

# Town of Woodbury, Connecticut Inland Wetlands & Watercourses Regulations

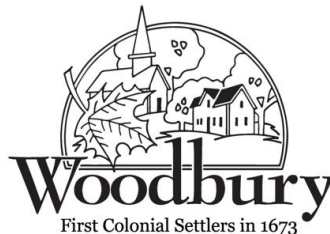
Patterned on  
**INLAND WETLANDS AND WATERCOURSES  
MODEL MUNICIPAL REGULATIONS**  
Fourth Edition – MAY 1, 2006, and subsequent revisions  
Connecticut Department of Energy and Environmental Protection

Adopted July 28, 2008, Effective September 1, 2008

Amended Through \_\_\_\_\_, Effective \_\_\_\_\_

## LEGEND TO TEXT AMENDMENTS

Text to Remain Unchanged	Plain Text
Text to be Removed	<del>Grey Crossed-Out Text</del>
Text to be Added	<u>Blue Double Underlined Text</u>



There is much valuable information available  
at the Town of Woodbury website:  
[www.woodburyct.org](http://www.woodburyct.org)

Copies of the various land use regulations, meeting dates, agendas,  
minutes, contacts, maps and more valuable information are available for  
perusal or download for printing. Check it out regularly.



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Inland Wetlands and Watercourses Agency

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## Town of Woodbury Inland Wetlands & Watercourses Regulations

### Section 1: Title and Authority

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**1.1** The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. ~~The~~ Wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life.

Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted, and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and Town of Woodbury and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic, and recreational values and benefits of the state for its citizens now and forever more.

The preservation and protection of ~~the~~ wetlands and watercourses from random, unnecessary, undesirable, and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare, and safety of the citizens of the state and Town of Woodbury.

It is, therefore, the purpose of these Regulations to protect the citizens of the state and Town of Woodbury by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's and 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 the state and town and the use of its lands with the need to protect its environment and ecology in order to forever guarantee to the people of the state and town, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

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

**1.3** The Woodbury Inland-Wetlands Agency was established in accordance with an ordinance adopted November 26, 1973 and since pursuant to Town of Woodbury Charter Section 302J, and shall implement the purposes and provisions of these Regulations and the Inland Wetlands and Watercourses Act of the State of Connecticut ("Act") in the Town of Woodbury.

- 1.4** These Regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these Regulations.
- 1.5** The Woodbury Inland-Wetlands Agency (a.k.a. Woodbury Inland Wetlands and Watercourses Agency; hereinafter “Agency”) shall enforce with the assistance of Agency Staff the Inland Wetlands and Watercourses Act pursuant to these Regulations and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Woodbury pursuant to ~~Sections~~ §22a-36 to §22a-45, inclusive, of the Connecticut General Statutes (“CGS”), as amended.

## **Section 2: Definitions**

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**2.1** Definitions. Words used in these Regulations shall be determined to have the meanings as defined below ~~in Appendix A~~. Doubt as to the precise meaning of other words and terms shall be determined by the Commission after reference to:

- The Connecticut General Statutes,
- Black’s Law Dictionary,
- The Illustrated Book of Development Definitions, and,
- Webster’s Third New International Dictionary.

### **2.2** Terms Defined.

**Act**

The Inland Wetlands and Watercourses Act of the State of Connecticut, Connecticut General Statutes (CGS) Sections §22a-36 through §22a-45, inclusive, as from time to time amended.

**Agent**

(See Designated Agent below).

**Agency**

The Woodbury Inland-Wetlands Agency, also known as the Woodbury Inland Wetlands and Watercourses Agency.

**Agency Staff**

Professional staff employed by the Town to administer the application and permitting process for the Agency and to advise the Agency on technical matters.

**Bog**

Watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions. Areas where standing or slowly running water is at or near the surface during a normal growing season, and where the vegetation community has a significant portion of the ground or water surface covered with sphagnum moss and where the vegetation includes, but is not necessarily limited to, eastern white cedar, black spruce, sedges, bog cotton, orchids, pitcher plant, sundews, blueberries, cranberries, leatherleaf, bog rosemary, and swamp azalea.



**CGS**

Connecticut General Statutes, as they may be amended from time to time. (Reference may be had to the website <http://www.cga.ct.gov/2007/pub/titles.htm>)

**Clear Cutting**

Cutting of timber which removes all trees over two (2") inches diameter at breast height.

**Commissioner**

Commissioner of the State of Connecticut Department of Energy and Environmental Protection (DEEP).

**Continual Flow**

A flow of water that persists for an extended period of time; which 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.

**Date of Receipt**

The day of the next regularly scheduled meeting of the Agency, immediately following the day of submission of an application, petition, request or appeal to the Town of Woodbury Land Use Office (office of the Agency) during normal office hours, or thirty-five (35) days, whichever is sooner.

**Deposit / Deposition**

Includes but shall not be limited to fill, grade, dump, place, discharge or emit.

**Designated Agent**

An individual named by the Agency to carry out certain of its functions and purposes as specified in the se Regulations, and, with respect to an applicant, any person authorized in writing to act in the applicant's behalf.

**Discharge**

Emission of any water, substance or material into watercourses or wetlands of the State/Town of Woodbury whether or not such substance causes pollution.

**Disturbing the Natural and Indigenous Character of the Land**

Any activity which will significantly alter an the inland wetlands and /or watercourses by reason of removal or deposition of material, clear cutting, creation or alteration or obstruction of water flow, or will result in the pollution of a the wetland and/or watercourse.

**Erosion**

Detachment of soil or rock fragments by water, wind, ice, and gravity.

**Erosion and Sedimentation Controls**

Best Management Practices as defined in the Town of Woodbury Zoning Regulations and Chapter 205, Stormwater Management of the Code of the Town of Woodbury and which stipulate the requirements for silt fences.

**Essential to the Farming Operation**

Normal and indispensable to sustain farming activities on a the existing farm.

**Farm**

Land used for farming in the Town.

**Farming**

Activity or use of land for purposes specified in ~~Connecticut General Statutes Section~~ [CGS §1-1\(q\)](#).

**Feasible**

Able to be constructed or implemented consistent with sound engineering principles.

**Floodplain**

Area bordering a watercourse or wetland subject to flooding, [including areas flagged as floodplains by a Connecticut certified soil scientist or other qualified professional](#). The “base flood” or “special flood hazard area” are those areas subject to a [one \(1%\) percent](#) chance of flooding per year, as determined for certain watercourses by the National Flood Insurance Program and shown on Flood Insurance Rate Maps, Town of Woodbury, Connecticut. (see Land Use Maps on Town web site [at www.woodburyct.org – Woodbury GIS](#))

**Gardening**

Tilling of soil, planting, cultivating and harvesting of vegetable matter.

**Grazing**

Using any tract of land to feed or supply farm animals with grass or pasture, to tend farm animals, or feeding or growing silage and herbage.

**Habitats**

Areas or environments in which an organism or biological population normally lives or occurs.

**Harvesting of Crops**

Collecting plants or animals or plant or animal products grown to be harvested.

**Hydrophytic Vegetation**

Vegetation that only grows in water or substrate that is at least periodically deficient in oxygen during a growing season as the result of excessive water content. Hydrophytes have poorly developed root systems and weak stems; they rely upon the water for support.

**Intermittent Watercourse**

Waterways that are characterized by a defined permanent channel and bank and the presence of two [\(2\)](#) 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 longer than a particular storm incident.
3. The presence of hydrophytic vegetation.

**Invasive and Potentially Invasive Plants**

[Non-native invasive and potentially invasive plant species as listed on the most current Connecticut Invasive Plant List, as updated by the Connecticut Invasive Plant Working Group \(CIPWG\), which plants shall not be used for restorations, remediation, or mitigation landscape enhancements.](#)

**License**

See “Permit” below.

**Management Practice**

Practice, procedure, activity, structure, or facility devised 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:

1. Erosion and sedimentation controls.
2. Restrictions on land use or development.
3. Construction setbacks from wetlands or watercourses.
4. Proper disposal of waste materials.
5. Procedures for equipment maintenance to prevent spillage of contaminants.
6. Construction methods to prevent flooding or disturbance of wetlands and watercourses.
7. Procedures for maintaining continuous stream flows.
8. Confining construction, that must take place in watercourses, to times when water flows are low, and fish and wildlife will not be adversely affected.

**Marsh**

Areas with soils that exhibit aquatic moisture regimes and are distinguished by the absence of trees and shrubs and where a vegetation community exists in standing or running water including, but not necessarily limited to, [marsh species listed in Inland Wetlands Plants of Connecticut](#) the following species: horsetails, bur-reeds, cattails, pondweeds, water plantains, frogs-bit, hydrophytic grasses, sedges, arums, pipeworts, sweetgale, tearthumbs, water lilies, water milfoils, dogwoods, buttonbush, and arrowwood. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water [six \(6”\) inches](#) or more in depth are common.

