

**INLAND WETLANDS AND
CONSERVATION COMMISSION**

**REGULATIONS
OF THE
TOWN OF WETHERSFIELD**



Effective September 9, 2020

**TOWN OF WETHERSFIELD, CONNECTICUT
INLAND WETLANDS AND WATERCOURSES REGULATIONS**

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INLAND WETLANDS AND WATERCOURSES REGULATIONS OF THE TOWN OF WETHERSFIELD, CONNECTICUT

ARTICLE I General Provisions

§96-1. Title.

These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Wethersfield."

§96-2. Preparation of Regulations; statutory authority.

These regulations have been prepared by the Inland Wetlands and Conservation Commission in accordance with the provisions of an Act concerning Inland Wetlands and Watercourses, Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended, and authorized by the Town Council of the Town of Wethersfield in an ordinance adopted on December 18, 1972.

§96-3. Permit issuance.

Pursuant to said General Statutes, the Inland Wetlands and Conservation Commission shall issue, issue with modifications or deny Permits for all Regulated Activities within the Town.

§96-4. Soil erosion and sedimentation control plan.

A Soil Erosion and Sedimentation Control Plan and application shall be submitted to the Inland Wetlands and Conservation Commission for development when not otherwise required by the provisions of Sect. 6.6 of the Wethersfield Zoning Regulations and Sects. 143-24 and 143-25 of the Wethersfield Subdivision Regulations with any application for development when the disturbed area of such development is cumulatively more than one-half ($\frac{1}{2}$) acre.

§96-5. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACT - The Inland Wetlands and Watercourses Act, Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

AGENCY - The Inland Wetlands and Conservation Commission of the Town of Wethersfield.

BOG - A poorly drained area containing an accumulation of organic material and characterized by an association of plants recognized as bog species.

CERTIFICATION - A signed, written approval by the Inland Wetlands and Conservation Commission that the Soil Erosion and Sediment Control Plan as presented complies with minimum acceptable standards established in the publication entitled, "2002 Connecticut Guidelines For Soil Erosion and Sediment Control" as amended.

CERTIFICATION AUTHORITY - Under 143-22 and §143-24 and §143-25 of the Wethersfield Subdivision Regulations and 6.6 of the Wethersfield Zoning Regulations, the responsibility for all Soil Erosion and Sediment Control Plans rests with the Inland Wetlands and Watercourses Commission of the Town of Wethersfield.

CLEAR-CUTTING - The harvest of timber products in a fashion which removes all species of

trees down to a two-inch diameter at breast height.

COMMISSIONER - The Commissioner of the State of Connecticut Department of Energy and Environmental Protection.

COMPENSATORY STORAGE— The water holding capacity of the floodplain, except those areas that are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction, or substantial improvements shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements or associated rights have been obtained from the affected property owner(s); it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the commission.

CONSERVATION EASEMENT - An area designated by the Agency as having significant value to the regulated wetlands, watercourses or habitats. Such an area shall be designated and a conservation easement covenant placed on the land records as a deeded easement that preserves land or inland wetlands or watercourses predominately in their natural, scenic or open condition or in agricultural, farming, forest or open space use. For an example of a typical easement, see Appendix D attached thereto.

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

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

DESIGNATED AGENT - means the individual designated as the Inland Wetlands and Conservation Commission Coordinator to carry out its functions and purposes.

DIRECTLY CONNECTED IMPERVIOUS AREA or DCIA - means that impervious area from which stormwater runoff discharges directly to waters of the state or directly to a storm sewer system that discharges to waters of the state. Impervious areas that discharge through a system designed to retain the appropriate portion of the Water Quality Volume (pursuant to Section 6(a)(5)(b)(i) or (ii) of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems Issued: January 20, 2016, Effective: July 1, 2017, Expires: June 30, 2022" or as amended, are not considered DCIA

DISCHARGE - The emission of any water, substance or other material into regulated areas of the Town, whether or not such substance causes pollution.

DISTURBED AREA - An area where the ground cover is destroyed or removed such that cumulatively more than one-half (½) acre is affected.

DISTURBING THE NATURAL INDIGENOUS CHARACTER OF THE LAND - Any activity that will significantly disturb a regulated area by reason of deposition or removal of materials; cause the alteration or obstruction of waterflow; clear-cutting; or result in the pollution of wetlands or watercourses of the Town.

EXECUTIVE SUB-COMMITTEE - A three member sub-committee consisting of the Chairman and Vice-Chairman of the Commission (or their designee) and the Designated Agent of the Commission.

EROSION - The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

EXEMPTION(S) - A single -or duplex- family dwelling which is not part of a subdivision of land approved after January 1, 1986, shall be exempt from these soil erosion and sediment control regulations.

FARMING - Using any tract of land for growing crops, raising livestock or other agricultural use.

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

GARDENING - The 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.

HARVESTING OF CROPS - Gathering plants or animals or plant or animal products which have been grown to be harvested.

INLAND WETLANDS AGENCY A municipal board or commission established pursuant to and acting under section 22a-42of the Connecticut General Statutes.

LICENSE - The whole or any part of a permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations or sections 22a-36 to 22a-45a inclusive of the Connecticut General Statutes

LOW IMPACT DEVELOPMENT or LID - means a site design strategy that maintains, mimics or replicates pre-development hydrology through the use of numerous site design principles and small-scale treatment practices distributed throughout a site to manage runoff volume and water quality at the source.

MARSH - An area normally covered with shallow water or aquatic moisture regime, subject to seasonal variations and containing an association of herbaceous, soft-stemmed plants recognized as marsh vegetation.

MANAGEMENT PRACTICE - A practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality.

MATERIAL - Any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.

MAINTENANCE - (related to drainage pipes) The removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe stays in place, generally within 15 feet of the pipe end.

MEP - Maximum Extent Practicable

MUNICIPALITY - means the Town of Wethersfield, Connecticut.

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

PERMIT - A decision letter and an official form that states the nature of the permitted activity, duly signed by an authorized agent of the Inland Wetlands and Conservation Commission.

PERSON - Any person, firm, partnership, association, corporation, limited liability company, 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 regulated areas located in the town by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters.

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 regulated area, or which may have an effect upon a regulated area, involving removal or deposition of material or any obstruction, construction, alteration or pollution of such wetland or watercourse therein, except as otherwise indicated in Article II and Section 96-6 of these regulations.

REGULATED AREA - All areas within the Town of Wethersfield containing inland wetlands and/or watercourses, as defined in these regulations or the Connecticut General Statutes, those areas stream-ward of established local encroachment lines, and those areas which lie at or below the limits of the one-hundred-year flood, as defined by the Federal Emergency Management Agency Flood Insurance Study, effective date: September 26, 2008as amended. "Regulated Areas" are generally shown on the maps entitled "Official Inland Wetlands and Watercourses Map," CGS Topographic Series, Wethersfield, dated July 1, 1986 and as hereinafter revised or amended. In each instance, however, the actual type of soil or character of the area, or elevation of the land for flood plain delineation, as determined by the Inland Wetlands and Conservation Commission or its designated agent, shall determine the "Regulated Area.". (Rev. August 1, 1998)

REMOVE - Includes but shall not be limited to draining, excavating, mining, digging, dredging, sucking, , bulldozing, drag-lining or blasting.

RENDERING UNCLEAN OR IMPURE - Any alteration of the physical, chemical or biological properties of any of the waters of the Town or State of Connecticut, including but not limited to change in color, odor, turbidity or taste.

SEDIMENT - Solid material, either mineral or organic, that was in suspension, transported or otherwise removed from its site or origin by erosion and deposited away from its site of origin.

SIGNIFICANT IMPACT OR MAJOR EFFECT - Any activity, including but not limited to the following activities which may have a major effect or significant impact:

- A. Any activity involving a deposition or removal of material that will or may have a significant impact or major effect on the regulated area or on another part of the inland wetland and watercourse system.
- B. Any activity that substantially changes, alters, or inhibits the natural channel or dynamics of a regulated area or watercourse system.

- C. Any activity that substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, and/or provide recreation and open space.
- D. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation, or sedimentation in a regulated area.
- E. Any activity that causes a substantial diminution of flow of a natural watercourse, or ground water levels of the regulated area.
- F. Any activity that causes or has the potential to cause pollution of a wetland or watercourse.
- G. Any activity which creates conditions which may adversely affect the health, welfare or safety of any individual of the community.
- H. Any activity which damages or destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

SOIL EROSION AND SEDIMENTATION CONTROL PLAN - A scheme that minimizes soil erosion and sedimentation resulting from development and includes but is not limited to the minimum standards established in the publication entitled "2002 Connecticut Guidelines For Soil Erosion and Sediment Control" as amended.

SOIL SCIENTIST - An individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.

SWAMP - An area with a water table at or near the surface of the ground throughout most of the year and containing vegetation dominated by an association of trees and/or shrubs recognized as swamp species.

TOWN - The Town of Wethersfield, Connecticut.

WASTE - Sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any regulated areas of the town.

WATERCOURSE(S) - Rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

WETLAND(S) - Land, including submerged land, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, as amended, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and/or floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, by the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA).

ARTICLE II
Permitted Uses as of Right and Non-Regulated Uses

§96-6. Uses permitted by right.

