented for review.

**7.2 Special Permit, Site Plan, Subdivision, Re-subdivision Approval Involving Regulated Activity.** If an application to the New Fairfield Planning Commission or Zoning Commission for a special permit, site plan, subdivision, or re-subdivision involves an activity which may impact a Wetland or Watercourse, the applicant shall, in accordance with Sections 8-3(g), 8-3(c), or 8-26 of the Connecticut General Statutes, as applicable, submit an application for a permit to the Inland Wetland and Watercourses Commission in accordance with these Regulations and, specifically, this Section, no later than the day the application is filed with such Planning or Zoning Commission.

**7.3 Application Information.** All applications shall contain such information as is necessary for a fair and informed determination of the issues and/or is requested by the Commission.

**7.4 Pre-application, Significant Impact Activity Review.** The prospective applicant may request and the Commission and the applicant may hold a preliminary review to determine whether or not the proposed activity involves a Significant Impact Activity. Whenever possible the determination relative to Significant Activities should be made at the preliminary review.

**7.5 Application Contents.** All applications shall include the following information in writing:

- a. The applicant's name, home and business address, and telephone numbers;
- b. The owner's name, address, and telephone number and written consent if the applicant is not the owner of the property involved with the application;
- c. Description of applicant's interest in the land; i.e., lessee, licensee, potential purchaser, etc.;
- d. The geographical location of the property that 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 and square feet) of Wetland or Watercourse disturbance, soil type(s) and vegetation;
- e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other Management Practices and mitigation measures that may be considered as a condition of issuing a permit for the proposed Regulated Activity, including, but not limited to, measures to (i) prevent or minimize Pollution or other environmental damage, (ii) maintain or enhance existing environmental quality, or (iii) in the following order of priority: Restore, enhance, and create productive Wetland and Watercourse resources. If the proposed activity involves the construction or the erection of structures on the affected property the description shall include blueprints or engineering or architectural plans or designs, to the extent necessary to permit the Commission to determine the impact of such construction on any Regulated Area;
- f. Areas adjacent to the site, including Upland Review Areas, shall be analyzed and delineated on a topographic map. Such features as perennial and intermittent streams, vernal pools, roads, houses or other buildings, or wooded areas shall be shown. Wetlands, Watercourses, and downstream culverts that will receive runoff from the site shall be surveyed to determine their ability to retain or discharge runoff. The map and application shall identify sensitive downstream areas, especially on parcels with stream flows of five (5) c.f.s. or greater. The areas shown shall include one thousand feet (1000') downstream as a minimum, with greater distances depending upon soil conditions, soil types, and area disturbed. The map and application shall give attention to and provide information about possible future development upstream that may affect the rate and volume of runoff contributing to the project site;
- g. An analysis of adjacent properties should focus on areas downslope from the construction project. Wetlands and Watercourses that will receive direct runoff from the site should be a major concern.

The potential for sediment Pollution of these areas should be considered as well as the potential for downstream channel erosion due to increased volume, velocity, and peak flow rate of storm water runoff from the site. The potential for sediment deposition on adjacent properties from sheet, rill, and gully erosion should also be analyzed so that the appropriate sediment trapping measures can be planned;

h. Alternatives considered by the applicant and why the proposal to alter Wetlands set forth in the application was chosen. (The Commission may require that the applicant submit a site plan or drawing diagramming these alternatives as part of the application.);

i. Names and addresses of adjacent property owners;

j. 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;

k. Authorization for the Commissioners and agents of the Commission to inspect the property, at reasonable times, both before and after a final decision has been issued;

l. The applicant shall certify whether any of the following circumstances apply:

1. Any portion of the property on which the Regulated Activity is proposed is located within five hundred feet (500') of the boundary of an adjoining municipality;

2. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;

3. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality;

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

5. If the proposed activity upon the applicant's property may affect a Watercourse lying within, partly within, or flowing through or adjacent to the applicant's property, the applicant shall submit information relative to the present character and the projected impact of the proposed activity upon the Watercourse.

m. A site plan, prepared by a Land Surveyor, Professional Engineer or Landscape Architect registered in Connecticut showing the proposed activity and existing and proposed conditions in relation to Wetlands and Watercourses and identifying any further activities associated with, or reasonably related to the proposed Regulated Activity that are made inevitable by the proposed Regulated Activity and that may have an impact on Wetlands or Watercourses. The site plan shall also include the information and requirements listed below:

1. A scale of at least 1"=40' or such other scale as the Commission may deem appropriate for the size of the site.

2. Existing contours at two foot (2') intervals (U.S.G.S. topographical data is not sufficient).

3. Wetland delineation flag locations (numbered) defining boundaries of the regulated soil types shall be located on the plan by a Land Surveyor or Engineer licensed in Connecticut and the Soil Scientist doing the flagging shall certify the soil types depicted on the plan.