**Material**

Any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, earth, gravel, clay, bog, peat, mud, debris, leaves, brush, sand, refuse or waste.

**Municipality**

The Town of Woodbury.

**Native Plants**

[Plant species identified as being present prior to European arrival. \[Note: Such plants can be found in the Native and Naturalized Vascular Plants of Connecticut Checklist, Dr. Chad Jones, Connecticut College, May 2014, as amended\].](#)

**Naturalized Plants**

[Plant species that have moved into Connecticut and are reproducing without human aid. \[Note: Such plants can be found in the Native and Naturalized Vascular Plants of Connecticut Checklist, Dr. Chad Jones, Connecticut College, May 2014, as amended\].](#)

**Nurseries**

Land used for propagating trees, shrubs or other plants for transplanting, sale, experimentation, or for use as stock for grafting.

**Perennial Stream**

A watercourse that exhibits running water on a year-round basis under normal climatic conditions.

**Permit**

All 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, or the Inland Wetlands and Watercourses Act or other municipal, state, and federal law.

**Permittee**

The person to whom a permit has been issued.

**Person**

Any person, firm, partnership, association, corporation, company, limited liability company, organization, or legal entity of any kind, including municipal corporations, government agencies or subdivisions thereof.

**Pollution**

Harmful thermal effect or the contamination or rendering unclean or impure of any waters of the State/Town of Woodbury by reason of erosion or 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 or sedimentation resulting from any land clearing, filling, re-grading, or excavation or other earth disturbing activity.

**Preservation**

Long term protection of wetlands, watercourses, or other aquatic resources and/or associated uplands through implementation of legal and physical mechanisms.

**Prudent**

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.

**Regulated Activity**

Any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration, disturbance by vehicles or equipment, or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 4 of these Regulations consistent with CGS section §22a-40. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing, or removing of material and discharging storm water, or location of a waste disposal system within ~~100 feet measured horizontally from the boundary of a wetland or watercourse~~ (an upland review area as defined by these Regulations) is also a regulated activity area. The Agency may rule that any other activity located within ~~such a wetland, watercourse and/or~~ upland review area, or in any other non-wetland or non-watercourse area, ~~including but not limited to any area within 500 feet horizontally of any vernal pool delineated by a wetlands scientist or other qualified expert,~~ that is likely to impact or affect wetlands or watercourses ~~and~~ is a regulated activity.

**Remove**

Includes, but shall not be limited to drain, excavate, mine, dig, dredge, pump, suck, bulldoze, dragline or blast.

**Rendering Unclean or Impure**

Any alteration of the physical, chemical, or biological properties of any of the waters of the [State/Town of Woodbury](#), including but not limited to change in color, odor, turbidity, temperature, or taste.

**Significant Impact**

Any activity which may have a major effect, including, but not limited to, activities:

1. [Which involve](#) ~~Involving a~~ removal or deposition of material which will or may have a substantial effect on [a wetland or watercourse](#) ~~the regulated area,~~ or
2. [Which](#) substantially changes the natural channel, [boundaries,](#) or may inhibit the natural dynamics of a [wetland or](#) watercourse, ~~or~~
3. [Which involve disturbing the natural and indigenous character of the land and native plants, and/or causes the introduction or spread invasive and potentially invasive plants.](#)
4. [Which](#) substantially diminishes the natural capacity of ~~an inland~~ wetland or watercourse to support aquatic, plant, or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation and open space; or provide other functions, ~~or~~
5. [Which](#) is likely to cause or has the potential to cause pollution of a wetland or watercourse, ~~or~~
6. [Which](#) causes or has the potential to cause substantial turbidity, siltation, or sedimentation in a wetland or watercourse, ~~or~~
7. [Which](#) causes or has the potential to cause a substantial diminution of flow of a natural watercourse, [through a wetland,](#) or [of](#) groundwater levels of a [wetland or watercourse](#) ~~the regulated area,~~ or
8. [Which](#) damages or destroys unique wetland or watercourse areas, or other such areas having demonstrable scientific or educational value.

**Soil Scientist**

A person duly qualified in accordance with standards set by the U.S. Office of Personnel Management.

**Spring 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 as to cause a distinction between abutting upland and the water body. Such mark is determined by examining the bed and bank of any water body and ascertaining thereon an abrupt change in the characteristics of soil or vegetation or slope of the land.](#)

**Submerged Land**

Lands, which are inundated by water on a seasonal or more frequent basis.

**Swamp**

Areas with soils that demonstrate aquic moisture regimes and are distinguished by the dominance of wetlands trees and shrubs, including but not limited to swamp species listed in Inland Wetlands Plants of Connecticut. Swamps may develop through the gradual invasion of marshes by woody species or directly as in poorly drained depressions.

**Town**

The Town of Woodbury.

**Upland**

Lands not designated as “wetlands” or “watercourses” as defined by these Regulations.

**Upland Review Area**

Lands upland and abutting, buffering, and protecting wetlands and watercourses within certain distances as defined and measured below:

1. Uplands within 100 feet of all wetlands.
2. Uplands within 500 feet of the spring high water mark of all vernal pools.
3. Uplands within 200 feet of the spring high water mark of the following significant named watercourses (rivers):
  - Weekeepeemee River
  - Nonnewaug River
  - Pomperaug River
4. Uplands within 150 feet of the spring high water mark of all other named watercourses.
5. Uplands within 100 feet of the spring high water mark of all other watercourses.

**Vernal Pool**

A small, isolated body of standing freshwater that provides breeding habitat for certain species of wildlife and has the following characteristics:

1. Contains water for approximately two (2) months during a normal growing season. ~~;~~ and
2. Occurs within a confined depression or basin that lacks a permanent outlet stream. ~~;~~ and
3. Lacks any fish population. ~~;~~ and
4. Dries out most years, usually by late summer. ~~;~~ and
5. ~~Is capable of supporting~~ Can support obligate vernal pool species such as Spotted Salamander, Wood Frog, Jefferson/Blue-Spotted Salamander complex, Marbled Salamander, Eastern Spadefoot Toad, and Fairy Shrimp.

**Waste**

Sewage or any natural or manmade substance, liquid, gaseous, solid, or radioactive, which may pollute or tend to pollute any of the waters of the State/Town of Woodbury.

**Watercourses**

Rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, vernal pools, and all other bodies of water, natural or artificial, public or private, vernal, intermittent, or continuous, which are contained within, flow through or border upon the Town of Woodbury or any portion thereof not regulated pursuant to CGS Sections §22a-28 through §22a-35, inclusive. See also Intermittent Watercourse and Perennial Stream.

~~Wetlands and Watercourses~~

~~Include aquatic, plant or animal life and habitats in wetlands or watercourses.~~

### **Wetlands**

Land, including submerged land as defined in these Regulations, not regulated pursuant to CGS §22a-28 through §22a-35, inclusive, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey, as amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

### **Wetlands and Watercourses Map**

The map ~~of regulated areas~~ entitled Woodbury Inland Wetlands and Watercourses Map (see [www.woodburyct.org](http://www.woodburyct.org)), as may be revised from time to time, delineating the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are also available for inspection in the Land Use Office or Town Clerk's Office.

## **Section 3: Inventory of Inland Wetlands and Watercourses**

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- 3.1** The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses, Woodbury Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the Town Land Use Office. In all cases the precise location of wetlands and watercourses regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a qualified Connecticut soil scientist where soil determinations are required, or where watercourse determinations are required, by ~~any~~ qualified wetland biologist or scientist individual. Mapping of such delineations shall be completed on a site specific basis and shown on an A-2 Survey as prepared and certified by Connecticut licensed Land Surveyor, unless waived by the Agency pursuant to Section 7.5 of these Regulations. Applications shall include a digital copy in a format compatible with the Town's Geographic Information System.
- 3.2** The Agency shall maintain a current inventory of wetlands and watercourses within the town.
- 3.3** The Agency may amend its map from time to time as information, including aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations, or other information, becomes available relative to more accurate delineation of wetlands and watercourses within the Town. All map amendments are subject to the public hearing process outlined in Section 9 of these Regulations.
- 3.4** Any person may petition the Agency for an amendment to the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to aerial photography, remote sensing imagery, resource mapping or other available information. The Agency may require such person to provide an accurate A-2 Survey delineation of regulated areas in accordance with Section 15 of these Regulations.

- ~~3.5~~—The Agency shall maintain a current inventory of regulated areas within the town.
- ~~3.6~~—The Agency may amend its map as more accurate information becomes available.
- ~~3.7~~—All map amendments are subject to the public hearing process outlined in Section 9 of these Regulations.

