

# INLAND WETLANDS AND WATERCOURSES REGULATIONS

## FOR THE TOWN OF BURLINGTON, CONNECTICUT

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## **SECTION 1 TITLE AND AUTHORITY**

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

**1.2** These Regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Burlington, Connecticut", or, "Regulations".

**1.3** The Inland Wetlands and Watercourses Commission of the Town of Burlington, Connecticut was established in accordance with an ordinance adopted May 1974 and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Burlington, Connecticut.

**1.4** These Regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these Regulations.

**1.5** The Commission shall enforce all provisions of the Act and shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and watercourses

in the Town of Burlington, Connecticut, "Town", pursuant to sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## **SECTION 2 DEFINITIONS**

- 2.1** As used in these Regulations: (Whether in full or partial caps or lower case)
- "Act" means the Connecticut Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45 of the General Statutes, as amended.
- "Agriculture" means the science, art and business of cultivating the soil, producing crops, and raising livestock.
- "Bogs" are areas distinguished by peat deposits, poor drainage, highly acidic conditions, and by an association of plants recognized as bog species. Typical examples of bog species are listed in the booklet titled Inland Wetland Plants of Connecticut by Wm A. Neiring and R. H. Goodwin, Connecticut Arboretum for the Connecticut Department of Environmental Protection, May 1973.
- "Clear-cutting" means the harvest, cutting, knocking down, or otherwise displacing of timber in a fashion, which removes more than one half of trees down to a two-inch diameter at breast height within an area of a minimum of 10,000 square feet.
- "Commission" means the Inland Wetlands and Watercourses Commission of the Town of Burlington, Connecticut.
- "Commission member" means a member of the Inland Wetlands and Watercourses Commission of the Town of Burlington, Connecticut.
- "Commissioner of Environmental Protection" means the commissioner of the State of Connecticut Department of Environmental Protection.
- "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.
- "Crop" means cultivated plants or agricultural produce, such as grain, vegetables, or fruit.
- "Cultivate" means to improve and prepare land, as by plowing or fertilizing, for raising crop; or to grow or tend a plant or crop.
- "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
- "Designated Agent" means an individual(s) designated by the Commission to carry out its functions and purposes.
- "Discharge" means emission of any water, substance, or material whether liquid, solid or gaseous, into wetlands or watercourses whether or not such substance causes pollution.
- "Disturb the natural and indigenous character of the land" means that the activity will significantly alter the inland wetlands and watercourses by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.
- "Essential to the farming operation" means that the activity proposed is necessary and indispensable to sustain farming activities on an existing farm.
- "Farming" means use of land for the growing of crops, raising of livestock or other agricultural use.
- "Feasible" means able to be constructed or implemented consistent with sound engineering principles.

"Harvest" means the act or process of gathering a crop.

"License" means the whole or any part of any permit, certificate of approval or similar form of permission, which may be required of any person by the provisions of these Regulations under the authority of the Inland Wetlands Commission.

"Management Practice" means a practice, procedure, activity structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to, but are not limited to: erosion and sedimentation controls; restrictions on land use or development, construction setbacks from wetlands or watercourses; proper disposal of waste materials, procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

"Map" means the, "Inland Wetlands and Watercourses Map, Burlington, CT".

"Marshes" are areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common. Typical examples of marsh species are listed in the booklet titled Inland Wetland Plants of Connecticut by Wm. A. Neiring and R. H. Goodwin, Connecticut Arboretum for the Connecticut Department of Environmental Protection, May 1973.

"Material" means any substance, solid or liquid, organic or inorganic, including but not limited to: vegetation, trees, soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.

"Municipality" means any town or city in Connecticut.

"Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.

"Permit," means the whole or any part of any license, certificate or approval or similar form of permission, which may be required of any person by the provisions of these Regulations, under the authority of the Inland Wetlands Commission.

"Permittee" means the person to whom such permit has been issued.

"Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

"Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

"Prudent" means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

"Regulations" means the Inland Wetlands and Watercourses Regulations of the Town of Burlington, Connecticut.