4. Proposed contours at two foot (2') intervals. This may require an individual map identified as to the special nature of the data thereon.

- 
- 5. Existing and proposed drainage.
- 
- 6. Live seal of a Land Surveyor, Professional Engineer or Landscape Architect as appropriate.
- 
- 7. Relationship of work to the property line.
- 
- 8. Other information normally provided, including, but not limited to, north arrow, scale, legend, vicinity map and adjoiners.
- 
- 9. Proposed construction including, but not limited to, septic system, wells, buildings, driveways, roads, parking areas, ponds, and cut and fill areas.
- 
- 10. Provisions utilizing best management practice for sedimentation and erosion control.
- 
- 11. Wetlands and Watercourses within one hundred fifty feet (150') of the proposed activity, two hundred feet (200') of the mean water line of Lake Candlewood, Squantz Pond, Ball Pond, Marjorie Lake Reservoir, and the mean water line of Ball Pond Brook and any other Watercourses within one hundred fifty feet (150').
- 
- 12. The map elevation shall be based on U.S.C. & G.S. datum.
- 
- 13. Flood hazard zones.
- 
- 14. Soil types within Regulated Areas.
- 
- 15. Additional information deemed relevant by the applicant or Commission including a detailed estimate of construction costs, including costs of buildings, road construction, drainage, grading, blasting, septic systems, and wells where deemed relevant by the Commission to evaluate alternatives or bonding.
- 
- 16. The site plan shall show existing and proposed conditions in relation to Wetlands and Watercourses and shall identify any further or future activities associated with, or reasonably related to, the proposed Regulated Activity that are made inevitable by the proposed Regulated Activity and that may have an impact on Wetlands or Watercourses.
- 
- 17. The site plan shall be a Class A-2 survey map. The Commission may waive the submission of a class A-2 survey when in its judgment such survey is not necessary in view of other supporting material.
- 
- 18. A written and/or charted plan detailing anticipated commencement and completion dates and all other significant interim construction stages.
- 
- n. Whether the proposed Regulated Activity will require subdivision or re-subdivision approval, a zoning permit, special permit or exception, or a variance, from the Town of New Fairfield Zoning Commission, Planning Commission, or Zoning Board of Appeals, as the case may be;
- 
- o. The Commission retains the right to waive the submission of any of the above information when such information does not apply to the activity or circumstances. Conversely, the Commission may request additional information and material when such an additional submission is deemed necessary in considering the application.
- 
- p. Submission of the appropriate filing fee based on the fee schedule established in these Regulations. An application without a filing fee will not be deemed submitted.

**7.6 Additional Information.** If the proposed activity is or may be a Significant Activity, as determined by the Commission, additional information, based on the nature and anticipated effects of the activity, including, but not limited to, the following is required:

a. The site plan should be for the applicant's property and any adjacent property that will be affected. It shall 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 person whom the Commission deems to be qualified;

b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to Watercourses; such reports shall include a hydrology report (prepared by a fully qualified hydrologist) which depicts the nature and hydraulic nature of the soil along with a description of the underlying rock formations; such report shall analyze the renovation ability and recharge values associated with the proposed development property and the effect of the proposed activity on the recharge and renovation functions of the affected Wetland and Watercourse resources. This evaluation shall include a discussion of the effects of any blasting or significant earth movement on the aforementioned hydraulic functions.

c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service; the Wetlands shall be delineated in the field by a soil scientist and the soil scientist's delineation shall be depicted on the site plans by a Connecticut licensed land surveyor, professional engineer, or landscape architect;

d. Description of the ecological communities and functions of the Wetlands or Watercourses involved with the application, and the effects of the proposed regulated activities on these communities and wetland functions; this description will include without limitation, a biological evaluation of any Marsh, Swamp, or Bog within the affected property describing (i) dominant botanical species, rare species, forest age and classes of flora; (ii) habitat value of the affected property for all wildlife species; and (iii) depth of water table below the surface or level of water if inundated;

e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the Wetlands and Watercourses involved in the application, and with each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;

f. Description and analysis by a qualified person of any fill materials or materials to be deposited on the affected property in terms of volume, chemical or physical characteristics, composition, and the possibility of erosion or leaching from the deposited material; such description shall include without limitation (i) volume in cubic yards of deposited material; (ii) nature and description of materials; (iii) precise chemical composition of any toxic materials whether they are to be enclosed in containers of any type or deposited openly without containment; and (iv) explanation of how the affected property will be protected from the erosion or leaching of deposited materials;

g. Measures and Management Practices that mitigate the impact of the proposed activity. Such measures and practices include, but are not limited to, plans or actions that; (i) avoid destruction or diminution of Wetland or Watercourse functions, recreational uses and natural habitats, (ii) prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage; or (iii) otherwise safeguard water resources;

h. If the proposed activity or use will affect a Watercourse lying within, partly within, or flowing through or adjacent to the affected property, the applicant may be required to submit a report describing the present Watercourse characteristics and the probable effect on the Watercourse of the proposed activity or use including the effect on: (i) pH or alkalinity levels; (ii) turbidity or solids in parts per million; (iii) bacteria count in coliform per millimeter; (iv) flow, if any, in cubic feet per second; and