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 Department of Energy Environmental Protection for the purposes of wetland or watercourse restoration or enhancement, or mosquito control. The provisions of this subdivision 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.
- B. A residential home on a subdivision lot approved by the Town of Wethersfield Planning and Zoning Commission as of July 1, 1974, (the original adoption of local wetland regulations), provided that the building permit was obtained on or before July 1, 1987. The applicant shall be prepared to document the validity of said right by providing a certified copy of the building permit and approved site plan showing proposed and existing topographic contours, houses and well locations, septic systems, driveways, approval dates or other information.
- C. Boat anchorage or mooring, not to include dredging or dock construction.
- D. Uses incidental to the enjoyment and maintenance of a residential property, such property being the largest minimum residential lot size permitted anywhere in the town, and containing a residence. Incidental uses shall include maintenance of existing structures and landscaping but may not include removal or deposition of substantial amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse.
- E. Construction and operation by water companies, as defined in Section 16-1 of the Connecticut General Statutes, or by municipal water supply systems, as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs, and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies, except as provided in Section 22a-401 through 22a-410 of the Connecticut General Statutes, as amended.
- F. The Agency shall exempt from all provisions of the rules and regulations of the Inland Wetlands and Conservation Commission any maintenance or repair, within original specifications, of existing public infrastructure and utilities conducted within public rights-of-way and easements by the Town of Wethersfield. New improvements conducted within public rights-of-way and easements which are within inland wetlands and watercourses by the Town of Wethersfield shall be deemed regulated activities.
- G. Maintenance relating to any drainage pipe which existed before July 1, 1974, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

- H. Withdrawals of water for fire emergency purposes.

§96-7. Non-regulated uses.

The following operations and uses shall be permitted as non-regulated uses in regulated areas, 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. Construction on a site where no activity is to occur on or near a regulated area. Permission for such construction may be granted without appearing before the Commission by following the waiver provisions outlined in §96-22A, Declaratory Ruling.
- B. Conservation of soil, vegetation, water, fish, shellfish and wildlife. Such operations or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife, or silvaculture management practices.
- C. 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, cross country skiing, and shell fishing where otherwise legally permitted and regulated.
- D. The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a nonpressurized pipe system that (A) is readily accessible to fire department apparatus, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.
- E. Any dredging or any erection, placement, retention or maintenance of any structure, fill obstruction or encroachment, or any work incidental to such activities, conducted by a state agency, which activity is regulated under sections 22a-28 to 22a-35, inclusive, or sections 22a-359b to 22a-363f inclusive, shall not require any permit or approval under sections 22a-36 to 22a-45 inclusive of the Connecticut General Statutes.

**ARTICLE III
Licensing of Activities**

§96-8. License required for certain activities.

Subject to the provisions of Article II and this Article, regulated activities affecting inland wetlands and watercourses within the town are prohibited except as they may be licensed by the Agency.

§96-9. Regulated activities.

The Agency shall regulate only those activities which include removing of material from, depositing material in, constructing, obstructing or polluting a regulated area.

§96-10. Copies of regulations to be available.

Copies of these regulations required for the protection and preservation of inland wetlands and

watercourses, and erosion and sediment control of the Town of Wethersfield, Connecticut, as well as permit applications, and the map of regulated areas entitled "Official Inland Wetlands and Watercourses Map, Wethersfield, July 1986," shall be available for inspection in the offices of the Engineering Division, Wethersfield Town Hall, Town of Wethersfield, Connecticut during normal business hours.

§96-11. Activities Regulated by the State

The Commissioner of Energy and Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction: any permit decision or order issued by the Commissioner of Energy and Environmental Protection shall be binding upon the Agency as to those matters within the jurisdiction of the Commissioner of Energy and Environmental Protection. The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over regulated activities and other activities in or affecting wetlands or watercourses undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.

- A. Construction and modification of any dam, pursuant to Sections 22a-401 and 22a-411 of the Connecticut General Statutes, as amended.
- B. Construction or placement of any obstruction within stream channel encroachment lines, pursuant to Sections 22a-342 to 22a-349a of the Connecticut General Statutes, as amended.
- C. Construction or placement of any structure or obstruction within tidal, coastal and navigable waters, pursuant to Sections 22a-359 to 22a-363 of the Connecticut General Statutes, as amended.
- D. Diversion of water in excess of fifty thousand (50,000) gallons per day or any surface waters of the state where the tributary watershed area above the point of diversion is one hundred (100) acres larger pursuant to Sections 22a-365 through 22a-378 of the Connecticut General Statutes, as amended.
- E. Discharges into waters of the State, pursuant to Section 22a-430 of the Connecticut General Statutes, as amended.
- F. Discharges 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 United States Army Corps of Engineers under Section 404 of the Federal Clean Water Act.
- G. All regulated activities undertaken by any department, agency or instrumentality of the State of Connecticut.

§96-12. Boundary amendments.

The Agency shall establish or amend regulated area boundary maps only in accordance with the procedures of Section 22a-42 of the Connecticut General Statutes, as amended. Such maps are on file in the office of the Engineering Division, and titled "Official Inland Wetlands and Water Courses Map" dated July 1986.

§96-13. Disputed designations.

Wetlands and watercourses are defined in §96-5 of these regulations:

- A. If any person disputes the designation or failure to designate any wetland or watercourse as a regulated area, such person may be required to produce such information as the Agency deems necessary to permit an informed decision.
- B. To meet the burden of proof for wetlands exemption under Subsection A, the petitioner may be directed to present documentation by a soil scientist that the wetland in question or a portion of it does not have a soil type classified by the National Cooperative Soils Survey as poorly drained, very poorly drained, alluvial, or floodplain.
- C. To meet the burden of proof for exemption under Subsection A of a swamp, bog or marsh, or regulated area, the petitioner may be directed to present documentation by a professional biologist, ecologist, hydrologist, or botanist, who is competent in plant identification or wetland ecology classification systems and/or geology and hydrology, that the area in question does not contain botanical species or hydrogeology or geologic condition as a swamp, bog or marsh.

ARTICLE IV
Application Requirements

§96-14. Application submission.

No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands and Conservation Commission of the Town of Wethersfield.

- A. Applications must be submitted to the Engineering Division fifteen (15) days prior to regularly scheduled meeting of the Agency in order to be included on the meeting agenda. The application shall be formally received only at a regularly scheduled meeting of the Agency.
- B. No application shall be deemed complete unless it shall be in such form and contain such information as the Agency deems necessary for fair determination of the issues. The Agency shall inform all applicants of such necessary information without delay.
- C. The information required by the Agency shall be furnished in sufficient copies to permit the Agency to carry out its duties under these regulations. Fifteen copies of plans and applications shall be required for a final review. At least two (2) copies shall bear the live seal and signature of the design professional who prepared the plans or reports. Electronic or PDF format can be substituted for the 15 copies at the discretion of the Commission.
- D. All information submitted in the application shall be considered factual, and, in the case of anticipated activity, it shall be considered binding. A failure on the part of the applicant or any of the applicant's agents to provide correct information or performance exceeding the levels of anticipated activity may be sufficient grounds for the revocation of any permit issued under these regulations and/or for penalties to be imposed.
- E. For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:
 - 1. 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.

2. 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 land, including, but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.
3. No person shall file a permit application, other than for interior work in an existing building or for exterior work that does not expand or alter the footprint of an existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction not later than sixty days prior to the filling of the permit application.
4. In lieu of such notice pursuant to subsection 96-14(E)(3.) the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.

§96-15. Contents of application.

All applications shall include the following information, in writing, and shall be on a form provided by the Agency, available from the office of the Engineering Division:

1. The applicant's name, home and business addresses, email address and telephone numbers.
2. The owner's name (if not the applicant), home and business addresses, email address, telephone numbers and written consent to the proposed activity set forth in the application and written consent from the property owner to file the application.
3. The applicant's interest in the land.
4. The geographical location of the property affected by the proposed activity, including a description of the land in sufficient detail to allow identification of the property on the Inland Wetlands and Watercourses Map.
5. The purpose and description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
6. Alternatives considered by the applicant and why the proposal to alter wetlands as set forth in the application was chosen.
7. A site plan showing existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed activity which are made inevitable by the proposed regulated

activity and which may have an impact on wetlands or watercourses.

8. Assurance, by written certification of a professional engineer licensed to practice in the State of Connecticut, and with detailed compensatory storage calculations, that the flood-carrying capacity within the altered or relocated portion of any floodway is maintained.
9. The Agency will notify adjacent communities when an applicant petitions to relocate or alter a floodway when such floodway exists across the town line or the Town of Wethersfield. The applicant will notify the State Coordinator's office and the Federal Insurance Administration prior to any relocation or alteration of a floodway and submit copies of such notification to the Agency.
10. Names and mailing addresses of adjacent land owners
11. A statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
12. Authorization for the members and Designated Agents of the Agency to inspect the subject land, at reasonable times, both before and after a final decision has been issued;
13. Any other information the Agency deems necessary to the understanding of what the applicant is proposing; and
14. Submission of the appropriate filing fee based on the fee schedule established in Appendix D of these regulations.
15. If the proposed activity involves a significant impact activity as determined by the Agency, additional information, based on the nature and anticipated effects of the activity, including but not limited to that outlined in 96-24, is required.
16. To the maximum extent practicable ("MEP") the applicant shall consider the use of low impact development ("LID") and runoff reduction site planning and development practices to meet or exceed the LID and runoff reduction practices identified in the 2004 Connecticut Stormwater Quality Manual as amended, including: 1) for redevelopment of sites that are currently developed with Directly Connected Impervious Area (DCIA) of forty percent or more, retain on-site half the water quality volume for the site, or 2) for new development and redevelopment of sites with less than forty percent DCIA, retain the water quality volume for the site, or 3) an alternate retention/treatment standard as outlined in subsections 5(B)(i)-(ii) of the "General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems Issued: January 20, 2016, Effective: July 1, 2017, Expires: June 30, 2022" or as amended.