"Regulated Activity" means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, including any earthmoving, filling, construction, clear cutting of trees, or discharge of storm water within 500 feet (measured on a horizontal plane) of wetlands or watercourses, or construction or repairs of structures over said wetlands or water courses, but shall not include the specified activities in section 4 of these Regulations.

"Regulated Area" means any wetlands or watercourses as defined in these Regulations.

"Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.

"Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.

"Significant activity" means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system:

1. Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system; or
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life; or to prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions; or
4. Any activity which causes substantial turbidity, siltation or sedimentation in a wetland or watercourse; or
5. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area; or
6. Any activity which causes or has the potential to cause pollution of a wetland or watercourse; or
7. Any activity, which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

"Soil Scientist" means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.

"Swamps" are areas with soils that exhibit aquatic moisture regimes and are dominated by wetland trees and shrubs. Typical examples of swamp species are listed in the booklet titled Inland Wetland Plants of Connecticut by Wm. A. Neiring and R. H. Goodwin, Connecticut Arboretum for the Connecticut Department of Environmental Protection, May 1973.

"Submerged lands" means those lands, which are inundated by water on a seasonal, more frequent, or yearlong basis.

"Town" means the Town of Burlington, Connecticut.

"Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.

"Watercourses" means rivers, streams, brooks, springs, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal, intermittent, or with permanent flow, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to sections 22a-28 through 22a-35 of the General Statutes, as amended. 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. "Wetlands" means land, including submerged land as defined in this section, not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites, which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

### **SECTION 3 INVENTORY OF REGULATED AREAS**

**3.1** The Map of regulated areas delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this Map are available for inspection in the Office of the Town Clerk or of the Commission. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.

**3.2** Any property owner who disputes the designation of any part of his or her land as a regulated area on the Map, may petition the Commission to change the designation in accordance with section 14 of these Regulations. All petitions for a Map change shall be submitted in writing and shall include all relevant facts and circumstances, which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with section 14 of these Regulations may be required of the property owner when the Commission requires an accurate delineation of regulated areas.

**3.3** The Commission or its designated agent(s) shall inventory and maintain current records of all regulated areas within the town. The Commission may amend the Map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the town. Such Map amendments are subject to the public hearing process outlined in section 14 of these Regulations.

### **SECTION 4 PERMITTED USES AS OF RIGHT & NONREGULATED USES**

- 4.1** The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this

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, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;

- b. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Burlington Planning and Zoning Commission as of the effective date of promulgation of these Regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as a right under such a subdivision shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement;
- c. Boat anchorage or mooring, not to include dredging or dock construction;
- d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality (provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres) and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall 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 by section 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-410 of the General Statutes.

**4.2** The following operations and uses shall be permitted as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetlands or watercourses by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
- b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing and cross-country skiing where otherwise legally permitted and regulated.
- c. Any removal or deposition of material, construction, earthmoving, filling, clear cutting of trees, discharge of storm water, or other regulated activity, which does not occur within an inland wetland or watercourse and has been determined by a review of the Commission to involve no impact on an inland wetland or watercourse.

- d. The removal of water from a watercourse by municipal fire departments for the purpose of fighting fires or by the Burlington Volunteer Fire Department for the purpose of training fire fighter personnel.

**4.3** All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Commission in accordance with section 6 of these Regulations.

**4.4** To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation or use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Commission or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Commission following the meeting at which the request was received. The designated agent for the Commission may make such ruling on behalf of the Commission at any time. The proposed operation or use shall not be commenced until the Commission has made its ruling and a permit has been issued if required.

## **SECTION 5 ACTIVITIES REGULATED BY THE STATE**

**5.1** In addition to any permit or approval required by the Commission, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:

- a. Construction or modification of any dam pursuant to sections 22a-401 through 22a-410 of the General Statutes, as amended;
- b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to sections 22a-342 through 22a-349 of the General Statutes, as amended;
- c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to sections 22a-28 through 22a-35 of the General Statutes, as amended;
- d. Diversion of water including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day, or any change in the instantaneous flow of any surface waters of the state where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to sections 22a-365 through 22a-378 of the General Statutes, as amended;
- e. Discharges into the waters of the state pursuant to section 22a-430 of the General Statutes, as amended;
- f. Discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.