(v) pre and post development drainage calculations for ten (10), twenty five (25), fifty (50), and hundred (100) year storms of twenty four (24) hour durations;

i. A full and detailed description of the proposed construction or the erection of structures on the affected property including blueprints, engineering and architectural plans or designs where available and reasonably obtainable. Such description shall include the purpose of such construction, use, or activity;

j. If any portion of a proposed septic area is within seventy-five feet (75') of exposed ledge or within seventy-five feet (75') of a test hole with ledge at a depth of four feet (4') or less, then a ledge profile or substrate profile for each row of septic devices shall be submitted with the plan. This profile shall be determined by testing the soil depth in each row (with a rod at least four feet (4') in length) at no more than two foot (2') intervals, beginning at one end of each row and moving along the center of the row to its opposite end. The profile can also be determined by using an appropriate geophysical method, such as ground-penetrating radar (GPR), seismic reflection, terrain conductivity, or resistivity. This profile shall be graphically represented with each test probe depth showing as a point below the contour line followed by the proposed row of septic devices.

The Commission retains the right to waive the submission of any of the above information when such information does not apply to the activity or circumstances. Conversely, the Commission may request additional information and material when such additional submission is deemed necessary in considering the application. Such additional information may include, without limitation, a verification, at applicant's sole expense, of any submitted data by a qualified expert acceptable to the Commission.

**7.7 Number of Copies.** One (1) original and eleven (11) copies of all application materials including maps meeting the requirements of these Regulations shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Inland Wetlands and Watercourses Commission.

**7.8 Renewal, Amendments, and Extensions.** Any application to renew or amend an existing permit shall be filed with the Commission in accordance with Section 8 of these Regulations at least sixty-five (65) days prior to the expiration date for the permit. Any application for amendment, renewal or extension shall be made in accordance with this Section 7 provided:

a. The application may incorporate by reference the documentation and record of the original application;

b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;

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 or within the designated review area related to the property for which the permit was issued;

e. The Commission, prior to the expiration of the permit, may 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 extended and the public interest or environment will be best served by not interrupting the activity. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;

f. Any application to renew a permit shall be granted upon the request of the permit holder unless the Commission finds that there has been a substantial change in circumstances that requires a new

Deleted: ¶

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;

g. The time period for renewals or extensions shall be in accordance with Section 11.8 and 7.8 of these Regulations.

**7.9 Not Significant Impact Activity.** If the Commission finds that a proposed activity is a Regulated Activity, but not a significant activity, it may allow the activity with or without conditions. In order to grant a permit for such activities, the Commission, after full review of the considerations set forth in Section 10 and other pertinent factors, shall state upon the record reasons for granting the permit with or without conditions.

**7.10 No Permission for Public to Attend Site Visit.** The Commission may determine that a site visit may be required in order for the Commission to have sufficient information to make a decision. If the landowner or applicant refuses to allow the public onto the site when the Commission wishes to visit, the Commission will be precluded by the Connecticut Freedom of Information Act from conducting the meeting and the Commission may reasonably deem that the applicant has refused to provide the necessary information under the Regulations.

## **SECTION 8 APPLICATION PROCEDURES**

**8.1 Where to File.** All applications shall be filed with the Inland Wetlands and Watercourses Commission of the Town of New Fairfield.

**8.2 Notice to Wetlands Commission in Neighboring Town.** In the case of the filing with the Commission of any application where any portion of the Wetland or Watercourse upon which the Regulated Activity is proposed is located within five hundred feet (500') of the boundary of neighboring towns, the applicant shall give written notice, in accordance with Section 22a-42c of the General Statutes, of the application by certified mail, return receipt requested, to the adjacent municipal wetland agency on the same day of filing an application with the New Fairfield Inland Wetlands and Watercourses Commission. Proof of such notice shall be provided to the Commission within five (5) days of the receipt of application.