#### **Section 4: Permitted Uses as of Right & Nonregulated Uses**

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- 4.1** 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, and activities conducted by, or under the authority of, the Connecticut Department of Energy and Environmental Protection (DEEP) for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subsection shall not be construed to include road construction, or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of topsoil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale.<sup>27</sup>
  - b. A residential home:
    - (1) (i) For which a building permit has been issued; or
    - (2) (ii) On a subdivision lot, provided the a building permit has been issued or the subdivision has been approved by the Woodbury a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to Subsection (b) of section CGS §22a-42a, or as of July 1, 1974, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987.<sup>27</sup>
  - c. Boat anchorage or mooring.<sup>27</sup>
  - d. Uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the Town of Woodbury. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse, or diversion or alteration of a watercourse.<sup>27</sup>



- e. Construction and operation, by water companies as defined by ~~section CGS §16-1 of the Connecticut General Statutes~~ or by municipal water supply systems as provided for in ~~CGS 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 CGS §22a-401 and §22a-403 of the Connecticut General Statutes and;~~
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal Regulations adopted pursuant to ~~section CGS §22a-42a of the Connecticut General Statutes~~ or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. 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.
- g. Withdrawals of water for fire emergency purposes.

**4.2** The following operations and uses shall be permitted, as nonregulated 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; and
- b. Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing, and shell fishing where otherwise legally permitted and regulated.
- c. The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this subsection, "dry hydrant" means a non-pressurized pipe system that:
  - (1) Is readily accessible to fire department apparatus from a proximate public road;
  - (2) Provides for the withdrawal of water by suction to such fire department apparatus; and
  - (3) Is permanently installed into an existing lake, pond or stream that is a dependable source of water.

**4.3** All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these Regulations shall require a permit from the Agency in accordance with Section 6 of these Regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized Agent in accordance with Section 12 of these Regulations.

- 4.4** To carry out the purposes of this section, any person proposing a permitted operation and use or a nonregulated operation and use shall, prior to commencement of such operation and use, notify the Agency on a form provided by it, available at the Woodbury Land Use Office and online at [www.woodburyct.org](http://www.woodburyct.org), and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of a wetland or watercourse. The Agency shall rule that the proposed operation and use or portion of it is a permitted or nonregulated operation and use or that the proposed operation and use is a regulated activity, and a permit is required.

## **Section 5: Activities Regulated Exclusively by the Commissioner of the Connecticut Department of Energy and Environmental Protection**

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- 5.1** The Commissioner of [the Connecticut Department of Energy and Environmental Protection](#) ("[Commissioner of DEEP](#)") shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency, or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections [CGS §22a-39](#) or [§22a-45a](#) ~~of the Connecticut General Statutes~~.
- 5.2** The Commissioner of [DEEP](#) ~~Environmental Protection~~ shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of [DEEP](#) ~~Environmental Protection~~ under section [CGS §22a-402](#) ~~of the Connecticut General Statutes~~ or a permit issued by the Commissioner of [DEEP](#) ~~Environmental Protection~~ under sections [CGS §22a-403](#) ~~of the Connecticut General Statutes~~. Any person receiving such dam repair or removal order, or permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.3** The Commissioner of [DEEP](#) ~~Environmental Protection~~ shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to [Section 401](#) of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of engineers under [Section 404](#) of the Federal Clean Water Act.

## **Section 6: Regulated Activities to be Licensed [by Permit](#)**

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- 6.1** [Except as set forth in Section 5 of these Regulations](#), no person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the ~~Inland Wetlands Agency of the Town of Woodbury~~ [or its duly authorized agent as may be permitted pursuant to Section 12 of these Regulations](#).
- 6.2** Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency [or its Agent](#), or violating any other provision of these Regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these Regulations and any other remedies as provided by law.

## Section 7: Application Requirements

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- 7.1** Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Agency. The application shall contain the information described in this section and any other information the Agency or its Agent may reasonably require. Application forms may be obtained in the Land Use Office or on-line at [https://woodburyct.org/land\\_use](https://woodburyct.org/land_use).
- 7.2** If an application to the Woodbury Zoning Board of Appeals, Zoning Commission and/or Planning Commission or any successor authority is also required for site plan, special permit, subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section CGS Chapter 124, 124b, 126 or 126a ~~8-3(g), 8-3c, or 8-26~~, as applicable, of the Connecticut General Statutes, the applicant shall submit an application for a permit to the Agency in accordance with this section, no later than the day the application is filed with such other permit authority ~~land use commission~~.
- 7.3** All applications pursuant to these Regulations shall be submitted to Agency Staff in the Woodbury Land Use Office. The application fee shall be paid at the time of the application filing. A schedule of fees shall be available at the Land Use Office. The application shall contain such information as is necessary for a fair and informed determination thereon by the Agency or its Agent.
- 7.4** A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity. Such request shall ~~must~~ include at minimum ~~least~~ the information listed in Subsections 7.5d, 7.5e, and 7.5f, below, ~~and~~ The Agency may subsequently revise its conclusion as to the potential impact if a change is warranted in light of a subsequent application.
- 7.5** All applications shall include the following information in writing and ~~or~~ on maps or drawings ("site plans"). Any request to waive submittal of any required information must be submitted in writing with the application.
- a. The applicant's name, home and business mailing addresses and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate officer's name, address, and telephone number. ~~;~~
  - b. The owner's name, mailing address and telephone number and written consent of the landowner if the applicant is not the owner of the land upon which the subject activity is proposed. ~~;~~
  - c. The applicant's interest in the land. ~~;~~
  - d. The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, including delineation of upland review areas, as well as the identification and tabulation of the area(s) (in acres or square feet) of such ~~wetlands or watercourses~~ proposed to be disturbed, soil type(s), and wetland vegetation. ~~;~~

- e. A plan of the property illustrating the property boundaries, adjacent roadways, nearest roadway intersections, driveways, buildings, structures, foundations, wells, septic fields, fences, stone walls, easements, rights-of-way, and the necessary indications of changes to be made.<sup>27</sup>
- f. The purpose and a description of the proposed activity.<sup>27</sup>
- g. The proposed drainage controls, erosion and sedimentation controls and other best management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to: (i) ~~(1)~~ prevent or minimize pollution or other environmental damage;;~~(2)~~ (ii) maintain or enhance existing environmental quality;; and/or ~~(3)~~ (iii) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.<sup>27</sup>
- h. Alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be detailed ~~diagramed~~ on a site plan or drawing.<sup>27</sup>
- i. A site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity, and which may have an impact on wetlands or watercourses.<sup>27</sup>
- j. Names and mailing addresses of adjacent landowners including those across abutting streets.<sup>27</sup>
- k. Statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through incomplete, inaccurate, or misleading information.<sup>27</sup>
- l. Authorization for the members and Agents of the Agency, including Agency Staff to inspect the subject property ~~land~~, at reasonable times, during the pendency of an application and for the life of the permit.<sup>27</sup>
- m. A completed DEEP reporting form, which the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of DEEP ~~Environmental Protection~~ in accordance with section CGS §22a-39-14 ~~of the Regulations of Connecticut State Agencies~~.<sup>27</sup>
- n. Any other information the Agency deems necessary to the understanding of what the applicant is proposing.<sup>27</sup>
- o. ~~submission of the appropriate filing fee based on the fee schedule established in Appendix B of~~ Payment to the Town of Woodbury all fees as required by Section 19.9 these Regulations.

**7.6** At the discretion of the Agency or its Agent, or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, ~~shall also be~~ **is** required:

- a. Site plans for the proposed activity and the land which will be affected thereby, showing ~~which show~~ existing and proposed conditions, wetland and watercourse boundaries, upland review areas, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, as well as upland review areas, and other pertinent features of the land and the proposed activity, prepared by a Connecticut licensed professional engineer, land surveyor, architect or landscape architect ~~licensed by the state~~, or by such other qualified person.<sup>2</sup>
- b. Engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan.<sup>2</sup>
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a qualified Connecticut soil scientist and the soil scientist's field delineation shall be depicted on the site plans, subject to acceptance and confirmation, as sourced from an A-2 Survey prepared and certified by a Connecticut licensed Land Surveyor.<sup>2</sup>
- d. A description of the ecological communities and functions of the wetlands or watercourses involved with the application ~~and the effects of the proposed activity on these communities and wetland functions;~~ including at minimum the following:
  - Name and qualifications of delineator.
  - Date of delineation.
  - Predominant terrestrial and aquatic botanical species, rare species, and the height, age classes and density of this vegetation.
  - Predominant terrestrial and aquatic animal life.
  - Habitat value of the wetlands and/or watercourses for indigenous and/or migratory, terrestrial, and/or aquatic wildlife species.
  - Depth of water table or level of water if inundated.
  - Evaluation of probable effects of the proposed activity on the identified ecological communities and wetland functions.
- e. A description of how the proposed activity ~~applicant~~ will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative which would cause less or no environmental impact to wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent.<sup>2</sup>
- f. Analysis of chemical or physical characteristics of any fill material.<sup>2</sup>
- g. Management practices and other measures designed to mitigate the impact of the proposed activity.