§96-16. Notification of other municipalities.

- A. When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within five hundred (500) feet of the boundary of another municipality, the applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the inland wetlands agency of such other municipality.

- B. The Agency shall, in accordance with PA 87-307, notify the Clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:
 - 1. Any portion of the property on which the regulated activity is proposed is located within five hundred (500) feet of the boundary of an adjoining municipality;
 - 2. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to directly enter or exit the site;
 - 3. Sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage 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.
- C. Notice of the pendency of such application shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of receipt of the application.

§96-17 Date of receipt.

The date of official receipt of any application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency, or thirty-five (35) days after such submission, whichever is sooner.

§96-18. Additional information.

At any time during the review period, the Agency may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application or wetlands or watercourses affected by the regulated activity.

§96-19. Filing of evidence.

If a public hearing is to be held on any application for a permit, all documentary evidence in support of the application shall be filed with the Agency and available for public inspection no less than fifteen (15) days prior to the hearing or any reconvening thereof.

§96-20. Public inspection.

All applications shall be open for public inspection.

§96-21. Incomplete applications.

Incomplete applications may be denied by the Agency.

§96-22. Permitted operations; waivers.

- A. **Declaratory ruling.** To carry out the purpose of this section, any person proposing to carry out a permitted or non-regulated operation or use within a regulated area shall, prior to commencement of such operation or use, notify the Agency by completing an application form and sufficient information to enable a proper determination that the proposed activity and use is permitted or non-regulated use of the regulated area, as defined in §96-5 of these regulations.

- B. Waiver provisions may be made by two (2) of the following three (3) representatives of the Wethersfield Inland Wetlands and Conservation Commission Executive Subcommittee: The Chairperson, the Vice Chairperson of the Inland Wetlands and Conservation Commission or the Inland Wetlands and Conservation Commission Designated Agent. Two of the three may rule that the proposed activity is or is not a regulated activity and determine if a full permit procedure is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting. Two (2) of the three (3) representatives for the Commission may make such a ruling on behalf of the Commission at any time. The Inland Wetlands and Conservation Commission Designated Agent shall submit to the Commission a description of any waiver authorized under the provisions of this sub-section at the next regularly scheduled meeting. Initiation of the permitted use or operation shall be within one (1) year of any ruling pursuant to this section and shall expire in one (1) year from the date of issuance unless otherwise extended by the Agency.

§96-23. Summary Ruling.

If the Agency finds that a proposed activity is a regulated activity not involving significant impact or major effect on the regulated areas, as defined in §96-5 of these regulations, it may allow the activity with or without conditions after initial review. In order to grant a permit at this stage, the Agency (after full review of the considerations set forth in §§96-24, 96-25 and 96-27 of these regulations and other pertinent factors) shall issue an opinion presenting the reasons for granting the permit with or without conditions.

The Agency may issue a permit without a public hearing provided no petition provided for in Section 96-24 is filed with the agency not later than fourteen (14) days after the date of receipt of such application. (Rev. September 21, 2001)

§96-24. Plenary Ruling.

If the proposed activity involves a significant activity as defined in §96-5 of these regulations, additional information as outlined in 96-15 shall be submitted, based on the nature and anticipated effects of the activity, including, but not limited to the following:

- A. Site plan for the proposed use or operation showing the property that will be affected, indicating existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses and other pertinent features of the development drawn by a licensed surveyor, professional engineer or architect registered in the State of Connecticut or in an adjoining state, or by such other person acceptable to the Agency.
- B. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to wetlands, watercourses and floodplain
- C. Mapping of soil types consistent with the categories established by the National Cooperative Soils Survey by the Natural Resources Conservation Service of the USDA.
- D. A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions.
- E. A description of how the proposed activity will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the

application and with each alternative.

- F. Analysis of chemical or physical characteristics of any fill material.
- G. Management practices which would mitigate the impact of the proposed activity.
- H. In the case of any application which is subject to the notification provisions of §96-16A(1) of these regulations, a public hearing shall not be conducted if the Clerk of the adjoining municipality(s) has not received notice of the pendency of the applications.

§96-25. Public hearings.

The Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, or a petition signed by at least twenty-five persons requesting a hearing is filed with the Agency not later than fourteen (14) days after the date of receipt of such application or the Agency finds that a public hearing regarding such application would be in the public interest. Such hearing shall be held no later than sixty-five days after the receipt of such application. (Rev. September 19, 2001)

All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.

- A. All public hearings shall commence no later than sixty-five (65) days after receipt of the application.
- B. Notice of hearings 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 second, not less than two (2) days before the date set for the hearing, in a newspaper having a general circulation in the Town.
- C. All applications, maps, and documents relating to this public hearing shall be open for public inspection in the office of the Engineering Division. Notice of the hearing shall be sent by the Agency to the applicant and to owners of record of abutting land provided by the applicant, no less than fifteen (15) days prior to the day of the hearing.
- D. Where possible, public hearings shall be completed in a single session. The Agency shall complete the public hearing within thirty-five (35) days of the commencement of the public hearing. The Agency shall act upon the application within 65 days after the completion of the public hearing. However, the hearing may be continued where necessary for the full development of evidence or for the full adequate participation of the parties, or for such other substantial purposes. The applicant may consent to extend the time frame for any of the steps, but the total of all extensions together cannot exceed 65 days. In no case shall continuances be used as a device for delay.

§96-26. Permit fees.

The Agency shall collect permit fees by check or money order at time of application to the Agency, to help defray the costs and expenses of carrying out its duties under these regulations. The application fee is not refundable. Boards, Commissions, Councils and Departments of the Town of Wethersfield are exempt from all fee requirements.

Application fees shall be based on the fee schedule included in the Appendix D

In addition, an applicant whose application is deemed to involve an extraordinarily large, complex or

significant development shall be subject to the additional fees authorized by Chapter 100, Article I – Complex Land Development Applications of the Code of the Town of Wethersfield. (Attached herein as Appendix F)

§96-27. Considerations for Decision.

- A. Due consideration shall be given to any reports from staff, other boards or commissions and/or federal or state agencies, including the Natural Resources Conservation Service, the Connecticut Department of Energy and Environmental Protection, and the Flood Insurance Study, Town of Wethersfield, latest revision, by the US Department of Homeland Security, Federal Emergency Management Agency, and the Wethersfield Watershed Management Study, by Milone & MacBroom.

The Commission shall also have the right to request that any applicant conduct other studies or impact analysis that would allow the Commission to adequately determine the potential impacts of the proposed development to the site and community. Said studies or impact analysis to be done in accordance with Chapter 100, Article I-Complex Land Development Applications of the Code of the Town of Wethersfield. (Attached herein as an Appendix F)

- B. Additional requested information.

- C. All relevant facts and circumstances, including but not limited to the following:

Criteria for Decision. In carrying out the purposes and policies of sections 22a-36 to 22a-45a, 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, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- e. the character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed

regulated activity; and

- f. impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

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 on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in section 96-27. The finding and the reasons therefor shall be stated on the record in writing.

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

- D. For purposes of this section, (1) "wetlands or watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- E. A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- F. Measures which would mitigate the impact of the proposed activity and may be imposed as conditions of the permit. Such measures include the availability of further technical improvements or safeguards which could feasibly be added to the plan or action to avoid the reduction of the natural capacity of the wetlands or watercourse to support desirable biological life, prevent flooding, supply water, control sedimentation and/or prevent erosion, assimilate wastes, facilitate drainage, and provide recreation and open space.
- G. In the case of any application which has received a public hearing, a permit shall not be issued unless the Agency finds that a feasible and prudent alternative does not exist. In making this finding, the Agency shall consider the facts and circumstances set forth in this section of these regulations. This finding and the reasons therefore shall be stated on the record in the decision of the Agency. A permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in section 96-27. The finding and the reasons therefore shall be stated on the record in writing.
- H. 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 hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes policies of these regulations and sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

- I. In the case of an application where the applicant has provided written notice pursuant to subsection 96-14(E)(3.) of these regulations, the holder of the restriction may provide proof to the inland wetlands agency that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the inland wetlands agency shall not grant the permit approval.
- J. In the case of an application where the applicant fails to comply with the provisions of subsections 96-14(E)(3.) or 96-14(E)(4.) of these regulations, the party holding the conservation or preservation restriction may, no later than fifteen days after receipt of actual notice of permit approval, file an appeal with the Inland Wetlands Agency, subject to the rules and regulations of such agency relating to appeals. The Inland Wetlands Agency shall reverse the permit approval upon finding that the requested land use violates the terms of such restriction.

§96-28. Grant or denial of permit.

The Agency may Grant the application as filed; Grant it upon such terms, conditions, limitations or modifications necessary to carry out the purposes of the Act; or Deny it.

The Agency, or two of three Executive Subcommittee members acting pursuant to Section 96-22 of these regulations, may, in accordance with these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. Such terms may include restrictions 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 sections 22a-36 to 22a-45 inclusive, of the Connecticut General Statutes.