**8.3 Notice to Adjoining Towns.** The Commission shall, in accordance with Section 22a-42b(a) of the Connecticut General Statutes, notify the clerk of any adjoining municipality of the pendency of any application to conduct a Regulated Activity when:

a. Any portion of the property on which the Regulated Activity is proposed is located within five hundred feet (500') of the boundary of an adjoining municipality;

b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;

c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality;

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

e. If the proposed activity upon the applicant's property may significantly impact a Watercourse within the adjoining municipality, applicant shall so state in the application, and notice of the pendency of such application shall be made by the Commission to the adjoining municipality by certified mail, return receipt requested, and such notice shall be mailed within seven (7) days of the date of receipt of the application.

Deleted: ¶

**8.4 Notice to Water Company.** When an application is filed to conduct or cause to be conducted a Regulated Activity upon an inland Wetland or Watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the General Statutes, the applicant shall provide written notice of the application to the water company, provided such water company has filed a map showing the boundaries of the watershed on the Land Records of the Town of New Fairfield and with the Inland Wetlands and Watercourses Commission of the Town of New Fairfield. Such notice shall be mailed within seven (7) days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.

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

**8.6 Additional Information.** At any time during the review period, the Commission may require the applicant to provide additional information about the Regulated Area or Regulated Activity that is the subject of the application, or Wetlands or Watercourses affected by the Regulated Activity. Requests for additional information shall not stay the time limitations as set forth in section 11.4.

**8.7 Public Inspection.** All applications shall be open for public inspection.

**8.8 Incomplete Applications.** Incomplete applications may be denied.

**8.9 Permit Extensions.** Applications to extend the expired date of an issued permit shall be in accordance with Section 7.8 of these Regulations.

**8.10 Reporting Form.** A reporting form shall be completed during the application process that provides the Commissioner of Environmental Protection with information necessary to properly monitor the inventory of state Wetlands. The reporting form shall be part of the application and specified sections shall be completed by the applicant. These sections shall include the following: name of applicant; name of the project; project description; area of Wetlands and/or linear feet of Watercourses proposed to be altered.

## **SECTION 9 PUBLIC HEARINGS**

**9.1 Public Hearings Scheduled.** The Commission shall not hold a public hearing on an application unless: a) the Commission determines that the proposed activity may have a significant impact on Wetlands or Watercourses; or b) a petition signed by twenty-five (25) or more persons requesting a hearing is filed with the Commission not later than fourteen (14) days after the date of receipt of such application; or c) the Commission finds that a public hearing regarding such application would be in the public interest. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.

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

**9.3 Abutting Owners.** Notice of the public hearing shall be mailed via certified mail, return receipt requested, by the applicant to the owner(s) of record of abutting land no less than fifteen (15) days prior to the day of the hearing. A list of abutters to be notified shall be provided with the application. The return receipt shall be provided to the Commission prior to the public hearing.

**9.4 Adjoining Municipalities.** In the case of any application that is subject to the notification provisions of Section 8.3 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record. Such adjoining municipalities may, through their representatives, appear and be heard at any hearing on such an application.

**9.5 Date of Public Hearing.** For applications for which a public hearing is held, such hearing shall be held no later than sixty-five (65) days after the receipt of such application.

**9.6 Length of Public Hearing.** Where possible, the public hearing shall be completed in a single session. However, the hearing may be continued (to a date certain) where necessary for the full development of the evidence, or the full and adequate participation of the parties, or for such other substantial purposes, provided that the public hearing, unless extended by consent of the applicant, shall be completed within forty-five (45) days from the date of commencement.

**9.7 Extension of Time.** The applicant may consent to one or more extensions of the period specified for the holding of the hearing and for action on such application, provided the total extension for any such period shall not be for longer than the original period as specified in these Regulations.

**SECTION 10 CONSIDERATIONS FOR DECISION ON PERMITS**

**10.1 Relevant Information and Data.** The Commission may consider the following in making its decision on an application:

- a. The application and its supporting documentation;
- b. Public comments, evidence, and testimony;
- c. Reports from other agencies and commissions, including, but not limited to, the Town of New Fairfield:

- 1. Board of Selectman
- 2. Planning and Zoning Commissions
- 3. Building Official
- 4. Health Officer
- 5. Town Engineer

d. The Commission may also consider comments on any application from the Fairfield County Soil and Water Conservation District, The Housatonic Valley Council of Elected Officials, Candlewood Lake Authority, or other regional organizations; agencies in adjacent municipalities that may be affected by the proposed activity, or other technical agencies, organizations, or consultants that may undertake additional studies or investigations;

e. Non-receipt of comments from agencies and commissions listed in Section 10.1c above within the prescribed time shall neither delay nor prejudice the decision of the Commission;

f. Information obtained by the Commission at site visits.