**5.2** The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, Commission or instrumentality of the State of Connecticut, except any local or regional board of education, (1) after an advisory decision on such license or permit has been rendered to the Commissioner of Environmental Protection by the Commission or (2) thirty-five days after receipt by the Commissioner of Environmental Protection of such application, whichever occurs first.

**5.3** The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the General Statutes as amended by Public Act 91-308.

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

**6.1** No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Commission.

**6.2** The Commission shall regulate any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses and any other regulated activity, unless such operation or use is permitted or non-regulated pursuant to section 4 of these Regulations.

**6.3** Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these Regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 13 of these Regulations and any other remedies as provided by law.

**6.4** Members of the Commission and/or their agents shall have the right of free access at reasonable times to the portion of the property under consideration.

## **SECTION 7 APPLICATION REQUIREMENTS**

**7.1** Any person wishing to undertake a regulated activity shall apply for a permit on a form entitled "Town of Burlington Connecticut Inland Wetlands and Watercourses Commission - Application for Permit." An application shall include such information as prescribed by subsection 7.4 and, in the case of a significant activity, by subsection 7.5 of these Regulations. Application forms may be obtained in the offices of the Commission.

**7.2** All applications shall contain such information that is necessary for a fair and informed determination of the issues.

**7.3** The Commission and the applicant may hold a pre-application meeting to determine whether or not the proposed application involves a significant activity. The applicant may obtain a copy of a pre-activity review form from the Commission's Office.

- 7.4** All applications shall include the following information in writing or on maps or drawings:
- a. The applicant's name, home and business address and telephone numbers;
  - b. The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application;
  - c. Applicant's interest in the land;
  - d. The geographical location of the property which is to be affected by the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s) and wetland vegetation;
  - e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
  - f. Alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen. These alternatives shall be diagrammed on a site plan or drawing;
  - g. A site plan showing existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.
  - h. Names and addresses of adjacent property owners;
  - i. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
  - j. Authorization for the Commissioners and agents of the Commission to inspect the property, at reasonable times, both before and after a final decision has been issued;
  - k. Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
  - l. Submission of the appropriate filing fee based on the fee schedule established in section 18 of these Regulations.

- 7.5** If the proposed activity involves a significant activity as determined by the Commission and defined in Section 2 of these Regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:
- a. Site plans for the proposed use or operation and the property which will be affected which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the development drawn by a licensed surveyor, professional engineer or landscape architect registered in the State of Connecticut or by such other qualified person;

- b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service (the Commission may require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated onto the site plans);
- d. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions;
- e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;
- f. Analysis of chemical or physical characteristics of any fill material;
- g. Measures, which mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.

**7.6** All applicants shall certify whether:

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

**7.7** Four copies of an application and supporting forms and materials shall be submitted and shall comprise a complete application unless otherwise directed in writing, by the Commission.

**7.8** Any application to extend the expiration date of a previously issued permit or amend an existing permit shall be filed with the Commission at least sixty-five (65) days prior to the expiration date for the permit in accordance with section 8 of these Regulations. Any application for amendment, renewal or extension shall be made in accordance with this subsection provided:

- a. The application may incorporate by reference the documentation and record of the original application;
- b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
- c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property for which the permit was issued;
- d. The Commission may accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity; the

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

- e. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.

**7.9** A reporting form shall be completed by an applicant during the application process, which provides the Commissioner of the Department of Environmental Protection with information necessary to properly monitor the inventory of State wetlands. The reporting form shall be part of the application and the following information shall be provided by the applicant: name of applicant; location and name of the project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered. The Commission shall be responsible for the remaining information and any corrections on the form and for filing it in accordance with section 22a-39-14 of the Inland Wetlands and Watercourses Regulations of the Department of Environmental Protection. The form may be obtained from the Commission's Office.