§96-29 Permit process.

- A. No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on any such application. The hearing shall be completed within thirty-five (35) days of its commencement, and action shall be taken on applications within sixty five (65) - days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty- five (65) days from the date of receipt of the application. (See 96-14A and 96-25)
- B. The Agency shall state upon its record the reasons and basis for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing.
- C. The agency shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, and the

Agency shall cause notice of its order in the issuance or denial of the permit to be published in a newspaper having circulation in the Town wherein the inland wetland or watercourse lies.

- D. If an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the Inland Wetlands and Conservation Commission's decision report on the application shall be filed with the Town of Wethersfield Planning and Zoning Commission within fifteen (15) days of the date of the decision. This subsection does not apply to certification of Sediment and Erosion Control Plans.
- E. If the agency denies the permit "without prejudice" or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The Agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the agency shall be equivalent to the denial of an application for the purposes of appeal.
- F. If the agency denies a permit "with prejudice", the application shall not be resubmitted for one (1) year following the date of such denial.
- G. Permits shall be subject to the following time limits:
 - 1. Any permit issued under this section for the development of property for which an approval is required under chapter 124, 124b, 126 or 126a of the Connecticut General Statutes shall be valid until the approval granted under such chapter expires or for ten years (10), whichever is earlier. Any permit issued under this section for any activity for which an approval is not required under chapter 124, 124b, 126, or 126a shall be valid for not less than (2) two years and not more than (5) five years. Any such permit shall be renewed 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 with regard to the regulated activity for which the permit was issued, provided no permit may be valid for more than ten years"
 - a. Notwithstanding the provisions of Subsection (G)(1) of this section, any permit issued under this section prior to July 1, 2011, that has not expired prior to May 9, 2011 shall expire not less than nine years after the date of such approval. Any such permit shall be renewed upon request of the permit holder unless the agency finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no such permit shall be valid for more than fourteen years.
 - 2. Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Article IV of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under section 96-15 of these regulations provided:
 - a. the application may incorporate the documentation and record of the

prior application by reference;

- b. the application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
 - c. the application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
 - d. the application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
 - 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 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;
3. 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 with regard to the regulated activity for which the permit was issued provided no permit issued during the time period from July 1, 2006 to July 1, 2009, inclusive, shall be valid for more than eleven years; and b) no permit issued prior to July 1, 2006 or after July 1, 2009 may be valid for more than ten years.

- H If the activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until all other such approvals are obtained.
- I. The Agency may delegate to its Executive Subcommittee the authority to approve or extend an activity that is not located in a wetland or watercourse when such Executive Sub-committee finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 96-15 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in these regulations, such Executive Sub-committee may approve or extend such an activity at any time.

**ARTICLE V
Appeals**

§96-30. Appeals procedure.

Any person aggrieved by any regulation, order, decision or action by the Agency pursuant to these regulations may appeal to the Superior Court in and for the county where the land affected is located within fifteen (15) days after publication in a newspaper having circulation in the Town of such regulation, order, decision or action. All appeals shall follow the procedure outlined in Section 22a-43 of the Connecticut General Statutes, as amended.

§96-31. Notification of Commissioner.

The Agency shall notify the Commissioner of Energy and Environmental Protection of any such appeals and enclose a copy of the regulation, order, decision or action upon which it is based. The notification shall be on a form supplied by the Commissioner and be forwarded within fifteen (15) days of the commencement of such appeal action.

**ARTICLE VI
Other Permits and Licenses**

§96-32. Obtaining additional permission.

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

**ARTICLE VII
Enforcement**

§96-33 Stipulations of permit application.

Application for a permit shall constitute permission for and consent to Agency inspections of the site of proposed activity at any reasonable time before or after the granting of a permit. The owner, applicant or their agent shall have the permit readily available and shall produce it for inspection by the Agency's representative upon request. The Agency shall be authorized to seek such necessary court orders as will permit it to inspect land whereon the Agency has probable cause to believe that a regulated activity is in progress and for which no application has been filed.

§96-34. Actions upon violations.

- A. If the Agency finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act, Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended, or any of the regulations of this Agency or if any applicant has not complied with the conditions or limitations set forth in a permit or has exceeded the scope of the work as set forth in the application, the Agency or its duly authorized agent may:
 - 1. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) days of the issuance of such order, the Agency shall hold a hearing to provide the

person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing, notify the person, by certified mail, that the original order remains in effect, that the revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the 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 section shall not delay or bar an action pursuant to Section 22a-44(b) of the General Statutes, as amended.

2. Suspend or revoke a permit if it finds that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application plans. Prior to revoking any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. At the public hearing the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for the retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke or maintain a permit by personal service or certified mail within fifteen (15) days of the date of its decision. The agency shall publish notice of the suspension or violation in a newspaper having general circulation in the Town.
 3. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation, including, without limitation, halting work in wetlands, watercourse or the floodplain
 4. In addition to any other remedy allowed by law, any person who violates any provision of the Inland Wetlands and Watercourses Regulations shall be subject to a fine of not more than \$1,000. Issuance of such fines shall be in accordance with the procedures established in Town Ordinances, including the citation hearing process. (Added August 1, 1998; see ATTACHMENTS)
- B. The Agency may request that the person 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 filing a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Subsection A(1) of this section or other enforcement proceedings as provided by law.

ARTICLE VIII

Bonds and Insurance

§96-35. Bonds.

- A. The applicant upon approval of the license and at the discretion of the Agency, may be required to file a performance bond in an amount and with sureties and in a form approved by the Agency.
- B. The bond and sureties shall be conditioned on compliance with all provisions of these regulations and conditions imposed on permit approval.

§96-36. Insurance.

The applicant may be required to certify that the applicant has public insurance against liability which may result from the proposed operation or use covering any and all damages which might occur within two (2) years of completion of such operations, in an amount to be determined by the Agency commensurate with the projected operation.

**ARTICLE IX
Conflict and Severance**

§96-37. Greater restrictions to govern.

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.

If there is a conflict between the provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

§96-38. Regulations to control over maps.

Where there is a conflict between the provisions of these regulations and the boundaries set forth on any map now or hereinafter adopted, the provisions of the regulations shall control.

**ARTICLE X
Conformity with State Regulations;
Actions of Commissioner**

§96-39. Regulations to be submitted.

All regulations, including regulated area boundary maps, promulgated or amended by the Agency, pursuant to the Act shall be submitted to the Commissioner not later than ten (10) days after their adoption.

§96-40. Notice of non-conformance; actions.

In the event that the Commissioner shall find any part of the Agency's regulation not in conformity, the Commissioner shall issue a notice of non-conformance which shall include:

- A. The reasons for holding any part to be non-conforming.
- B. The section or sections whose operation and effect shall be suspended until they shall be amended and resubmitted.
- C. The extent to which the Commissioner shall exercise jurisdiction over the municipal wetlands and watercourses for their protection in the interval between the issuance of a notice on non-conformance and the resubmission of amended regulations, including boundary maps.

§96-41. Regulations for non-conformance.

- A. The Agency shall, pursuant to the provisions for adopting and amending regulations contained in the Act, initiate proceedings to amend such non-conformance.
- B. Upon disapproval of any regulations, the Commissioner shall assume jurisdiction over those portions of the regulations as may be necessary to assure continuity of wetlands and watercourse regulation in the town. This jurisdiction shall cease upon approval of the regulations by the Commissioner.
- C. Failure of the Commissioner to issue a notice of non-conformance within sixty (60) days of the receipt of such regulations, maps, or amendments shall be taken as approval of such regulations.

§96-42. Written approval required.

If municipal regulations were not submitted to and granted approval by the Commissioner in a preliminary form prior to adoption, they shall not become effective until granted final written approval by the Commissioner.

**ARTICLE XI
Amendment Procedure**

§96-43. Regulations for amendments.

These regulations and inland wetlands and watercourses boundary maps may be amended, changed or repealed at any time by majority vote of the Agency after the procedure outlined for the establishment of regulations and boundaries pursuant to Section 22a-42 of the General Statutes, as amended.

§96-44. Petition for Change.

All petitions requesting a change in the regulations or boundaries of regulated areas shall be submitted, in writing, on a form provided by the Agency, a copy of which is included in Appendix B. In addition, the applicant shall pay a fee according to the Schedule of Fees in Appendix D, to help defray the reasonable cost and expenses of reviewing and acting on applications and petitions, including, but not limited to, the costs of certified mailings, publications of notices and decisions and monitoring. Such petition shall be considered at a public hearing in the manner prescribed in the Act for the establishment of regulations and boundaries. A copy of the proposed regulation or boundary change shall be filed in the Town Clerk's office for public inspection at least ten (10) days before such hearing. Such public hearing shall be held within sixty-five (65) days after receipt of such petition. The applicant shall be notified of the time and place of the hearing by certified mail no fewer than ten (10) days prior to the hearing. The Agency shall complete the public hearing within thirty-five (35) days. The Agency shall act upon the changes requested within sixty-five (65) days after the completion of the hearing. The petitioner may consent to extension of the periods provided in this section for holding hearings and for adoption or denial of the requested change, but the total of all extensions together cannot exceed sixty-five (65) days, or the petitioner may withdraw the petition.

ARTICLE XII
Erosion and Sedimentation Control Certification

§96-45. Plan.