**10.2 Standards and Criteria for Decision.** In carrying out the purposes and policies of Section 22a-36 to 22a-45, inclusive, of the General Statutes, including matters relating to regulating, licensing, and enforcing of the provisions thereof, the Commission shall take into consideration both on-site and off-site impacts on Wetlands and Watercourses that result from a project as a whole, future activities necessary to maintain a proposed or existing development and all relevant facts and circumstances including but not limited to:

- a. The environmental impact of the proposed Regulated Activity on Wetlands or Watercourses, including, but not limited to, the effects on the Inland Wetland's and Watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and to protect surface and ground waters, to control sediment, to facilitate drainage, to control Pollution, to support recreational activities, and to promote public health and safety;
- 
- b. The applicant's purpose for, and any feasible and prudent alternatives to the proposed Regulated Activity, which alternatives would cause less or no environmental impact to Wetlands or Watercourses, including, but not limited to, a consideration of alternatives that might enhance environmental quality or have a less detrimental effect, and that could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of requiring actions of a different nature that would provide similar benefits with different environmental impacts, such as using a different location for the activity;
- 
- c. The relationship between the short-term and long-term impacts of the proposed Regulated Activity on Wetlands or Watercourses and the maintenance and enhancement of long-term productivity of such Wetlands or Watercourses, including, but not limited to, consideration of the extent to which the proposed activity involves trade-offs between short-term losses, or environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options;
- 
- d. Irreversible and irretrievable loss of Wetland or Watercourse resources that would be caused by the proposed activity. Such consideration shall include, without limitation, the extent to which such activity would foreclose a future ability to protect, enhance, or restore such resources, and any mitigation measures that may be considered as a condition of issuing a permit for such activity. Mitigation measures may include, but shall not be limited to, (i) prevent or minimize Pollution or other environmental damage, (ii) maintain or enhance existing environmental quality, or (iii) in the following order of priority: restore, enhance, and create productive Wetland and Watercourse resources. This requires recognition that the Inland Wetlands and Watercourse of the Town of New Fairfield and the State of Connecticut are an indispensable, irreplaceable, and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion, diminution or obstruction of water flow including low flows, and by the erection of structures and other uses;
- 
- e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property, that is caused or threatened by the proposed Regulated Activity. This includes, without limitation, the 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. Impacts of the proposed Regulated Activity on Wetlands or Watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed Regulated Activity that are made inevitable by the proposed Regulated Activity and that may have an impact on Wetlands or Watercourses.

**10.3 Feasible and Prudent Alternative.** In the case of any application that received a public hearing, pursuant to a finding by the Commission that the proposed activity may have a significant impact on Wetlands or Watercourses, a permit shall not be issued unless the Commission finds, on the basis of the record, that a feasible and prudent alternative does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in Section 10.2 of these Regulations. The finding and the reasons therefor shall be stated in writing on the record.

**10.4 Denial of the Application Based on 10.3.** In the case of an application that is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed Regulated Activity that have less adverse impact on Wetlands or Watercourses, the Commission shall propose on the record in writing

Deleted: ¶

the types of alternatives that the applicant may investigate, provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed Regulated Activity.

**10.5 Post-Hearing Information.** 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. However, the Commission is not precluded from seeking advice from its own experts on information already in the record of the public hearing to the extent that such advice does not constitute new evidence. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these Regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

**10.6 Setbacks.** The Commission may, by a majority vote of its members, reduce the depth of any Setback when, in its judgment, the reduced distance will not be detrimental nor will it endanger the adjacent Wetland or Watercourse. In reviewing proposed reduction(s), the Commission shall consider vegetative cover, terrain slope, and man-made features. Reduced Setbacks associated with new development proposals shall not be granted for activities, including the installation of subsurface sewage disposal systems to less than seventy five feet (75'). Repairs to existing septic systems within the Setback Area may be allowed at the discretion of the Commission only if no feasible and prudent alternatives exist.

## **SECTION 11 DECISION PROCESS AND PERMIT**

**11.1 Duties of the Agent.** The Commission, or its agent, if specifically authorized may, in accordance with Section 10 of these Regulations: a) grant an application as filed or b) grant it upon other terms, conditions, limitations or modifications of the Regulated Activity that are designed to carry out the purposes and policies of the Act; or c) deny the application. Such terms and conditions may include any reasonable measures that would mitigate the impacts of the Regulated Activity and would a) prevent or minimize Pollution or other environmental damage, b) maintain or enhance existing environmental quality; or c) in the following order of priority: restore, enhance, and create productive Wetland or Watercourse resources.