## **SECTION 8 APPLICATION PROCEDURES**

**8.1(a)** Applications for permits or regulation or boundary map changes are governed by these Regulations and by the Statutes. Provisions of the Statutes shall prevail over conflicting language in these Regulations.

**8.1(b)** All petitions, applications, requests or appeals shall be submitted to the Building Official, Agent for the Commission.

**8.2** In the case of any application where any portion of the wetland or watercourse on which the regulated activity is proposed is located within 500 feet of the boundary of Farmington, Bristol, New Hartford, Harwinton, Avon, Plymouth or Canton, the applicant shall give written notice of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetlands Commission on the same day of filing an inland wetland permit application with the Burlington Inland Wetlands Commission. Documentation of such notice shall be provided to the Burlington Inland Wetlands Commission in accordance with Section 8-7d(f) of the Statutes as amended.

**8.3** The Commission shall, in accordance with Statute sections 8-7b(f) and 22a-42a(b), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:

- a. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- b. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or
- c. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

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

**8.4** When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 16-1 of the Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the Inland Wetlands Commission of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.

**8.5** The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Commission, immediately following the day of submission to the Commission or its agent of such petition, application, request or appeal, or thirty-five days after such submission, whichever is sooner.

**8.6** At any time during the review period, the Commission may require the applicant to provide additional information about the regulated area or regulated activity, which is the subject of the application, or the wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitations as set forth in subsection 11.2 of these Regulations.

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

**8.8** Incomplete applications may be denied.

**8.9** The Commission reserves the right to waive any of the requirements in Section 7 of the Regulations if in its opinion the information submitted by the applicant is sufficient to make an informed decision.

## **SECTION 9 PUBLIC HEARINGS**

**9.1** A public hearing shall not be held on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the Commission not later than fourteen (14) days after the date of receipt of such application, or the Commission finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing provided no petition provided for in this section is filed with the Commission on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held in accordance with Section 8-7d(a) and 22a-42a(c) of the Statutes, commence within sixty-five (65) days after receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney.

**9.2** Notice of the public hearing shall be published in accordance with Section 8-7d(a) of the Statutes at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.

**9.3** In the case of any application, subject to the notification provisions of subsection 8.3 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipalit(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

**9.4** A minimum of two signs must be posted and maintained substantially without interruption on the premises which is the subject of a public hearing no less than twelve (12) days prior to the opening of the public hearing or any reconvening thereof and must be removed within 10 days after the completion of the hearing. Proof of compliance with the 12-day requirement shall be the responsibility of the applicant. Both signs shall be posted on or about the street frontage line, not the paved or traveled surface, and one sign shall face the traffic flow from one direction and the other shall face the traffic flow from the opposite direction. If the subject premises abut two or more streets, two signs are required, posted and maintained, per street. Each sign must be no more than 15 feet, plus or minus 2 feet, from the edge of the paved surface or traveled portion, in plain and unobstructed view of the traffic flow intended to see the sign, and must be visible and readable for the full time of the required posting. Each sign shall be a minimum of 2 feet by 2 feet and shall be yellow or orange in color with legible black block printed lettering. The wording shall be as follows:

NOTICE OF HEARING

INLAND WETLANDS COMMISSION

TOWN HALL

(date)

Signs shall be obtained from the Office of the Commission upon receipt of a cash deposit.

**SECTION 10  
CONSIDERATIONS FOR DECISION**

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

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

Town:

1. Conservation Commission
2. Planning and Zoning Commission
3. Building Official
4. Bristol/Burlington Health Officer.

- d. The Commission may also consider comments on any application from the Hartford County Soil and Water Conservation District, the Central Connecticut Regional Planning Agency or other regional organizations (i.e. Council of Elected Officials); agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
- e. Non-receipt of comments from agencies and commissions listed in subdivisions 10.1.c and d above within the prescribed time shall neither delay nor prejudice the decision of the Commission.