A Soil Erosion and Sediment Control Plan and application shall be submitted to the Inland Wetlands and Conservation Commission for development when not otherwise required by the provisions of Sect. 6.6 of the Wethersfield Zoning regulations and Sects. 143-24 and 143-25 of the Wethersfield Subdivision regulations when the disturbed area of such development is cumulatively more than one half (1/2) acre.

§96-46. Eligibility for certification.

- A. To be eligible for certification, a Soil Erosion and Sediment Control Plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for certification are found in the “2002 Connecticut Guidelines for Soil Erosion and Sediment Control” as amended.

- B. Said Soil Erosion and Sediment Control plan shall include, but not be limited to:
 - 1. A narrative describing:
 - (a) The development.
 - (b) The schedule for grading and construction activities including;
 - [1] The start and completion dates.
 - [2] The sequence of grading and construction activities.
 - [3] The sequence for installation and/or application of soil erosion and sediment control measures.
 - [4] The sequence for final stabilization of the project site.
 - (c) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities.
 - (d) The construction details for proposed soil erosion and sediment control measures and stormwater management facilities.
 - (e) The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities.
 - (f) The operations and maintenance program for proposed soil erosion and sediment control measures and stormwater management facilities.
 - 2. A site plan at a sufficient scale to show the following:
 - (a) The location of the proposed development and adjacent properties.
 - (b) The existing and proposed topography, including soil types, wetlands, watercourses, water bodies and floodplain limits.

- (c) The existing structures on the project site, if any.
 - (d) The proposed area alterations, including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines.
 - (e) The location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities.
 - (f) The sequence of grading and construction activities.
 - (g) The sequence for installation and/or application of soil erosion and sediment control measures and stormwater management facilities.
 - (h) The sequence for final stabilization of the development site.
3. Any other information deemed necessary and appropriate by the applicant or requested by the Agency or its Designated Agent.

§96-47. Issuance or denial of certification.

- A. The Agency shall either Certify that the soil erosion and sediment control plan, as submitted, complies with the requirements and objectives of this regulation or Deny certification when the soil erosion and sediment control plan does not comply with these regulations. Nothing in these regulations shall be construed as extending the time limits for the approval of any application under Chapters 124, 124A or 126 of the General Statutes.
- B. Prior to certification, any soil erosion and sediment control plan submitted to the municipality may be reviewed by the County Soil and Water Conservation District, which may make recommendation concerning such plan, provided that such review shall be completed within thirty (30) days of the receipt of such plan.

§96-48. Conditions.

- A. Conditions relating to soil erosion and sediment control. Site development shall not begin unless the soil erosion and sediment control plan is certified and the control measures and facilities in the certified soil erosion and sediment control plan which are scheduled for installation prior to site development are installed and functional. If any such site development is begun prior to the time that such pre-development control measures and facilities as required under such certified plan are installed and functional and such site development continues after written notice is provided to the permittee under such certified plan or such permittee's designated agent advising of the failure to comply with the certified plan, the Agency may suspend or revoke its certification of such certified plan.
- B. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified soil erosion and sediment control plan.
- C. All control measures and facilities shall be maintained in maintained in effective condition to ensure the compliance of the certified soil erosion and sediment control plan.

§96-49. Monitoring and Inspection.

Inspections may be made by the Agency or its designated agent during development to ensure compliance with the certified soil erosion and sediment control plan and that control measures and facilities are properly performed or installed and maintained. The Agency, the Designated Agent, or any agent designated by the Agency or Agent to make inspections shall be allowed to access the project site at any time.

§96-50. Amendments to plan.

- A. Minor amendments to a certified soil erosion and sediment control plan may be approved by the Agency's Designated Agent, provided that the proposed amendment:
 - (1) Involves the replacement of inadequate or failed control materials or devices with those determined to be more effective by the designated agent.
 - (2) Does not adversely change an approved restoration schedule.
 - (3) Is not a substantial redesign of the soil erosion and sediment control plan or narrative, in the Designated Agent's opinion.
- B. The permittee or the Agency's Designated Agent may petition the Agency for substantial amendments to the certified soil erosion and sediment control plan.

§96-51. Model Signature Block

C E R T I F I C A T I O N

To verify "certification," as defined in soil erosion and sediment control regulations:

It is hereby certified that this soil erosion and sediment control plan is in compliance with **143-22** §§143-24 and 143-25 of the Wethersfield Subdivision Regulations and § **6.6** of the Wethersfield Zoning Regulations, as applicable, and that the minimum standards established in the Connecticut Guidelines for Soil Erosion and Sediment Control are satisfied.

The permittee under this plan is responsible for ensuring compliance with this plan. The Town of Wethersfield shall not be held liable for improper installation, lack of maintenance or other neglect on behalf of the permittee.

Chairperson
Inland Wetlands and Conservation Commission

**ARTICLE XIII
VIOLATIONS & CITATIONS**

§ 96-52. Authorization to issue citations.

- A. The Inland Wetlands and Watercourses Enforcement Officer, designated in accordance with Connecticut General Statutes Section 22a-44 and the Inland Wetlands and Watercourses Regulations of the Town of Wethersfield, or any police officer of the Town of Wethersfield (hereinafter referred to as "Inland Wetlands and Watercourses Enforcement Officer") is authorized to issue citations for violations of the Inland Wetlands and Watercourses Regulations of the Town of Wethersfield ("Inland Wetlands and Watercourses Regulations") to the extent and in the manner provided by Part 2 of this chapter.
- B. A citation may be issued for those violations specified in § 96-53 of this chapter. The fines set forth in Part 2 of this chapter shall be in addition to, and not in lieu of, any other penalties or remedies allowed by law.

§ 96-53. Schedule of Fines and Violations.

The fine for each such citation shall be in accordance with the following schedule:

Nature of Violation	Amount of Fine
Clear-cutting	\$500
Placement of material in a regulated area	\$500
Violation of plans, conditions or other elements of an approved inland wetlands and watercourses permit	\$500
Violation of any element of an approved erosion and sedimentation control plan	\$150
Conduct, without the issuance of an inland wetlands and watercourses permit, of any other regulated activity in a regulated area not listed above	\$150

§ 96-54. Uncontested payment of citation.

Any person receiving such a citation shall be allowed a period of 60 days from his or her receipt of the citation to make an uncontested payment of the fine specified in the citation to the Treasurer. If the citation has been sent by regular mail pursuant to the provisions of § 96-52 of this chapter, the day of receipt of the citation shall be deemed to be three business days after the day of mailing of the citation.

§ 96-55. Procedure to contest citations.

- A. If a person who has been issued a citation does not make uncontested payment of the fine specified in the citation to the Town Clerk within the time allowed under § 96-54 of this chapter, the Inland Wetlands and Watercourses Enforcement Officer shall send a notice to the person cited, informing such person:

- (1) Of the allegations against him or her and the amount of the fines;
 - (2) That the person cited may contest liability before a Hearing Officer appointed by the Town Council, as provided in § 96-56 of this chapter, by delivering, in person or by mail, within 10 days of the date of the notice, a written demand for a hearing;
 - (3) That if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her; and
 - (4) That such judgment may issue without further notice.
- B. If the person who is sent notice pursuant to the preceding subsection wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fine, either in person or by mail, to the Town Clerk. All fines shall be made payable to the Town Clerk of the Town of Wethersfield. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within 10 (ten) days of the date of the notice described in Subsection A of this section shall be deemed to have admitted liability, and the Inland Wetlands and Watercourses Enforcement Officer shall certify to the Hearing Officer that such person has failed to respond. The Hearing Officer shall thereupon enter and assess the fines provided for by Part 2 of this chapter and shall follow the procedures set forth in Subsection E of this section.
- C. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 (fifteen) days nor more than 30 (thirty) days from the date of the mailing of notice, provided that the Hearing Officer shall grant, upon good cause shown, any reasonable request by any interested party for postponement or continuance. The presence of the issuing official or police officer shall be required at the hearing if requested by the person who was issued the citation. A person wishing to contest liability shall appear at the hearing and may present evidence in his or her behalf. The Inland Wetlands and Watercourses Enforcement Officer may present evidence on behalf of the municipality. If the person who received the citation fails to appear, the Hearing Officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provisions of the Wetlands Regulations. The Hearing Officer may accept written information by mail from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. The Hearing Officer shall conduct the hearing in the order and form and with such methods of proof as he or she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall announce his or her decision at the end of the hearing. If the Hearing Officer determines that the person who received the citation is not liable, the Hearing Officer shall dismiss the matter and enter that determination in writing accordingly. If the Hearing Officer determines that the person who received the citation is liable for the violation, the Hearing Officer shall forthwith enter and assess the fines against such person as provided by Part 2 of this chapter.