**11.2 Certificates of Compliance.** The Commission may delegate to its duly authorized agent the authority to issue a Certificate of Compliance approving or extending an activity that is not located in a Wetland or Watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any Wetlands or Watercourses provided such agent has completed the comprehensive training program developed by the Commissioner pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7 of these Regulations and any other information the Commission may reasonably require. Such Certificate of Compliance is not final until 15 days after the date the notice of the Certificate of Compliance is published as set forth in 11.3 below and no appeal is received by the Commission during said 15-day period. If the Commission delegates such responsibility to its agent, the provisions for receipt and processing applications prescribed in Sections 8, 9, and this Section 11 of these Regulations shall not apply to such applications made to the duly authorized agent.

**11.3 Publication and Notice of Certificates of Compliance.** Any person receiving such Certificate of Compliance from such agent shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the Town of New Fairfield and any town where the activity is located and will have an effect. Such notice shall identify the property by street address and assessors map, block, and lot, the owner, the applicant, the activity approved and any conditions of approval. Within ten (10) days of such publication the applicant shall provide to the Commission a certification by the newspaper of the publication of such notice. Any person may appeal such decision of such agent to the Commission within fifteen (15) days after the publication date of the

notice and the Commission shall consider such appeal at its next regularly scheduled meeting, provided such meeting is no earlier than three (3) business days after receipt by the 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 to the Commission for a permit in accordance with Section 7 of these Regulations.

□

**11.4 Times and Deadlines.** No later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. Said hearing shall be completed within forty five (45) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application, but not earlier than fourteen (14) days after date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such applications. Failure of the Commissioner or its agent to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission shall be withdrawn by the applicant or denied by the Commission.

□

**11.5 Reasons for Decision.** The Commission, shall state upon the record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall, as applicable and in accordance with Section 10 of these Regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.

□

**11.6 Notice of Action.** 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 order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town. 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.

□

**11.7 Reports to Other Commissions.** If an activity authorized by the Inland Wetland and Watercourses permit also requires a zoning or subdivision or re-subdivision approval, special zoning permit or variance, or special exception under Sections 8-3(g), 8-3(c), or 8-26 of the Connecticut General Statutes, the Commission shall file a copy of its decision and report on the application for such activity with the New Fairfield Planning Commission, Zoning Commission, or Zoning Board of Appeals, as the case may be, within fifteen (15) days of the date of the decision by the Commission. Zoning and Planning Commissions cannot act prior to receiving the report of a decision from the Inland Wetlands and Watercourses Commission and they must consider such action prior to completing their decision on the application in question.

□

**11.8 Duration of Permit.** Any permit issued under this section for development of land for which an approval is required under Sections 8-3, 8-25, or 8-26 of the Connecticut General Statutes shall be valid for five (5) years. Any permit issued under these Regulations for any activity not requiring approval under such statutes shall be valid for not less than two (2) nor more than five (5) years. Any Regulated Activity shall be completed within one (1) year from the time such activity is commenced provided the Commission may establish a specific time period within which any Regulated Activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one (1) year and further provided that the Commission may extend (a) the time period of the original permit provided such period shall not extend beyond ten (10) years from the date such permit was granted, or (b) the time period within which an activity, once commenced, is required to be completed. All permits shall expire upon completion of the acts specified therein.

□

**11.9 Transfer of Permit.** No permit shall be assigned or transferred without the written permission of the Commission. Such permission shall be granted upon receipt and review by the Commission of a written statement, on a form provided by the Commission, signed by the transferee, stating that the

Deleted: ¶

transferee has reviewed the applicable Regulations and the terms and conditions of the permit and agrees to be bound thereby. If a bond or other security obligation is in place, the transferee shall also submit proof acceptable to the Commission that the transferee has assumed such obligation, or shall provide such substitute security as may be acceptable to the Commission. If no such bond or security obligation is in place, the Commission may require the transferee to file a bond or other substitute security acceptable to the Commission.

**11.10 Security Required.** If a bond or other security satisfactory to the Commission is required in accordance with Section 12 of these Regulations, no permit shall be issued until such bond or other security satisfactory to the Commission is provided.

**11.11 Issuance and Revoking of Permits.** 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 New Fairfield, 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 Commission's permit also involves an activity or a project which requires zoning, subdivision or re-subdivision approval, special permit, variance or special exception, under Sections 8-3(g), 8-3(c), or 8-26 of the Connecticut General Statutes, no work pursuant to the Inland Wetlands and Watercourses permit may begin until such approval is obtained.

d. Unless expressly waived by the Commission or its authorized agent, upon commencement of permitted activities, the permittee shall permanently mark the Regulated Areas (delineated by a soil scientist as per section 7.6 (c)) with stakes, posts, signs, and/or tree tags if the Commission determines it to be appropriate. Responsibility for maintenance of these markers will follow the land and be deeded on to each successive property owner.

e. All non-disturbance zones as prescribed by the Commission as part of the permit or as a stipulation shall be marked by the permittee in such permanent fashion as will enable inspection for compliance to such requirement. Markers shall be spaced no more than fifty feet (50') apart, be placed at all corners and points of boundary direction change, be made of one (1) inch steel or similar pipe, and be painted red at the top four (4) inches for ease of location in the field. Pipes will be capped with plastic protective devices designed to prevent injury to people present in proximity to these markers. Maintenance of these markers shall follow the land and be passed on to all succeeding owners as deed restrictions.

f. In carrying out the permitted activities, the permittee shall implement such Management Practices consistent with the terms and conditions of the permit to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent Pollution of Wetlands and Watercourses.