## **10.2 Standards and Criteria for Decision.**

In carrying out the purposes and policies of sections 22a-36 to 22a-45 of the Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission 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, including the effects on the inland wetland's and watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety;
- 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. Alternatives should include, but are not limited to, the alternative of requiring actions of different nature, which would provide similar benefits with different environmental impacts, such as using a different location for the activity;
- c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands and 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 (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 measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sedimentation, to prevent erosion, to assimilate wastes, to facilitate drainage, to control pollution, to support recreational activities and open space, and to promote public health and safety;
- e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed regulated activity. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community;

- f. 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;

**10.3(a)** In the case of any application, which received a public hearing, pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. The applicant has the burden of demonstrating that a feasible and prudent alternative to the alteration or destruction of wetlands or watercourses does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in section 10 of these Regulations. This finding and the reasons therefor shall be stated on the record of the decision by the Commission in writing.

**10.3(b)** 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 Commission 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 he is entitled to the permit or to present alternatives to the proposed regulated activity.

**10.4** In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision. 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/her application is consistent with the purposes and policies of these Regulations and sections 22a-36 to 22a-45, inclusive, of the Statutes.

**10.5** For the 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.

**10.6** The commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.

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

**11. (a).1** The Commission, may grant the application as filed, grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive, of the Statutes, or deny it. 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.

**11. (a).2** Pursuant to Section 8-7d of the Statutes, no later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission shall be withdrawn by the applicant or denied by the Commission.

**11(a).3** The Commission shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.

**11(a).4** The Commission shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within ten days thereafter.

**11(a).5** If an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed with the Town Planning and Zoning Commission within fifteen days of the date of the decision.

**11(a).6** If the activity authorized in a permit is not initiated within three (3) years from the date the permit was issued, such permit shall expire unless it is extended pursuant to subsection 7.8 of these Regulations. The duration of any permit shall be no less than two (2) and no more than five (5) years. All permits shall expire upon the completion of the acts specified therein.

**11(a).7** No permit shall be assigned or transferred without the written permission of the Commission.

**11(a).8** If a bond or insurance is required in accordance with section 12 of these Regulations, no permit shall be issued until such bond or insurance is provided.

**11(a).9** General provisions in the issuance of all permits:

- a. If the Commission relied in whole or in part on information provided the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.

- b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Burlington, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity.
- c. If the activity authorized by the inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.
- d. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- e. Permits are not transferable without the prior written consent of the Commission.

**11(b).1** The Commission may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner pursuant to Section 221-39 of the Statutes.

**11(b).2** Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town where the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within fifteen days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these Regulations.

## **SECTION 12 BOND AND INSURANCE**

**12.1** Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to file a bond with such surety in such amount and in a form approved by the Commission.

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

**12.3** The Commission may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount commensurate with the regulated activity.

## **SECTION 13 ENFORCEMENT**

**13.1** The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these Regulations.

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

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

- a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44(b) of the Statutes, as amended.
- b. Suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct, which warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.
- c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subdivision 13.3.a or other enforcement proceedings as provided by law.

**13.4** In the event that the Commission issues an order of cease and desist or an order to correct an inland wetland or watercourse violation, the Commission may file a certificate of such order in the Office of the Town Clerk. The Town Clerk shall record the certificate on the Town's land records. The certificate shall be released upon compliance with the order.

## **SECTION 14 AMENDMENTS**

**14.1.a** These Regulations and the Map may be amended, from time to time, by the Commission in accordance with changes in the Statutes or regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

**14.1.b** An application filed with the Commission which is in conformance with the applicable Regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in the Regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this subdivision shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of chapter 440 of the Statutes as of the date of such receipt.

**14.2** These Regulations and the Map shall be amended after the public hearing in the manner specified in section 22a-42a of the Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments pursuant to subsection 14.3 of this section, at least thirty-five days before the public hearing on their adoption. (Fee schedules shall be adopted as Agency regulations or as otherwise provided by municipal ordinance.)