- D. Any person who files an appeal to the Wethersfield Zoning Board of Appeals pursuant to Connecticut General Statutes § 8-6, which appeal contests the interpretation of the Inland Wetlands and Watercourses Regulations employed by the Inland Wetlands and Watercourses Enforcement Officer in the subject citation, shall not be excused from requesting a hearing in accordance with Subsection C hereinabove. The filing of an appeal to the said Board without also requesting a hearing hereunder shall not stay, defeat or negate the procedures and penalties prescribed by Part 2 of this chapter, except as provided in this subsection. The hearing set forth in the preceding subsection shall proceed, and the Hearing Officer shall make a determination as to liability of the person who received the citation, based upon the facts as determined at that hearing, and assuming the validity of the interpretation of the Inland Wetlands and Watercourses Regulations as determined by the Inland Wetlands and Watercourses Enforcement Officer. However, the Hearing Officer shall not enter and assess the fines provided by Part 2 of this chapter unless and until a final, unappealable decision of the said Zoning Board of Appeals has been rendered upholding the interpretation of the Inland Wetlands and Watercourses Regulations as employed by the Inland Wetlands and Watercourses Enforcement Officer. In the event that such a final, unappealable decision of the said Zoning Board of Appeals has been rendered overturning the interpretation of the Inland Wetlands and Watercourses Regulations as employed by the Inland Wetlands and Watercourses Enforcement Officer, the Hearing Officer shall dismiss the matter and enter that determination accordingly.
- E. If such assessment is not paid on the date of its entry, the Hearing Officer shall send by first-class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court for Geographical Area 15, together with an entry fee of \$8. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.
- F. A person against whom an assessment has been entered pursuant to this section may appeal within 30 days of the mailing of notice of such assessment in accordance with Connecticut General Statutes § 7-152c(g).

§ 96-56. Appointment of Hearing Officers.

The Town Council shall appoint one or more citation Hearing Officers to conduct the hearings provided by Part 2 of this chapter. Neither the Inland Wetlands and Watercourses Enforcement Officer, the Building Inspector, nor any employee of the Town of Wethersfield exercising zoning authority may be appointed as a Hearing Officer pursuant to Part 2 of this chapter.

§ 96-57. Severability.

In the event that any part or portion of Part 2 of this chapter is declared invalid for any reason, all other provisions of Part 2 of this chapter shall remain in full force and effect. In any case where a provision of this chapter is found to be in conflict with a provision of any other provision of law, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people of the Town of Wethersfield shall prevail.

§ 96-58. Applicability.

Part 2 of this chapter shall not apply to citations issued by Town enforcement officers for violation of state statutes. The provisions of Part 2 of this chapter shall not be construed to prevent the enforcement of other codes, ordinances or regulations of the Town of Wethersfield.



APPENDIX A

Application No. _____

Date Filed _____

APPLICATION FOR PERMISSION TO CONDUCT A REGULATED ACTIVITY WITHIN AN INLAND WETLAND OR WATERCOURSE AREA IN THE TOWN OF WETHERSFIELD

Please fill in and return this form along with all maps, exhibits, etc., to the Engineering Division, Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut 06109.

1. Name of Applicant _____
Property Address _____
Home/Business Address _____
Telephone No. _____
Email _____

2. Applicant's interest in the property
___ Owner ___ Lessee ___ Lessor ___ Other _____

3. Name of Property Owner (if not applicant) _____
Home/Business Address _____
Telephone No. _____
Email _____

(Attach a written, witnessed consent to the proposed activity by the owner, if applicant is not the property owner, then a written consent form from the owner is required to file the application)

4. Name and address of licensed professional engineer, land surveyor, or architect as applicable.

Name Address Email

Name Address Email

5. Geographical location of the property detailed enough to allow identification of the property on the Inland Wetlands and Watercourses Map:

Provide Specific Directions

(Use an additional sheet, if necessary, to draw a sketch showing the property in relation to surrounding roads)

6. Purpose and description of activity for which authorization is requested.
- a) Proposed activity will involve the following within an inland wetland or watercourse area (check appropriate box or boxes):
- alteration construction deposition material
- pollution removal of materials
- b) Attach a general description of the proposal and identification of each regulated activity for which a permit is sought, including the nature and volume of material to be placed, removed, or transferred.
- c) Attach a sketch showing location of proposed activity on property.
- d) Submit a detailed plan of the proposal, if available at this time.
- e) Purpose of the proposed activity (i.e., addition to existing dwelling, new business, industrial park, etc.):

7. Names and addresses of adjacent property owners (or attach separate sheet).

8. The property to be affected by the proposed activity contains a:

swamp marsh bog lake or pond

stream or river flood plain

other regulated area; Describe _____

The undersigned states that under the penalties of false statement, the information supplied in the completed application is accurate, to the best of his knowledge and belief.

Signature of Applicant(s)

Date

The signing of this application authorizes the members and agents of the Commission to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit.

The applicant must appear at all scheduled meetings.

WARNING: An application that requires local inland wetlands approval may also be regulated by the federal government under the Clean Water Act which is administered by the United States Army Corps of Engineers under the 404 permit program. The responsibility for obtaining federal and/or state permits is a responsibility of the applicant as are any fines, penalties and delays due to the applicant's failure to seek permits or to question their applicability to the proposed activity.



A P P E N D I X B

Application No. _____

Date Filed _____

**PETITION APPLICATION
REQUESTING A CHANGE IN THE REGULATIONS OR BOUNDARIES OF
AN INLAND WETLAND AREA IN THE TOWN OF WETHERSFIELD**

Please fill in and return this form along with all maps, exhibits, etc., to the Engineering Division, Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut 06109.

1. Name of Petitioner _____

Property Address _____

Home/Business Address _____

Telephone No. _____ Email _____

2. Petitioner requesting change in

a.) _____ regulations

b.) _____ boundaries of an inland wetland area

3. If Box 2a is checked, proceed with the following:

a.) Cite section of regulation proposed for change:

b.) State how the proposed change is to read:

c.) Give reasons for change:

If Box 2b is checked, proceed with the following:

4. The applicant shall submit a 200' scale Metropolitan District Commission Topographical map showing the outline of the inland wetland as it now exists and as proposed by the petitioner.

a.) This property on which the boundary change is requested may be reached from

_____ (Street)
by proceeding (north) (east) (south) (west)

on Route No. _____ or _____
and the following specific directions:

b.) Lot number (or other designation) as shown on the Tax Assessor's Map (Zoning Map, Subdivision Map, etc.)

Specify map source _____

c.) Petitioner's Interest in the Property

___ Owner ___ Lessee ___ Lessor ___ Other _____

d.) Full disclosure shall be made by the applicant or applicant's agent for a change of inland wetlands boundaries regarding the ownership of all parcels of land involved within the confines of any area under application for a change of inland wetland boundaries and the names of all parties having a legal or equitable interest therein. This disclosure shall be made at the time the application for hearing is submitted.

I hereby certify that the following list reflects the names of all parties owning or having a legal or equitable interest in the property/properties described in this application. Use additional sheets if necessary.

Name	Address	Interest
_____	_____	_____
_____	_____	_____

e.) Names and addresses of abutting property owners (Attach separate sheet).

5. The following information shall be supplied on a petition for a boundary change:
- a.) Fifteen (15) copies of the existing inland wetlands map as noted in Section 4 above.
 - b.) Soil sample data including a profile description of the soil done by a soil scientist duly qualified in accordance with standards set by the Basic Qualifications, as outlined by the Society of Soil Scientists of Southern New England, Certification Standards.
 - c.) Fifteen (15) boundary survey maps, scale 1"=40', 24"x36", certified by a land surveyor registered in the State of Connecticut. These maps shall conform to the standards of accuracy Class D of the Connecticut Association of Land Surveyors, Inc. and shall show the following:

Petitioner's property with all existing water courses; abutting owners; and an accurate line identifying the inland wetland boundary based on the latest Metropolitan District Commission Geodetic and Topographical Survey. Proposed lines shall be based on Connecticut Coordinate grid and plotted to the nearest foot, northerly and easterly. These lines shall show distance and bearing. Also shown shall be boring locations and relevant information supporting any boundary change.

A filing fee in accordance with Fee Schedule (for cost of legal notices) is required at time of filing the petition application with the Engineering Division.

The undersigned states that under the penalties of false statement, the information supplied in the completed application is accurate, to the best of their knowledge and belief.

Signature of Applicant(s)

Date

The signing of this application authorizes the members and agents of the Commission to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit.

The applicant must appear at all scheduled meetings

WARNING: AN APPLICATION THAT REQUIRES LOCAL INLAND WETLANDS APPROVAL MAY ALSO BE REGULATED BY THE FEDERAL GOVERNMENT UNDER THE CLEAN WATER ACT WHICH IS ADMINISTERED BY THE UNITED STATES ARMY CORPS OF ENGINEERS UNDER THE 404 PERMIT PROGRAM. THE RESPONSIBILITY FOR OBTAINING FEDERAL AND/OR STATE PERMITS IS A RESPONSIBILITY OF THE APPLICANT, AS ARE ANY FINES, PENALTIES, AND DELAYS DUE TO THE APPLICANT'S FAILURE TO SEEK PERMITS OR TO QUESTION THEIR APPLICABILITY TO THE PROPOSED ACTIVITY.