## **SECTION 12 BOND AND INSURANCE**

**12.1** Commission sets Bond Amount. Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to file a bond or other security satisfactory to the Commission in an amount and in a form approved by the Commission.

**12.2 Conditions of Bond.** The bond or other security or surety shall be conditioned on compliance with all provisions of these Regulations and the terms, conditions, and limitations established in the permit.

Deleted: ¶

**12.3 Liability for Direct or Consequential Damages.** 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.

- 
- 

### **SECTION 13 ENFORCEMENT**

- 

**13.1 Environmental Officer.** The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property except the interior of 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. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for decision under Section 10.2 of these Regulations.

- 

**13.2 Periodic Inspections.** The Commission or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these Regulations.

- 

**13.3 Violations.** If the Commission or its duly authorized agent finds that any person is conducting or maintaining any activity, facility, or condition which is in violation of the Act or these Regulations, the Commission or its duly authorized agent may:

- 

a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the 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 (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 had been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the town. 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 Section shall not delay or bar an action pursuant to Section 22a-44 (b) of the Connecticut General Statutes, as amended. The Commission may file a certificate of such order in the office of the New Fairfield Town Clerk where the land is located and such Town Clerk shall record such certificate on the Land Records of the Town. Such certificate shall be released upon compliance with the order;

- 

b. Suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions, or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the 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. The Commission shall hold a hearing at which the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by personal service or certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of its decision in a newspaper having a general circulation in the town.

- 

c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in Wetlands or Watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Subsection (a) of this Section or other enforcement proceedings as provided by law.

-

**13.4 Penalties.** Any person who commits, takes part in, or assists in any violation of any provision of Sections 22a-36 to 22a-45, inclusive, of the General Statutes or of these Regulations or regulations adopted by the Commissioner of Environmental Protection pursuant to the grant of authority contained in said statutes, shall be assessed a civil penalty of not more than one thousand dollars (\$1,000.00) for each offense. Each violation of said Sections shall be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The superior court, in an action brought by the Commissioner of Environmental Protection, the Town, or any person, shall have jurisdiction to restrain a continuing violation of said Sections, to issue orders directing that the violation be corrected or removed and to assess civil penalties pursuant to this section. All costs, fees and expenses in connection with such action shall be assessed as damages against the violator together with reasonable attorney's fees which may be allowed, all of which shall be awarded to the Commissioner of Environmental Protection, the Town, or person which brought the action.

**13.5 Willful Violations.** Any person who willfully or knowingly violates any provision of Sections 22a-36 to 22a-45, inclusive, of the General Statutes, or of these Regulations or regulations adopted by the Commissioner of Environmental Protection, shall be fined not more than one thousand dollars (\$1,000.00) for each day during which such violation continues or be imprisoned not more than six (6) months or both. For a subsequent violation, such person shall be fined not more than two thousand dollars (\$2,000.00) for each day during which such violation continues or be imprisoned not more than one year or both. For the purposes of this subsection, "person" shall be construed to include any responsible corporate officer.

**13.6 Monitoring of Stipulated Markers.** The Commission or its agents may, from time to time, monitor adherence to permit stipulations. This monitoring process shall include a review showing that the installation and maintenance of markers as stipulated has occurred and thereby ensures the intended protection of the Wetlands and any non-disturbance zones. Failure to maintain the markers shall be considered a violation as described above in Section 13.