**14.3** Petitions requesting changes or amendments to the Map, shall contain at least the following information:

- a. The petitioner's name, address and telephone number;
- b. The address of the land affected by the petition;
- c. Petitioner's interest in the land affected in by the petition;
- d. Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
- e. The reasons for the requested action.

**14.4** Any person who submits a petition to amend the Map shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Commission. If such person is the owner,

developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 14.3, the petition shall include:

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

**14.5** Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.

**14.6** A public hearing shall be held on petitions to amend the regulations and the Map. Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last not less than two days before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

**14.7** The Commission shall hold a public hearing on a petition to amend the regulations and the Map within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after the completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such petition. Failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

**14.8** The Commission shall make its decision and state, in writing, the reasons why the change in the Map was made or was not made.

## **SECTION 15 APPEALS**

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

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

## **SECTION 16 CONFLICT AND SEVERANCE**

**16.1** If there is a conflict between 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 valid part, or parts.

**16.2** If there is a conflict between any provision of these Regulations and the provision of the act, the provisions of the act shall govern.

## **SECTION 17 OTHER PERMITS**

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

## **SECTION 18 APPLICATION FEES**

**18.1** Method of Payment. All fees required by these Regulations shall be submitted to the Commission by certified check or money order payable to the Town at the time the application is filed.

**18.2** No application shall be granted or approved by the Commission unless the correct application fee is paid in full or unless a waiver has been granted by the Commission pursuant to subsection 18.7 of these Regulations.

**18.3** The application fee is not refundable.

**18.4** Definitions. As used in this section:

"Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

"Commercial uses" means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.

"Other uses" means activities other than residential uses or commercial uses.

**18.5 Fee schedule. Application fees shall be based on the following schedule:**

- **PRE-ACTIVITY REVIEW, to determine Whether activity is regulated, non-regulated, or of-right** **\$ 0.00**
  
- **APPLICATION FOR SINGLE RESIDENTIAL LOT**  
or
- **FORESTRY CLEARING BY A LICENSED FORESTER**  
*under 25 acres total property* **\$ 50.00 + \$ 30.00\***
  
- 25 acres or more but less than 50 acres** **\$ 100.00 + \$ 30.00\***
  
- 50 acres or more total property** **\$ 150.00 + \$ 30.00\***

**Note: For forestry clearing, an additional \$100.00 fee will be collected for each crossing of a wetland.**

- **APPLICATION FOR COMMERCIAL PROPERTY OR RESIDENTIAL SUBDEVELOPMENT**  
  
  - under 25 acres total property** **\$ 200.00 + \$ 30.00\***
  
  - 25 acres or more but less than 50 acres** **\$ 300.00 + \$ 30.00\***
  
  - 50 acres or more total property** **\$ 400.00 + \$ 30.00\***
  
- **PUBLIC HEARING, ALL TYPES OF ACTIVITY** **\$ 100.00**

**\* \$ 30.00 Land Use Application Fee per Public Act 03-06**

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

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

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

The Commission shall state upon its record the basis for all actions under this subsection.

## SECTION 19 RECORDS RETENTION AND DISPOSITION

**19.1** The Commission and the Town Clerk for the Town shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedules set for in subsection 19.2.

**19.2** The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands Agencies effective April 24, 1989:

<u>RECORD TITLE</u>	<u>MINIMUM RETENTION REQUIRED IN COMMISSION</u>	<u>TOWN CLERK</u>
Applications (including supporting materials)	10 years	-
Decision Letters	10 years	Permanent
Approved Site Plans	10 years	-
Legal Notices	10 years	Permanent
Staff and Public Written Testimony (hearing records)	10 years	-
Minutes of Meetings & Public Hearings	15 years	Permanent
Audio Tapes-Inland Wetland Matters	4 years	-
Notices of Violation & Orders	10 years	-
Text of Changes Adopted In Regulations	Continuous Update/ Permanent	-
General Correspondence Issued or Received	5 years	-

**SECTION 20**  
**EFFECTIVE DATE OF REGULATIONS**

- 20.1** These Regulations including the Map, application forms, fee schedule and amendments thereto, shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Burlington.