APPENDIX C

CONSERVATION EASEMENT

THIS INDENTURE made this _____ day of _____ 20____, by and between _____ of the Town of _____ County of _____, and State of Connecticut, hereinafter referred to as "Grantor", and the TOWN OF WETHERSFIELD, a municipal corporation having its territorial limits within the County of Hartford, hereinafter referred to as the "Grantee";

WITNESSES

WHEREAS, the Grantor is the owner of certain real property, hereinafter referred to as "the Property," situated in the Town of Wethersfield, County of Hartford and State of Connecticut; more particularly described as (insert description)

and:

WHEREAS, Grantor by and through this instrument conveys an easement to Grantee of a portion of the property designated as a "Conservation Easement," which is more specifically described as (insert description)

and:

WHEREAS, the Grantor and Grantee agree that the easement described herein is to, and shall run with, the land; and

WHEREAS, the Grantee, acting through its Inland Wetlands and Conservation Commission, has determined that the preservation of the easement area as open space in its natural state would be in the public interest; and

WHEREAS, by Act of the Connecticut General Assembly, General Statutes, Revision of 1958, Revised to 1985, Section 22a-42(b), as amended, the Grantee is empowered to acquire wetlands and watercourses within its territorial limits by easement or covenant; and

WHEREAS, the Grantee, acting through its Inland Wetlands and Conservation Commission, has determined that the preservation and maintenance of the easement area as open space in a natural condition can best be accomplished by securing, by Grantee, of a conservation easement over, across, and upon the said Property of the Grantor;

NOW, THEREFORE, for good and valuable consideration delivered by the Grantee, receipt of which is hereby acknowledged by the Grantor, the Grantor does hereby freely give, grant, assign, bargain, sell and convey unto the Grantee, its successors and assigns forever, a conservation easement and restriction over the easement area and property consisting of:

The right of the Grantee to act in the public interest to preserve the easement area in its natural condition, free from random, unnecessary, undesirable and unregulated uses and protected from disturbance and destruction; the right of the Grantee, or its authorized agents, in a reasonable manner and at reasonable times, to enter, inspect, and perform such work in the easement area as Grantee deems desirable for the maintenance of the easement area or to assure the protection of its open

condition, water quality, natural vegetation and wildlife habitats, and the right of the Grantee to enforce by proceedings in law or equity the covenants hereinafter set forth.

IN FURTHERANCE of the foregoing affirmative rights, the Grantor, on behalf of himself, his heirs and assigns, covenants and agrees:

1. The easement area shall be used for conservation, educational, and limited recreational (not including the use of motorized recreational vehicles) purposes only. No buildings, roads, parking areas, signs, billboards or other structures, temporary or permanent, shall be constructed on or in the easement area.
2. The easement area shall not be subdivided, now or hereafter, in order that the aims set forth in the above declaration shall not be placed in jeopardy.
3. No alteration shall be made to the surface of the easement area other than that caused by the forces of nature, unless such alteration is approved in advance and in writing by the Inland Wetland and Conservation Commission of the Town of Wethersfield or its authorized representative. Without limiting the generality of the foregoing, the following activities are specifically prohibited on or in the easement area:
 - a.) The dumping or placing of soil or other substance or material as landfill or the dumping or placing of trash, ashes, waste, rubbish, garbage, junk, or unsightly or offensive materials.
 - b.) The excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral or organic substance.
 - c.) The removal or destruction of trees, shrubs, or other natural vegetation.
 - d.) The killing of wildlife.
 - e.) The spraying of pesticides.
 - f.) Any activity or use detrimental to water quality, water conservation, drainage, flood control, erosion control, soil conservation, wildlife or the maintenance of the easement area in its natural scenic and open condition.
4. There is retained in the Grantor the following rights and obligations:
 - a.) The right to post the Property to control unauthorized use.
 - b.) The right to erect temporary signs to advertise the Property for sale or rent.
 - c.) The right to clear dead wood and brush from and otherwise maintain the easement area after giving notice to and receiving written approval from the Grantee, acting through its Inland Wetlands and Conservation Commission.
5. Grantor understands and expressly agrees that Grantee shall, through this instrument, have the right of ingress to and egress from the easement area from and through the property for the purpose of using the easement area for all purposes provided and assisting in the maintenance of same.
6. Should circumstances so change in the future that the purpose and intent of this grant can no longer be fulfilled, or that the fulfillment of said purposes would no longer be appropriate, the Grantor or its successors and the Grantee or its successors may

mutually agree to alter the rights, covenants and restrictions of this easement at any time.

TO HAVE AND TO HOLD the above-granted rights, privilege or authority unto said Grantee, its successors and assigns forever, to its and their proper use and behalf.

IN WITNESS WHEREOF, the Grantor has hereunto set or caused to be set his/her and seal this ___ day of _____, 20____.

GRANTOR

STATE OF CONNECTICUT)

) ss.

COUNTY OF HARTFORD)

Personally appeared, _____ signer(s) of the foregoing instrument, and acknowledged the same to be _____ free act and deed before me this _____ day of _____, 20____.

Commissioner of the Superior Court
Notary Public

APPENDIX D

Town of Wethersfield Schedule of Fees

a. Declaratory Rulings.	Exemption. No fee.
b. Summary Ruling.	One hundred thirty five dollars (\$135.00) * or as amended
c. Plenary Ruling.	One hundred eighty five dollars (185.00)* or as amended
d. State Impact Fee:	Sixty (\$60.00) or as amended
e. IW Map or regulation change	One hundred twenty five dollars (\$125.00)
f. IW Regulations - purchase copy	Ten dollars (\$10.00)
g. IW Map - purchase copy	Seven dollars and fifty cents (\$7.50)
h. Erosion and Sedimentation Certification	Exemption. No fee.
i. Complex Application	See Appendix F

* Includes State Impact Fee

(Rev. November 24, 2009)



APPENDIX E

Application No. _____

Date Filed _____

APPLICATION EROSION AND SEDIMENTATION CONTROL CERTIFICATION INLAND WETLANDS AND CONSERVATION COMMISSION

Please fill in and return this application with fifteen (15) Erosion and Sedimentation Plans (or the number required by the Wetlands Agent) outlining adequate control measures to minimize accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site where **more than one-half acre** of cumulative area is to be disturbed. For information necessary to determine the required narrative, refer to Article XII of the Inland Wetlands and Watercourses Regulations.

1. Name of Applicant _____

Property Address _____

Home/Business Address _____

Telephone No. _____

Email _____

2. Name of Property Owner (if not the applicant) _____

Home/Business Address _____

Telephone No. _____

Email _____

APPENDIX F

ORDINANCE FOR LAND DEVELOPMENT APPLICATIONS

Be it ordained that **Chapter 100, Article I –Complex Land Development Applications** be added to the Code of the Town of Wethersfield.

[HISTORY: Planning & Zoning Regulations, ZBA, Inland Wetlands/Watercourse Regulations, Design Review Advisory Committee and Historic District Commission Regulations]

Section 100-1 Purpose

The purpose of this ordinance is to provide the Wethersfield Planning and Zoning Commission, Zoning Board of Appeals, Inland Wetlands and Watercourse Commission, Design Review Advisory Committee, Historic District Commission and Town staff with the authority granted in Connecticut General Statutes Section 8-1c, to establish a schedule of reasonable fees for the processing of land use applications that are extraordinarily large, complex or significant and which may pose environmental, traffic and/or other issues beyond the expertise of the Town's staff to evaluate and make appropriate recommendations. Such fees shall be used to cover the cost of retaining experts to analyze and review the application.

Section 100-2 Procedure

In such instances, the Commission will review the matter with its staff and determine if outside, independent studies and/or consultations are necessary for the Commission to decide the issues before it. The Commission shall seek, to the extent practical, to identify the need for such studies or consultations prior to the commencement of the public hearing process; provided, however, that the Commission may also make such a determination during the hearing process. The decision to require the assistance of consultants shall require the affirmative vote of not less than the following: five (5) votes for Planning and Zoning applications, five (5) votes for Inland Wetlands and Watercourse applications, four (4) votes for Zoning Board of Appeals applications, three (3) votes for Historic District Commission applications and three (3) votes for Design Review Advisory Committee applications. The Board/Commission shall notify the applicant of its determination that such studies or consultations are needed and the estimated fee costs within 5 business days following such determination. If the applicant fails or refuses to deposit the consultants estimated fee with the Town the application will be considered incomplete. At its next regularly scheduled meeting or hearing on the application the Board/Commission shall note in its minutes that the application is considered incomplete. Incomplete applications are considered sufficient ground for denial of the application.

Section 100-3 Consultant Selection

Town staff shall select, after soliciting fee proposals and at its sole discretion, the persons or entities that are to perform such studies or consultations, and shall direct the performance of such studies or consultations.

Section 100-4 Fee Required

The Commission shall require an applicant, as a condition of processing its application, to deposit the fee for any required consultation or special study with the Town prior to the review of such application. All fees required under this ordinance shall be paid by cash, check or money order made payable to the Town of Wethersfield. The Commission shall require the applicant to place a sum into a fee account in an amount reasonably calculated to reflect one hundred twenty-five percent (125%) of the anticipated actual cost of such studies or consultations. The applicant shall be provided with invoices of the expenses incurred by the Town for any outside consultant work.

Upon completion of the technical review by the outside consultant and after publication of the Board or Commission's decision as required by law the balance of the fee which has not been expended by the Commission for the study and/or consultation shall be returned or released to the applicant.

Effective Date

This ordinance shall be effective on August 3, 2009.

PURPOSE: To establish a schedule of reasonable fees for the processing of land use applications that are extraordinarily large, complex or significant; which may pose environmental, traffic and/or other issues beyond the expertise of the Town staff.

PREPARED BY: Peter Gillespie, Town Planner

INTRODUCED BY: Deputy Mayor Paul Montinieri

Date: June 15, 2009

ATTACHMENTS

1. Inland Wetlands and Conservation Commission Rules and Procedures

ATTACHMENT 1

INLAND WETLANDS AND CONSERVATION COMMISSION RULES AND PROCEDURES

ARTICLE I

Purpose and Authorization

The objectives and purposes of the Inland Wetlands and Conservation Commission of Wethersfield are those set forth in The Connecticut General Statutes, and those powers and duties delegated to the Inland Wetlands and Conservation Commission in the aforementioned Statutes and by the "Ordinance Establishing an Inland Wetlands and Water Courses Commission" within the Town of Wethersfield, approved on June 24, 1974.