- 7.7** Site Plans. Site plans shall be prepared, certified, and sealed by a licensed professional engineer, surveyor, architect, landscape architect, or other professional registered in the State of Connecticut, unless waived by the Agency when the proposed impact is determined to be minimal. All site plans shall have a scale no less detailed than one (1) inch equals forty (40) feet (1"=40' or of greater detail) on sheets not exceeding twenty four (24) inches by thirty six (36) inches (24"x36"). Site plans shall include but not be limited to the following information, both existing and proposed, as applicable to the particular site and application:
- a. Title block including name of project, site address, Assessor's map and lot numbers, name and address of owner of record and applicant, and date of preparation and any revision dates.
  - b. True point north arrow and graphic scale.
  - c. Location map at a scale of 1" = 400' showing the general location of the area in which the regulated activity is proposed relative to its surrounding area, including boundaries of other municipalities within 500 feet of the property.
  - d. Property lines with accurate bearings and distances and additional lines delineating the area to be used under the proposed regulated activity including construction limit lines.
  - e. Names of abutting property owners, including those across the street and across other municipal lands.
  - f. Town boundary lines, boundaries of any public water supply watersheds, conservation restrictions or easements, and other easements and rights-of-way, if applicable.
  - g. Existing and proposed site conditions (buildings, structures, stone walls, fences, utilities, septic systems, wells, fuel storage tanks, parking areas, etc.).
  - h. Delineation (showing individual numbered flags) of wetlands and watercourses and their respective upland review areas, including upland review areas extending onto the subject property from wetlands or watercourses on an abutting property. Also include note reference as to the delineator and date of delineation.
  - i. Existing and proposed contours based on a two (2) foot interval.
  - j. Areas where material is to be deposited, removed, or displaced, including proposed grading, impervious surfaces, landscaping or other mitigation plan, and location of access route for construction machinery.
  - k. Sediment and erosion control plan detailing how the site will be stabilized during and after the conduct of the regulated activity.
  - l. Surface and subsurface structures and utilities, including layout of all existing and proposed storm water sewers catch basins, manholes, bridges, culverts, and similar drainage structures. Pipe sizes, inverts and outlets shall be included.

- m. Location of 100-year flood boundary and floodway.
- n. Significant vegetation which has one or more of the following functions: erosion control, terrestrial and aquatic wildlife habitat-and/or historical, recreation, or educational significance.
- o. Existing site vegetation, including existing and proposed vegetation, and natural terrain not to be disturbed. Proposed vegetation shall be listed in a plant schedule with common and scientific name, quantity, size, root conditions, any special planting requirements, wetland affinity or National Wetland Inventory (NWI) status; and native and non-invasive plant status.

**7.8** The applicant shall certify whether:

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

**7.9** Application properties subject to a Conservation or Preservation Restriction.

- a. No person shall file a permit application, other than for interior work inside an existing building or for exterior work on an existing building that does not expand or alter the existing footprint of such existing building, relating to property that is subject to a conservation restriction or preservation restriction unless or until the applicant provides evidence that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than sixty (60) days prior to the filing of the permit application as required per CGS §47-42d. In lieu of the above notice, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent verifying that the application submitted is in compliance with the terms of the restriction.
- b. For purposes of this section, "conservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space use.

- c. For purposes of this section, "preservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to preserve historically significant structures or sites.
- d. If the applicant has provided written notice pursuant to Subsection 7.9a above, the holder of the restriction may provide proof to the Agency that granting of the permit application will violate the terms of the restriction. Upon a finding of such, the Agency shall not grant the permit.
- e. In the instance where an applicant does not comply with the provisions of Subsection 7.9a above, the holder of the restriction may file an appeal with the Agency in accordance with the standards and procedures set forth in CGS §47-42d(c).
- f. Notwithstanding Subsection 7.9a above, nothing shall be construed to prohibit the filing of a permit application or to require such written notice when the activity, that is the subject of such permit application, will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

**7.10** ~~Three~~ One (1) original and nine (9) copies of all application materials shall be submitted to the Land Use Office for review by the Agency and its Agent ~~comprise a complete application~~ unless an applicant is otherwise directed, ~~in writing,~~ by the Agency or its Agent. A digital pdf copy of all submissions shall also be provided via email to the Land Use Office.

**7.11** Permit Renewal or Amendment. Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Section 8 of these Regulations at least sixty-five (65) days prior to the expiration date of the existing permit. Any application to renew or amend ~~such~~ an existing permit shall contain the information otherwise required for an original permit application under Section 7 of these Regulations provided:

- a. The application may incorporate the documentation and record of the prior application.<sup>57</sup>
- 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.<sup>57</sup>
- c. The application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit.<sup>57</sup>
- d. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued.<sup>57</sup>
- e. The Agency may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and to allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity.<sup>57</sup>



- 7.12** Permit Renewal. Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application, or an enforcement action has been undertaken regarding ~~with regard to~~ the regulated activity for which the permit was originally issued. ~~provided~~ No permit shall ~~may~~ be valid for more than ten (10) years, except as may have been otherwise extended in accordance with the CGS §22a-42a.
- 7.13** Pre-Application Review. The Agency or its authorized Agent may separately, jointly, or in any combination with other Woodbury boards or commissions, conduct a pre-application review of a proposed project with the applicant at the applicant's request. Such pre-application review and any results or information obtained from it may not be appealed under any provision of the CGS Connecticut General Statutes and shall not be binding on the applicant or any authority, commission, department, agency, or other official having jurisdiction to review the proposed project. There shall be no fee for a pre-application review; however reasonable costs for engineering review and associated expenses shall be reimbursed to the Town. The subsequent permit application shall be considered incomplete unless such costs are paid in full.

## **Section 8: Application Procedures**

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- 8.1** All petitions, applications, requests, or appeals shall be submitted in writing to the Land Use Office for processing ~~Inland Wetlands Agency of the Town of Woodbury.~~ All applicants are encouraged to meet with the agency staff, as well as other town regulatory officials and departments for which permits are required, to discuss their proposal prior to submitting a formal application of any kind.
- 8.2** The Agency or its Agent shall, in accordance with ~~Connecticut General Statutes section~~ CGS §8-7d(f), notify the Town Clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
- a. Any portion of the property affected by a decision of the Agency is within five hundred (500) feet of the boundary of an adjoining municipality.<sup>±</sup>
  - 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.<sup>±</sup>
  - c. A significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality.<sup>±</sup>
  - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of receipt of the application, petition, appeal, request, or plan.

- 8.3** 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 CGS §25-32a ~~section 16-1 of the Connecticut General Statutes~~, the applicant shall provide written notice of the application to the water company and the Connecticut Department of Public Health consistent with CGS §22a-42f ~~provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested to the water company and by electronic mail to the electronic mail address designated by the Connecticut Department of Public Health on its Internet web site for receipt of such notice.~~ and shall be mailed within All such notices shall be sent not later than seven (7) days of the date of the application submission. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application. Documentation of such notices being sent timely shall be provided to the Agency.
- 8.4** ~~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 a public water supply aquifer or watershed area as depicted on the *Public Drinking Water Source Protection Areas* map on file in the Woodbury Land Use Office, the applicant shall notify the Commission of Public Health as required by CGS Section 8-3i and shall certify such notice to the Agency prior to any action by the Agency on the application.~~ Complex applications may require review by experts retained by the town with expertise outside that possessed by the Agency or its staff. At the discretion of the Agency, it may retain an expert consultant to assist in the review and evaluation of an application, as well as to provide inspection and/or monitoring services pre and/or post approval. The Agency may also require an applicant, to the extent authorized by Town ordinance, deposit funds with the town for the reimbursement of costs of any such expert consulting services.
- 8.5** The date of receipt of a petition, application, request, or appeal shall be the day of the next regularly scheduled meeting of the Agency, immediately following the day of submission to the Agency or its Agent of such petition, application, request, or appeal or thirty-five (35) days after such submission, whichever is sooner.
- 8.6** At any time during the review period, the applicant shall provide such additional information as the Agency or its Agent may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these Regulations. Such additional information shall be submitted a minimum of seven (7) days prior to the meeting or public hearing when the additional information will be considered.
- 8.7** All applications shall be open and available for public inspection during the regular office hours of the Land Use Office.
- 8.8** Incomplete applications or applications filed without the required fees may be denied.