**SECTION 14 AMENDMENTS**

**14.1 Amendments by the Agency.** Amendments to the Regulations shall be adopted as follows:

a. These Regulations and the "State of Connecticut Department of Environmental Protection Designated Inland Wetlands and Watercourses, dated October 1972, Town of New Fairfield" or any successor to this map (collectively known as "the Inland Wetlands and Watercourses Map") 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, except determinations of boundaries, at least thirty-five (35) days before the public hearing on their adoption. Application forms and fee schedules shall be considered as part of the Commission's Regulations;

b. An application filed with the Commission which is in conformance with the applicable Inland Wetlands and Watercourses regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in these Regulations, (or boundaries) including changes to Setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such 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 subsection shall not be construed to apply (1) to the establishment, amendment, or change of boundaries of inland Wetlands or Watercourses or (2) to any change in the Regulations necessary to make such Regulations consistent with the provisions of the Act as of the date of such receipt;

**14.2 Petitions to Amend.** Petitions requesting changes or amendments to the Inland Wetlands and Watercourses Map, shall contain at least the following information:

a. The petitioner's name, address and telephone number;

Deleted: ¶

- 
- b. The address of the land affected by the petition;
- 
- c. The petitioner's interest in the land affected by the petition;
- 
- d. 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
- 
- e. The reasons for the requested action.
- 

**14.3 Soil Scientists Documentation.** The Inland Wetlands and Watercourses Commission may require the property owner to present 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 shall include 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.

**14.4 Burden of Proof.** Any person who submits a 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 Commission. 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 14.2, the petition shall include:

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

**14.5 Delineation of Watercourses.** Watercourses, except those identified as intermittent, shall be delineated by a soil scientist, geologist, ecologist, or other qualified individual.

**14.6 Hearing Notice.** A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having substantial circulation in the town at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing. A copy of such proposed boundary change shall be filed in the office of the Town Clerk, for public inspection at least ten (10) days before such hearing.

**14.7 Time Limits.** Within ninety (90) 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 (60) days after the close of the hearing. The public hearing shall be concluded within forty-five (45) 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 the original period as specified in this subsection, or may withdraw such petition. 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 petition.

**14.8 Decision of the Commission.** 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 15 APPEALS**

**15.1 Right to Appeal.** Appeals on actions of the Commission shall be made in accordance with the provisions of Section 22a-43 of the General Statutes, as amended.

**15.2 Notice.** Notice of such appeal shall be served upon the Commission and the Commissioner of Environmental Protection.

## **SECTION 16 CONFLICT AND SEVERANCE**

**16.1 Conflict.** If 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 validity of any word, clause, sentence, section, part, subsection or provision of these Regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.

**16.2 The Act Supersedes.** If there is a conflict between the provisions of these Regulations and the provisions of the Act, the provisions of the Act shall govern.

## **SECTION 17 OTHER PERMITS**

**17.1 Other Permits Necessary.** Nothing in these Regulations shall obviate the requirement for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of New Fairfield, the State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

## **SECTION 18 EFFECTIVE DATE OF REGULATIONS**

**18.1 Regulations Effective.** These Regulations including the Inland Wetlands and Watercourses Map, application forms, fee schedule and amendments thereto, shall become effective on August 16, 2000.

## **SECTION 19 APPLICATION FORM**

**19.1 Application Form.** An application form is available from the office of the Environmental Enforcement Officer in the Town's land use office.

## **SECTION 20 APPLICATION FEES**

**20.1 Method of Payment.** All fees required by these Regulations shall be submitted to the Commission by certified check or money order (unless such form of payment is waived by the Commission or its Authorized Agent) payable to the Town of New Fairfield at the time the application is filed with the Commission.

**20.2 Correct Fee Required.** No application shall be granted or approved by the Commission unless the correct application fee is paid in full or unless a waiver has been granted by the Commission pursuant to these Regulations. The applicant may petition the Commission to waive, reduce, or allow delayed payment

of the fee. Such petition shall be in writing and shall state fully the facts and circumstances the Commission should consider in its determination under this subsection. The Commission may waive all or part of the application fee if the Commission determines that:

- 
- a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee; or
- 
- b. Based on the facts of the particular application, the application fee is clearly excessive in relation to the cost to the Commission for reviewing and processing the application;
- 
- c. The Commission shall state upon its record the basis for any waiver.

**20.3 No Refunds.** The application fee is non-refundable.

**20.4 Exemptions.** The Town and boards, commissions, agencies, and departments of the town are exempt from all fee requirements.

**20.5 Application Fee Schedule.** The following fees shall be levied on applications filed for activities before the Commission:

	Minimum Fee*	Additional Fee
Subdivision Site Plan	\$150.00	\$50.00/building
Single Family Home	100.00	
Residential Expansion greater than 25%, septic system expansions and repair, pools, tennis courts, pond dredging	50.00	
Residential Expansion less than 25%, debris and other minimal activities	10.00	
Commercial and other nonresidential	500.00	
Map amendment Petitions	25.00	
Text amendment Petitions	100.00	
Significant Activity Fee	100.00	

\* A \$30.00 State Surcharge will be added to all fees.

Adopted and approved at August 15, 2000 regular meeting. Recorded August 16, 2000/  
Date of publication August 23, 2000, effective August 24, 2000.

\*A \$10.00 State Surcharge will be added to all fees