ARTICLE II

The Commission shall be known as the Inland Wetlands and Conservation Commission, and may hereafter be referred to as The Commission.

ARTICLE III

Office of Agency

The office of the Inland Wetlands and Conservation Commission shall be at Wethersfield Town Hall where all Commission records will be kept. Copies of all official documents, records, maps, etc., will be filed or recorded in the Engineering Division office when required.

ARTICLE IV

Membership

The membership and terms of office shall be as specified in the above stated ordinance establishing The Commission, and the aforementioned General Statutes.

ARTICLE V

Officers and Their Duties

Section 1. The officers of the Commission shall consist of a Chairman and a Vice-Chairman.

Section 2. The Chairman shall preside at all meetings and hearings of The Commission and shall have the duties normally conferred by parliamentary usage on such officers. The Chairman shall have the authority to appoint committees, call special meetings, and generally perform other duties as may be prescribed in these rules and procedures.

Section 3. The Chairman shall be one of The Commission members. He/she shall have the privilege of discussing all matters before The Commission and of voting thereon. It is the responsibility of the Chairman to assure a "Public Comments" item on the monthly agenda, that

such Public Comments be limited as to time and to issues unrelated to those matters otherwise scheduled for Public Hearing. (Amended 7-20-88)

Section 4. The Vice Chairman shall act for the Chairman in his/her absence and have the authority to perform the duties prescribed for that office. He/she shall be a Commission member.

Section 5. The Town Staff shall keep the minutes and records of The Commission and, shall prepare the agenda of regular and special meetings under the direction of the Chairman, provide notice of all meetings to Commission members; arrange proper and legal notice of hearings; attend to correspondence of The Commission, and such other duties as are normally carried out by a Clerk.

ARTICLE VI

Election of Officers

Section 1. An annual organization meeting shall be held ***the first meeting after July 1st***, at which time officers will be elected and rules and procedures reviewed and be made a part of the annual meeting. Officers may be elected by a majority vote of members present.

Section 2. Nominations shall be made from the floor at the annual organization meeting and elections of the officers specified in Section 1 of Article V shall follow immediately thereafter.

Section 3. A candidate receiving a majority vote of the members present shall be declared elected and shall serve for one year or until his/her successor shall take office.

Section 4. Vacancies in office shall be filled by regular election procedure as herein specified with terms to run until the next annual organizational meeting.

Section 5. Resignations from The Commission shall be in written form and transmitted to the Town Clerk, who will then forward same to the executive officer of the Community.

ARTICLE VII

Meetings

Section 1. Regular meetings will be held at Wethersfield Town Hall on the third Wednesday of each month, except as may be otherwise noted in the schedule of meetings on file in the office of the Town Clerk. In event of conflict with holidays or other events, a majority may change the date of said meeting at the time the annual schedule of meetings is prepared for filing with the office of Town Clerk as set forth in Public Act 723 (1967). The Town Staff shall notify the membership of regular meetings, in writing, not less than 48 hours in advance of such meeting.

Section 2. Special meetings may be called by the Chairman, when such meetings are deemed necessary to the interests and welfare of the Town, provided notice of such meeting is posted in the office of the Town Clerk not less than 24 hours prior to such meeting; and further, emergency meetings may be called without such notice provided a copy of the minutes of such meeting, adequately setting forth the nature of the emergency and the proceedings of The Commission is filed in the Engineering Division office. E not more than 72 hours following such meeting (Public Act 723, 1967).

Section 3. A majority of the voting membership of The Commission shall constitute a quorum, and the number of votes necessary to transact business shall be a majority of members of the Commission except approval of minutes which shall be by majority of members present, as otherwise provided by the Connecticut General Statutes. The notice of such meeting shall specify the purpose of such meeting and no other business may be considered except by unanimous consent of the members present.

Section 4. In case any member of The Commission is unable to act because of absence, sickness or self-interest, his place shall be taken by an alternate member selected under the procedure specified by the Connecticut General Statutes.

Section 5. All meetings of The Commission shall be open to the public when in session and shall be open to the public when in executive sessions when so voted by the majority of The Commission members present and voting. In accordance with the "Ordinance Establishing an Inland Wetlands and Water Courses Commission" within the Town of Wethersfield, all meetings at which decisions are made shall be open to the public.

Section 6. Unless otherwise specified, "Roberts Rules of Order" shall govern the proceedings at the meetings of this Commission.

ARTICLE VIII

Disqualification

No members of The Commission shall participate in any hearing or decision or any matter when he/she is disqualified for self interest, personal, financial or otherwise. In the event of such disqualification, it shall be entered upon the records of The Commission and the place of the member disqualified shall be taken by an alternate member designated by the Chairman. The Chairman shall make the final decision as to the disqualification of a member for self-interest.

ARTICLE IX

Order of Business

Section 1. Unless otherwise determined by the Chairman, the order of business at public meetings shall be:

- a. Call to order.
- b. **Public Comments**
- c. **Public Hearings**
- d. **Public Meeting**
- e. Old Business
- f. New Business
- g. **General Business**
 1. **Approval of Minutes**
 2. **Reports of Officers and Committees**
 3. **Correspondence**
- h. Adjournment

Section 2. A motion from the floor must be made and passed in order to dispense with any item on the agenda or change the order of business.

ARTICLE X

Public Hearings

Section 1. Public hearings shall be held on the third Wednesday of each month, immediately preceding the **public** meeting, except as may be otherwise noted in the schedule of meetings on file in the office of the Town Engineer. In the event of conflict with holidays or other events, a majority vote may change the date of said hearings at the time the annual schedule of meetings is prepared for filing with the office of the Town Clerk in accordance with Public Act 723 (1967).

Section 2. The Commission may hold public hearings, in addition to required hearings, when it decides that such hearings will be in the public interest, provided that notice of any such hearing is posted in the office of the Town Engineer not less than 24 hours before such meeting in accordance with Public Act 723, (1967).

Section 3. All public hearings prescribed by law shall be held in accordance with the requirements set forth for such hearings in the "Ordinance Establishing an Inland Wetlands and Watercourses Commission" within the Town of Wethersfield, the aforementioned Statutes and the aforementioned Public Act 723 of 1967.

Section 4. A competent stenographer shall take the evidence, and/or the evidence shall be recorded by a sound recording device, at each hearing before The Commission in which the right to appeal lies to the Superior Court. Proceedings of the hearing shall be incorporated into the minute book of The Commission to be permanent part of the record.

Section 5. To better expedite the proceedings of the hearing and to cause a better understanding of the issue involved, The Commission shall have prepared prior to the hearing and hearing agenda and visual aids for display and presentation during the discussion of the hearing, if practicable.

ARTICLE XI

Conducting the Public Hearing

Section 1. The Chairman of the Commission shall preside at the public hearing. In the event of his absence, the Vice Chairman or duly appointed Commission member shall act as presiding officer.

Section 2. The Town Staff shall read the legal advertisement and note the dates and newspapers in which the advertisement appeared.

Section 3. The Chairman shall prescribe the method of conduct of the hearing.

Section 4. It shall be made clear to the public that all comments must be directed to the Chair, and only after being properly recognized by the presiding officer.

Section 5. All persons recognized shall approach the hearing table in order to facilitate proper recording of comments. Before commenting on the matter before the hearing, each person shall give his name and address.

Section 6. The presiding officer shall assure an orderly hearing and shall take necessary steps to maintain the order and decorum of the hearing at all times. The presiding officer shall reserve the right to terminate the hearing in the event the discussion becomes unruly and unmanageable.

Section 7. The show of hands by those persons present shall not be allowed on any general question present at the public hearing. The hearing shall be conducted only for the purpose of taking testimony to be considered in deliberations of the public meeting of The Commission.

ARTICLE XII

Special committees may be appointed by the Chairman for purposes and terms which The Commission approved.

ARTICLE XIII

Public Relations

Section 1. The Chairman or a duly appointed Commission member or staff personnel shall act as public relations or publicity director for The Commission. His/her duties include the preparation of all news releases to be distributed to the communications media. All information releases shall reflect the thinking of the majority of The Commission.

Section 2. In the matter of the press, radio, and television representatives, The Commission shall comply with Chapter 3, Section 1-19, 1-20, 1-21, of the Connecticut General Statutes, 1958 Revisions, as amended.

ARTICLE XIV

Staff and Their Duties

Section 1. The Commission shall appoint a duly authorized agent to carry out specific functions and duties as prescribed by The Commission. These duties shall include:

- a. making jurisdictional rulings;
- b. issuing enforcement orders;
- c. making permit compliance inspections;
- d. investigating complaints.

Section 2. The duly authorized agent shall make a report to the Commission at its regular meeting. Such report shall consist of a list and description of all rulings and activities performed.

Section 3. Any ruling made by the duly authorized agent is subject to final approval by The Commission.

ARTICLE XV

Amendments

These rules and procedures may be amended by a two-thirds vote of the entire voting membership of The Commission, only after the proposed change has been read and discussed at a previous

regular meeting, except that the rules and procedures may be changed at any meeting by the unanimous vote of the entire voting membership of The Commission.

DATE OF LAST REVISION September 9, 2020

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