## Section 9: Public Hearings

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- 9.1** The inland wetlands Agency shall not hold a public hearing on an application unless the inland wetlands Agency:
- Determines that the proposed activity may have a significant impact on wetlands or watercourses;
  - Receives, or if the Agency is in receipt of a petition signed by at least twenty-five (25) persons who are eighteen (18) years of age or older and who reside in the town municipality in which the regulated activity is proposed, requesting a public hearing is filed with the Agency not later than fourteen (14) days after the date of receipt of such application; or
  - the inland wetlands agency Finds that a public hearing regarding such application would be in the public interest.
- 9.2** When no public hearing is held or required, the inland wetlands Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the Agency on or before no earlier than the fourteenth (14<sup>th</sup>) day after the date of receipt of the application.
- 9.3** When a public hearing is held or required, such hearing shall commence within be held no later than sixty-five (65) days after the date of receipt of such application. All applications and plans and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard. The hearing shall be completed within thirty-five (35) days after such hearing commences. An applicant may agree to an extension of one (1) or more of these time periods not to exceed a cumulative maximum of an additional sixty-five (65) days.
- 9.4** Notice of a the public hearing shall be published at least twice at intervals of not less than two (2) 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 the ~~each town where the affected wetland or watercourse is located.~~
- 9.5** The applicant shall ~~notify by mail~~ a copy of the notice of public hearing, as provided by the Land Use Office, to all abutting property owners according to the current town Assessor's records, including those separated from the subject property by a public street or other municipal property, no later than seven (7) days before the hearing date, ~~of the time, date, and place of the public hearing~~ and shall provide evidence of such notice to the Agency in the form of a ~~certified receipt~~ certificate of mailing prior to or at the public hearing. Failure to provide such notice shall be grounds for denial of an application for incompleteness.

## Section 10: Considerations for Decision

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**10.1** The Agency may consider the following in making its decision on an application:

- a. The application and its supporting documentation.
- b. Reports from staff and technical consultants engaged by the Town of Woodbury.
- c. Reports from other agencies and commissions including but not limited to the Town of Woodbury:
  - Conservation Commission
  - Planning Commission ~~Zoning, or Planning and~~
  - Zoning Commissions
  - Building Official
  - Health District ~~Officer~~
- d. Comments on any application from the ~~County Soil and Water~~ Northwest Conservation District, Connecticut Council on Soil and Water Conservation, Naugatuck Valley ~~the Regional Planning Agency/Council of Governments,~~ or other state and regional authorities; agencies in adjacent municipalities which may be affected by the proposed activity; or other technical agencies or organizations which may undertake additional studies or investigations.
- e. For an application for which a public hearing was is held, public comments, evidence, and testimony. Non-receipt of comments from those ~~state agencies and commissions~~ listed in Subsections ~~subdivisions~~ 10.1b, 10.1c and 10.1d above within the prescribed time shall neither delay nor prejudice the decision of the Agency.

**10.2** Criteria for Decision. In carrying out the purposes and policies of these Regulations and ~~sections CGS §22a-36 to §22a-45, inclusive, of the Connecticut General Statutes,~~ including matters relating to regulating, licensing, and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses.
- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.
- c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.

- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to:
  - (1) Prevent or minimize pollution or other environmental damage.
  - (2) Maintain or enhance existing environmental quality.
  - (3) In the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property, including abutting or downstream property, which would be is caused or threatened by the proposed regulated activity, or the creation of conditions which may do so. Such shall include 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 native 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 which are made inevitable by the proposed regulated activity, and which may have an impact on wetlands and watercourses.
- g. Impacts of the proposed regulated activity on wetlands and watercourses resulting from disturbance, alteration, loss and/or conversion of adjacent upland review areas, introduction and spread of invasive and potentially invasive plants, and adversely affecting conditions essential in sustaining the physical characteristics, functions and values of adjacent wetlands and watercourses.

**10.3** In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds based on the ~~basis of the~~ record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in Subsection 10.2 of this section. Such ~~The~~ findings and the reasons therefore shall be stated on the record in a written decision of the Agency writing.

**10.4** In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that the applicant ~~he~~ is entitled to the permit or to present alternatives to the proposed regulated activity.

- 10.5** For purposes of this section, ~~(1)~~ “wetlands and watercourses” includes aquatic plant or animal life and habitats in wetlands or watercourses, and ~~(2)~~ “habitats” means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6** ~~A municipal inland wetlands~~ The Agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7** In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the application file or hearing record shall not be considered by the Agency in its decision. Notwithstanding, the Agency is not limited from seeking technical clarification from its own staff on information already in the public hearing record.

## **Section 11: Decision Process and Permit**

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- 11.1** The Agency, or its duly authorized Agent acting pursuant to Section 12 of these Regulations, may, in accordance with Section 10 of these Regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act and these Regulations, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity, and which would:
- a. Prevent or minimize pollution or other environmental damage.
  - b. Maintain or enhance existing environmental quality.
  - c. In the following order of priority: restore, enhance, and create productive wetland or watercourse resources.
  - d. Restrict as to the time of year in which a regulated activity may be conducted, provided the Agency or its Agent, determines that such restrictions are necessary to carry out the policy of CGS §22a-36 to §22a-45.
- 11.2** Hearings and Decision Time Periods.
- a. No later than sixty-five (65) days after the date of receipt of an application, the Agency may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney.
  - b. The hearing shall be completed within thirty-five (35) days of its commencement unless a shorter period of time is required under CGS Chapter 440 ~~of the Connecticut General Statutes.~~
  - c. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing unless a shorter period of time is required under CGS Chapter 440 ~~of the Connecticut General Statutes.~~

- d. 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.
- e. The applicant may consent to one (1) or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application.
- f. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.
- g. An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.

**11.3** The Agency shall state upon its record the reasons and bases for its decision.

**11.4** The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the approval issuance or denial of the permit, to be published in a newspaper having general circulation in the town ~~wherein the inland wetland or watercourse lies~~. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.

**11.5** If an activity authorized by an inland wetland permit also involves an activity which requires a ~~zoning or subdivision~~ the approval, special zoning permit, or variance or special exception of the Town of Woodbury Zoning Board of Appeals, Planning Commission and/or Zoning Commission, under ~~sections CGS Chapter 124, 124b, 126 or 126a 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes~~, the Agency shall file a copy of its the decision and report on the application with the ~~Town Zoning Board of Appeals, Planning Commission, Zoning, or Planning and/or~~ Zoning Board of Appeals, Planning Commission, within fifteen (15) days of the date of the decision thereon.

**11.6** Permit Approval Term and Expiration.

- a. Any permit issued by the Agency for the development of land for which an a zoning and/or subdivision approval is required pursuant to ~~under section CGS Chapter 124, 124b, 126 or 126a 8-3, 8-25 or 8-26 of the Connecticut General Statutes~~ shall not take effect until each such other approval has taken effect and shall be valid concurrently and until the approval as otherwise granted under such chapters expires or ten (10) years, whichever is earlier for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted.
- b. Any permit issued by the Agency for any other activity for which an approval is not otherwise required under CGS Chapters 124, 124b, 126 or 126a shall be valid for not less than two (2) years and not more than five (5) years.
- c. Notwithstanding the above provisions of expiration, the expiration term for certain approvals granted may be as otherwise provided for in accordance with statutory extensions as set forth in CGS §22a-42a.

- 11.7** No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency. Such permission shall be granted upon receipt and review by the Agency of a written statement, signed by the transferee, stating that the 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 that the transferee has assumed such obligation or shall provide such substitute security as may be acceptable to the Agency. If no such bond or security obligation is in place, the Agency may require the transferee to file a bond or other substitute security acceptable to the Agency.
- 11.8** If a bond or insurance is required in accordance with Section 13 (Bond and Insurance) of these Regulations, the Agency may withhold issuing the permit until such bond or insurance is provided.
- 11.9** General provisions in the issuance of all permits:
- a. The Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete, or inaccurate, the permit may be modified, suspended, or revoked.
  - b. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Woodbury; and convey no rights in real estate or material nor any exclusive privileges and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.
  - c. If the activity authorized by the Agency's permit also involves an activity which requires zoning and/or subdivision approval, ~~special permit, variance or special exception under~~ pursuant to CGS Chapter 124, 124b, 126 or 126a ~~sections 7.3(g), 8-3c, or 8-26 of the Connecticut General Statutes,~~ no work pursuant to the wetland permit may begin until such other approval is obtained.
  - d. In constructing the authorized regulated activities, the permittee shall implement such best management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.



## Section 12: Action by Duly Authorized Agent

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- 12.1** The Agency may delegate to its duly authorized [Agent](#) the authority to approve or extend a license ([permit](#)) for an activity that is not located in a wetland or watercourse when such Agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such Agent has completed the comprehensive training program developed by the Commissioner of [DEEP](#) ~~Environmental Protection~~ pursuant to ~~section~~ [CGS §22a-39](#) of the ~~Connecticut General Statutes~~. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7.5 of these Regulations and any other information the ~~Agency~~ [Agent](#) may reasonably require. Notwithstanding the provisions for [date of](#) receipt and processing applications prescribed in Sections 8, 9 and 11 of these Regulations, such Agent may approve or extend such an activity at any time.
- 12.2** Any person receiving such approval from such Agent shall, within ten ([10](#)) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town ~~wherein the activity is located or will have an effect~~. Any person may appeal such decision of such Agent to the Agency within fifteen ([15](#)) days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three ([3](#)) business days after [the date of](#) receipt by such Agency or its Agent of such appeal. ~~Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal~~. The Agency shall, at its discretion, sustain, alter, or reject the decision of its Agent or require an application for a permit in accordance with Section 7 of these Regulations.
- 12.3** The duly authorized Agent may, within the conditions included in [an](#) the Agency approval, request the Agency to authorize relocation of approved structures, facilities, or regulated activities after review and approval of the Agency. Such requests by any permit holder must be in writing with such documentation as the Agent determines necessary and shall be made a permanent part of the original application file.

## Section 13: Bond and Insurance

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- 13.1** The Agency may require as a permit condition the filing of a [financial guarantee \(bond\)](#) with such surety in such amount and in a form approved by the Agency.
- 13.2** The bond ~~or surety~~ shall be conditioned on compliance with the provisions of these Regulations and the terms, conditions and limitations established in the permit.

## Section 14: Enforcement

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- 14.1** The Agency may appoint an Agent or Agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these Regulations. In carrying out the purposes of this section, the Agency or its ~~duly authorized~~ Agent shall take into consideration the criteria for decision under [Section 10.2](#) of these Regulations.

- 14.2** The Agency or its Agent may make regular inspections at reasonable hours of all regulated activities for which permits have been issued with the consent of the property owner or the authorized Agent of the owner during the life of the permit.
- 14.3** In the case in which a permit has not been issued or a permit has expired, the Agency or its Agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized Agent of the property owner.
- 14.4** If the Agency or its ~~duly authorized~~ Agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these Regulations, the Agency or its ~~duly authorized~~ Agent may:
- a. Issue a written Cease and Desist order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity and/or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, or that a revised order is in effect, or that the order has been withdrawn.
  - b. Issue a Notice of Violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, and the jurisdiction of the Agency ~~and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses.~~ The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an 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 Section 14.4.a of these Regulations or other enforcement proceedings as provided by law.
  - c. The Agency shall publish a notice of its decision in a newspaper having general circulation in the town ~~municipality~~. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises, or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to ~~section~~ CGS §22a-44(b) ~~of the Connecticut General Statutes, as amended.~~
  - d. The Agency may file a certificate of such order in the office of the Town Clerk and the Town Clerk shall record such certificate on the Land Records. Such certificate shall be released only upon determination by the Agency that compliance with the order has been achieved.

- 14.5** The Agency may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency’s decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the town municipality.

## Section 15: Amendments

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- 15.1** These Regulations and the Inland Wetlands and Watercourses Map for the Town of Woodbury may be amended, from time to time, by majority vote of the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2** An application filed with the Agency 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 inland wetland Regulations, including changes to setbacks and buffers, taking effect on or after the date of ~~such~~ receipt and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply ~~(1)~~ to the establishment, amendment or change of boundaries of inland wetlands or watercourses or ~~(2)~~ to any change in regulations necessary to make such regulations consistent with the provisions of the Act and these Regulations as of the date of such receipt.
- 15.3** These Regulations and the Town of Woodbury Inland Wetlands and Watercourses Map shall be amended in the manner specified in ~~section CGS §22a-42a of the Connecticut General Statutes, as amended.~~ The Agency shall provide the Commissioner of DEEP Environmental Protection with a copy of any proposed regulations or map amendments (except boundary determinations) and a copy of the notice of the public hearing ~~to consider any proposed regulations or amendments thereto, except map amendments,~~ at least thirty-five (35) days before the public hearing ~~on their adoption. (Note: Application fee schedules shall be adopted as Agency regulations or as otherwise provided by town ordinance.)~~ A copy of the proposed regulation or map amendment shall be filed in the office of the Town Clerk for public inspection at least ten (10) days before the public hearing.

- 15.4** Petitions requesting changes or amendments to the [“Inland Wetlands and Watercourses Map,”](#) Woodbury, Connecticut, shall contain at least the following information:
- a. [The](#) petitioner’s name, mailing address and telephone number.
  - b. [The](#) address, or location, of the land affected by the petition.
  - c. [The](#) petitioner’s interest in the land affected by the petition.
  - d. [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.
  - e. [The](#) reasons for the requested action.
- 15.5** Any person who submits a petition to amend the “Inland Wetlands and Watercourses Map,” Woodbury, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer, or purchaser, in addition to the information required in [Subsection 15.4](#), the petition shall include:
- a. [The](#) name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative.
  - b. [The](#) names and mailing addresses of the owners of abutting land, including those across any abutting streets [or other municipal property](#).
  - c. [Documentation](#) by a [qualified Connecticut](#) soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types.
  - d. [Map\(s\)](#) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6** Watercourses shall be delineated by a soil scientist, [wetland scientist](#), geologist, ecologist, or other qualified individual.
- 15.7** A public hearing shall be held on [all](#) petitions to amend these [Regulations or the](#) Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the [town](#) municipality ~~where the land that is the subject of the hearing is located~~ 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 the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

- 15.8** In the case of a petition to amend the Inland Wetlands and Watercourses Map, an applicant shall mail a copy of the notice of public hearing, as provided by the Land Use Office, to all abutting property owners according to the current town Assessor's records, including those separated from the subject property by a public street or other municipal property, no later than seven (7) days before the hearing date, and shall provide evidence of such to the Agency in the form of a certificate of mailing prior to or at the public hearing. Failure to provide such notice or evidence of such certificate of mailing shall be grounds for denial of an application on the basis of incompleteness.
- 15.9** The Agency shall hold a public hearing on a petition to amend these Regulations and/or the Inland Wetlands and Watercourses Map within sixty-five (65) days after the date of receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The agency shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one (1) or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such petition. Failure of the agency to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.10** The Agency shall make its decision and state, in writing, the reasons why the change to these Regulations and/or to ~~in~~ the Inland Wetlands and Watercourses Map was made or was not made.
- 15.11** Any adopted changes to the Regulations or the Inland Wetlands and Watercourses Map shall become effective at such time as is fixed by the Agency, and a copy of such adopted regulation amendment or map change shall be filed in the Office of the Woodbury Town Clerk.
- 15.12** The Agency shall provide a copy of any adopted regulation amendment or map change to the Commissioner of DEEP no later than ten (10) days after its adoption; failure to submit such adopted regulation amendment or map change shall not impair the validity of such adopted regulation amendment or map change.

## **Section 16: Appeals**

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- 16.1** Appeal on actions of the Agency shall be made in accordance with the provisions of ~~section CGS §22a-43 of the Connecticut General Statutes, as amended.~~
- 16.2** Notice of such appeal shall be served upon the Agency and the Commissioner of DEEP ~~Environmental Protection~~.

## Section 17: Conflict and Severance

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- 17.1** 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 invalidity of any word, clause, sentence, section, part, subsection, subdivision, or provision of these Regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.
- 17.2** If there is a conflict between the provisions of these Regulations and the provisions of the Act, the provisions of the Act shall govern.

## Section 18: Other Permits

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- 18.1** Nothing in these Regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Woodbury, the State of Connecticut or the Government of the United States including any approval required by the Connecticut ~~DEEP 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 19: Fees

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- 19.1** Method of Payment. All fees required by these Regulations shall be submitted to the Agent of the Agency by cash, certified check, or money order payable to the “Town of Woodbury” at the time an ~~the~~ application is filed with the Agency.
- 19.2** No application shall be granted or approved by the Agency or Agent unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to Subsection 19.7 ~~19.4~~ of these Regulations. Failure to pay all required fees may be grounds for permit denial. Permit compliance shall not be attained until all fees have been paid.
- 19.3** Professional Review Fee. The Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on an application or monitoring compliance with permit conditions or Agency orders. Such fee may include, but not be limited to, the cost of retaining experts, to advise, review, and report on issues requiring such experts. The Agency shall estimate the professional review fee, which shall be paid pursuant to Section 19 of these regulations within ten (10) days of the applicant's receipt or notice of such estimate. Any portion of the professional review fee more than the actual cost shall be refunded to the applicant no later than thirty (30) days after publication of the Agency's decision.

**19.4** Inspection / Monitoring Fee. The Agency may require, on a case-by-case basis, an Agency designated Site Monitor to periodically observe a permittee's compliance with the permit and these Regulations. Such designated Site Monitor shall not be a consultant to the permittee at any phase in the development of the permit project. The Site Monitor shall monitor the permittee's compliance with the permit and report such findings to the Agency. The applicable fee shall be based on the usual and customary charge for such services by the Site Monitor to conduct compliance inspections on a frequency determined by the Agency and report the results to the Agency. The permittee shall timely pay the costs of the Site Monitor in carrying out these duties. Failure to pay the site monitor's fees shall be a violation of the permit and a basis to suspend or revoke the permit.

**19.5** Wetland Signs: Certain activities may require the installation of wetland signs indicating protected wetlands on the property that are to remain undisturbed. The applicant is responsible to purchase the signs from the town or from a vendor approved by the town. The Agency will indicate the number of signs required and the locations for the signs to be installed per the permit approval.

**19.6** The application Applicable fees are is not refundable.

**19.7** Waiver. The applicant may petition the Agency to recommend that the Woodbury Board of Selectmen authorize waiver, reduction, or delay payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Board of Selectmen may waive all or part of the application fee if the Agency recommends that such based on a finding of one or more of the following:

- 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~~ because of the amount of the application fee ~~or~~
- The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.
- The applicant has shown good cause.

The Agency shall state upon its record the basis for any recommendation submitted under this subsection.

**19.8** Exemption. Boards, commissions, agencies, councils, and departments of the Town of Woodbury are exempt from all fee requirements.

**19.9** Fee Schedule. ~~Application~~ Fees shall be as in accordance with the most current "Inland Wetlands and Watercourses Application Fee Schedule" on file in the office of the Agency Agent provided in Appendix B, which Fee Schedule as may be revised from time to time by the Agency in accordance with Chapter 138 of the Code of the Town of Woodbury ~~Town Ordinance Section 8-17.~~

**Section 20: Effective Date of Regulations**

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**20.1** These Regulations, and any amendment thereto, shall be are effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Woodbury.



## **APPENDIX A: Definitions**

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### **Act**

The Inland Wetlands and Watercourses Act of the State of Connecticut, CGS Sections as from time to time amended.

### **Agent**

(See Designated Agent below).

### **Agency**

The Woodbury Inland Wetlands Agency, also known as the Woodbury Inland Wetlands and Watercourses Agency.

### **Agency Staff**

Professional staff employed by the Town to administer the application and permitting process for the Agency and to advise the Agency on technical matters.

### **Bog**

Watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions. Areas where standing or slowly running water is at or near the surface during a normal growing season, and where the vegetation community has a significant portion of the ground or water surface covered with sphagnum moss and where the vegetation includes, but is not necessarily limited to, eastern white cedar, black spruce, sedges, bog cotton, orchids, pitcher plant, sundews, blueberries, cranberries, leatherleaf, bog rosemary, and swamp azalea.

### **CGS**

As they may be amended from time to time. (Reference may be had to the website <http://www.cga.ct.gov/2007/pub/titles.htm>)

### **Clear Cutting**

Cutting of timber which removes all trees over 2" diameter at breast height.

### **Commissioner**

Commissioner of the State of Connecticut Department of Environmental Protection.

### **Continual Flow**

A flow of water that persists for an extended period of time; which 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.

### **Deposit**

Includes, but shall not be limited to fill, grade, dump, place, discharge or emit.

### **Designated Agent**

An individual named by the Agency to carry out its functions and purposes as specified in the Regulations, and, with respect to an applicant, any person authorized in writing to act in the applicant's behalf.

### **Discharge**

Emission of any water, substance or material into watercourses or wetlands of the Town of Woodbury whether or not such substance causes pollution.

**Disturbing the Natural and Indigenous Character of the Land**

Any activity which will significantly alter the inland wetlands and watercourses by reason of removal or deposition of material, clear cutting, creation or alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

**Erosion**

Detachment of soil or rock fragments by water, wind, ice, and gravity.

**Erosion and Sedimentation Controls**

Practices as defined in the Town of Woodbury Zoning Regulations and which stipulate the requirements for silt fences.

**Essential to the Farming Operation**

Normal and indispensable to sustain farming activities on the existing farm.

**Farm**

Land used for farming in the Town.

**Farming**

Activity or use of land for purposes specified in Connecticut General Statutes Section 1-1(q).

**Feasible**

Able to be constructed or implemented consistent with sound engineering principles.

**Floodplain**

Area bordering a watercourse or wetland subject to flooding. The "base flood" or "special flood hazard area" are those areas subject to a 1% chance of flooding per year, as determined for certain watercourses by the National Flood Insurance Program and shown on Flood Insurance Rate Maps, Town of Woodbury, Connecticut. (see Land Use Maps on Town web site)

**Gardening**

Tilling of soil, planting, cultivating and harvesting of vegetable matter.

**Grazing**

Using any tract of land to feed or supply farm animals with grass or pasture, to tend farm animals, or feeding or growing silage and herbage.

**Habitats**

Areas or environments in which an organism or biological population normally lives or occurs.

**Harvesting of Crops**

Collecting plants or animals or plant or animal products grown to be harvested.

**Hydrophytic Vegetation**

Vegetation that only grows in water or substrate that is at least periodically deficient in oxygen during a growing season as the result of excessive water content. Hydrophytes have poorly developed root systems and weak stems; they rely upon the water for support.

**Intermittent Watercourse**

Waterways that are characterized by a defined permanent channel and bank and the presence 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 longer than a particular storm incident.
3. The presence of hydrophytic vegetation.

**License**

See "Permit" below.

**Management Practice**

Practice, procedure, activity, structure, or facility devised 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:

1. erosion and sedimentation controls.
2. restrictions on land use or development.
3. construction setbacks from wetlands or watercourses.
4. proper disposal of waste materials.
5. procedures for equipment maintenance to prevent spillage of contaminants.
6. construction methods to prevent flooding or disturbance of wetlands and watercourses.
7. procedures for maintaining continuous stream flows.
8. confining construction, that must take place in watercourses, to times when water flows are low, and fish and wildlife will not be adversely affected.

**Marsh**

Areas with soils that exhibit aquic moisture regimes and are distinguished by the absence of trees and shrubs and where a vegetation community exists in standing or running water including, but not necessarily limited to, the following species: horsetails, burreeds, cattails, pondweeds, water plantains, frogs-bit, hydrophytic grasses, sedges, arums, pipeworts, sweetgale, tearthumbs, water lilies, water milfoils, dogwoods, buttonbush, and arrowwood. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water 6" or more in depth are common.

**Material**

Any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, earth, gravel, clay, bog, peat, mud, debris, leaves, brush, sand, refuse or waste.

**Municipality**

The Town of Woodbury.

**Nurseries**

Land used for propagating trees, shrubs or other plants for transplanting, sale, experimentation, or for use as stock for grafting.

**Permit**

All 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 or the Inland Wetlands and Watercourses Act or other municipal, state, and federal law.

**Permittee**

The person to whom a permit has been issued.

**Person**

Any person, firm, partnership, association, corporation, company, organization, or legal entity of any kind, including municipal corporations, government agencies or subdivisions thereof.

**Pollution**

Harmful thermal effect or the contamination or rendering unclean or impure of any waters of the Town of Woodbury by reason of erosion or 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 or sedimentation resulting from any filling, re-grading, or excavation or other earth disturbing activity.

**Prudent**

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.

**Regulated Activity**

Any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration, disturbance by vehicles or equipment, or pollution, of such wetlands or watercourses, but shall not include the specified activities in CGS section 22a-40. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing, or removing of material and discharging storm water, or location of a waste disposal system within 100 feet measured horizontally from the boundary of a wetland or watercourse ("upland review area") is a regulated area. The Agency may rule that any other activity located within such upland review area, or in any other non-wetland or non-watercourse area, including but not limited to any area within 500 feet horizontally of any vernal pool delineated by a wetlands scientist or other qualified expert, is likely to impact or affect wetlands or watercourses and is a regulated activity.

**Remove**

Includes, but shall not be limited to drain, excavate, mine, dig, dredge, pump, suck, bulldoze, dragline or blast.

**Rendering Unclean or Impure**

Any alteration of the physical, chemical, or biological properties of any of the waters of the Town of Woodbury, including but not limited to change in color, odor, turbidity, temperature, or taste.

**Significant Impact**

Any activity which may have a major effect, including, but not limited to, activities:

1. Involving a removal or deposition of material which will or may have a substantial effect on the regulated area; or
2. which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse; or
3. which substantially diminishes the natural capacity of an inland wetland or watercourse to support aquatic, plant, or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation and open space; or provide other functions; or
4. which is likely to cause or has the potential to cause pollution of a wetland or watercourse; or
5. which causes or has the potential to cause substantial turbidity, siltation, or sedimentation in a wetland or watercourse; or
6. which causes or has the potential to cause a substantial diminution of flow of a natural watercourse, or groundwater levels of the regulated area; or

7. ~~which damages or destroys unique wetland or watercourse areas, or other such areas having demonstrable scientific or educational value.~~

**Soil Scientist**

~~A person duly qualified in accordance with standards set by the U. S. Office of Personnel Management.~~

**Submerged Land**

~~Lands, which are inundated by water on a seasonal or more frequent basis.~~

**Swamp**

~~Areas with soils that demonstrate aquatic moisture regimes and are distinguished by the dominance of wetlands trees and shrubs, including but not limited to swamp species listed in Inland Wetlands Plants of Connecticut. Swamps may develop through the gradual invasion of marshes by woody species or directly as in poorly drained depressions.~~

**Town**

~~The Town of Woodbury.~~

**Vernal Pool**

~~A small, isolated body of standing freshwater that provides breeding habitat for certain species of wildlife and has the following characteristics:~~

1. ~~Contains water for approximately two months during a normal growing season;~~ and
2. ~~Occurs within a confined depression or basin that lacks a permanent outlet stream;~~ and
3. ~~Lacks any fish population;~~ and
4. ~~Dries out most years, usually by late summer;~~ and
5. ~~Is capable of supporting obligate vernal pool species such as Spotted Salamander, Wood Frog, Jefferson/Blue Spotted Salamander complex, Marbled Salamander, Eastern Spadefoot Toad, and Fairy Shrimp.~~

**Waste**

~~Sewage or any natural or manmade substance, liquid, gaseous, solid, or radioactive, which may pollute or tend to pollute any of the waters of the Town of Woodbury.~~

**Watercourses**

~~Rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, vernal pools, and all other bodies of water, natural or artificial, public or private, vernal, intermittent, or continuous, which are contained within, flow through or border upon the Town of Woodbury or any portion thereof not regulated pursuant to CGS Sections 22a-28 through 22a-35, inclusive.~~

**Wetlands and Watercourses**

~~Include aquatic, plant or animal life and habitats in wetlands or watercourses.~~

**Wetlands**

~~Land, including submerged land which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey, as amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquatic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.~~

**Wetlands and Watercourses Map**

The map of regulated areas entitled Inland Wetlands and Watercourses Map (see [www.woodburyct.org](http://www.woodburyct.org)) as may be revised from time to time, delineating the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are also available for inspection in the Land Use Office or Town Clerk's Office.

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APPENDIX B: Fees

**A. Regulated Activity**

1. Base Application Fee	\$ 50.00
2. Subdivision Review Fee	\$100.00 Plus \$50 per lot over 3 lots
3. Pond Construction Fee	\$100.00
4. State Surcharge	\$30.00
5. Public Hearing Fee (if required)	\$250.00
6. Technical Review Fee	See Note 1

**B. Permitted and Non-Regulated Uses**

1. Jurisdictional Determination Application Fee	None
2. Subdivision Review	\$150.00
3. Letter of Permission (no fee if in conjunction with Subdivision or Pre-Application Review)	\$50.00

**C. Other Fees**

1. Map Amendment Petition	\$150.00
2. Modification or Renewal of Permit	\$100.00
3. Public Hearing Fee (if required)	\$250.00
4. Pre-Application Review (no fee if held in conjunction with Zoning or Subdivision Pre-Application Review)	\$100.00
5. Technical Review Fee	See Note 1

**Note 1:**

If determined necessary to obtain specialized technical review to fully and properly review and evaluate the application or other necessary review, the fees for such technical review in excess of the base fee shall be paid by the applicant within ten (10) days of the Town's written notice of the actual or estimated fee. If the applicant fails or refuses to deposit the actual or estimated fee, no pre-application review shall proceed or any application shall be considered incomplete as of the next regularly scheduled meeting of the Agency which shall be grounds for denial of the application, or any permit in effect may be revoked by the Agency after notice to the permittee and opportunity to be heard. Any technical review costs incurred by the Town in excess of the amount deposited shall be billed accordingly to the applicant. Any fees paid in excess of actual technical review costs shall be refunded to the applicant.

**APPENDIX A G: Connecticut General Statutes Section §1-1(q)**

(Disclaimer: The following is for informational purposes only and may not be the most recent version; there may be a more current version and more accurate information available from the Connecticut State Legislature. No warranties or guarantees about the accuracy, completeness, or adequacy of the information contained below is made. Please check official sources for the most current statute status and content.)

*Except as otherwise specifically defined, the words “agriculture” and “farming” include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, the production of honey, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term “farm” includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoophouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The terms “agriculture” and “farming” do not include the cultivation of cannabis, as defined in section 21a-420. The term “aquaculture” means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.*



**APPENDIX B D: Connecticut General Statutes Section §8-7d**

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*Hearings and decisions. Time limits. Day of receipt. Notice to adjoining municipality. Public notice registry. (a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 or an aquifer protection agency under chapter 446i and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board or agency may, by regulation, provide for additional notice. Such regulations shall include provisions that the notice be mailed to persons who own land that is adjacent to the land that is the subject of the hearing or be provided by posting a sign on the land that is the subject of the hearing, or both. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed, and (3) a title search or any other additional method of identifying persons who own land that is adjacent to the land that is the subject of the hearing shall not be required. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered not later than sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.*

*(b) Notwithstanding the provisions of subsection (a) of this section, whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered not later than sixty-five days after receipt of such site plan. Whenever a decision is to be made on an application for subdivision approval under chapter 126 on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an inland wetlands and watercourses application under chapter 440 on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an aquifer protection area application under chapter 446i on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such plan or application.*

*(c) For purposes of subsection (a) or (b) of this section and section 7-246a, the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such commission, board or agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner. If the commission, board or agency does not maintain an office with regular office hours, the office of the clerk of the municipality shall act as the agent of such commission, board or agency for the receipt of any petition, application, request or appeal.*

*(d) The provisions of subsection (a) of this section shall not apply to any action initiated by any zoning commission, planning commission or planning and zoning commission regarding adoption or change of any zoning regulation or boundary or any subdivision regulation.*

*(e) Notwithstanding the provisions of this section, if an application involves an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by a zoning commission or planning and zoning commission established pursuant to this section would elapse prior to the thirty-fifth day after a decision by the inland wetlands agency, the time period for a decision shall be extended to thirty-five days after the decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.*

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*(f) The zoning commission, planning commission, zoning and planning commission, zoning board of appeals, inland wetlands agency or aquifer protection agency shall notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which: (1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality; (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.*

*(g) (1) Any zoning commission, planning commission or planning and zoning commission initiating any action regarding adoption or change of any zoning regulation or boundary or any subdivision regulation or regarding the preparation or amendment of the plan of conservation and development shall provide notice of such action in accordance with this subsection in addition to any other notice required under any provision of the general statutes.*

*(2) A zoning commission, planning commission or planning and zoning commission shall establish a public notice registry of landowners, electors and nonprofit organizations qualified as tax-exempt organizations under the provisions of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, requesting notice under this subsection. Each municipality shall notify residents of such registry and the process for registering for notice under this subsection. The zoning commission, planning commission or planning and zoning commission shall place on such registry the names and addresses of any such landowner, elector or organization upon written request of such landowner, elector or organization. A landowner, elector or organization may request such notice be sent by mail or by electronic mail. The name and address of a landowner, elector or organization who requests to be placed on the public notice registry shall remain on such registry for a period of three years after the establishment of such registry. Thereafter any land owner, elector or organization may request to be placed on such registry for additional periods of three years.*

*(3) Any notice under this subsection shall be mailed to all landowners, electors and organizations in the public notice registry not later than seven days prior to the commencement of the public hearing on such action, if feasible. Such notice may be mailed by electronic mail if the zoning commission, planning commission or planning and zoning commission or the municipality has an electronic mail service provider.*

*(4) No zoning commission, planning commission or planning and zoning commission shall be civilly liable to any landowner, elector or nonprofit organization requesting notice under this subsection with respect to any act done or omitted in good faith or through a bona fide error that occurred despite reasonable procedures maintained by the zoning commission, planning commission or planning and zoning commission to prevent such errors in complying with the provisions of this section.*

**APPENDIX C E: DEEP Guidelines for Upland Review Area Regulations**

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[Guidelines, Upland Review Area Regulations](#)  
[Connecticut's Inland Wetlands & Watercourses Act – June, 1997](#)

*Pages that follow...*