

CONSERVATION AND INLAND WETLANDS COMMISSION

TOWN OF DEEP RIVER, CONNECTICUT

Town Hall

174 Main Street

Deep River, Connecticut 06417

**INLAND WETLANDS
AND
WATERCOURSES REGULATIONS
OF THE
TOWN OF DEEP RIVER, CONNECTICUT**

Revised and Adopted as of December 4, 2007

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NOTE: THESE REGULATIONS SUPERCEDE AND REPLACE PREVIOUSLY ENACTED REGULATIONS.

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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 a core component of 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, disturbances 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 organisms, wildlife and vegetation and the destruction of 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 Deep River."
- 1.3 The Conservation and Inland Wetlands Commission of the Town of Deep River was established in accordance with an ordinance adopted July 9, 1992 and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Deep River.
- 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 the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities on inland wetlands and watercourses in the Town of Deep River 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:
"Act" means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45 of the Connecticut General Statutes, as amended.

"Bogs" are watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

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

"Clearing" means the removal of vegetation including but not limited to woody species less than 2" in diameter.

"Commission" means the Conservation and Inland Wetlands Commission of the Town of Deep River.

"Commission member" means a member of the Conservation and Inland Wetlands Commission of the Town of Deep River.

"Commissioner of Environmental Protection" means the commissioner of the State of Connecticut Department of Environmental Protection.

"Compensation" means the restoration, creation, enhancement, and/or the preservation of wetlands and other aquatic resources for the purpose of compensating for unavoidable adverse impacts that remain after appropriate and practicable avoidance and minimization.

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

"Creation" means the establishment of a wetland or other aquatic resource where one did not previously exist.

"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 provided such agent has completed the comprehensive training program developed by the CTDEP Commissioner pursuant to CGS Section 22a-39(n).

"Discharge" means emission of any water, substance, or material into wetlands or watercourses or waters of the state whether or not such substance causes pollution.

"Disturb the natural and indigenous character of the wetland or watercourse" means to alter the inland wetland or watercourse by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or to produce 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 a farm.

"Farming" means use of land for the growing of crops, raising of livestock or other agricultural use as defined by CGS Section 1-1(q).

"Feasible" means able to be constructed or implemented consistent with sound engineering.

"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 sections 22a-36 to 22a-45, inclusive.

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

"Marshes" are watercourses that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is typically at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.

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

"Municipality" means the Town of Deep River.

"Nursery" means places where plants are grown for sale, transplanting, or experimentation.

"Permit" means the whole or any part of any license, certificate or approval or similar form of permission that may be required of any person by the provisions of these regulations and the Act or other municipal, state and federal law.

"Permittee" means any person to whom a permit has been issued.

"Person" means any person, firm, partnership, association, corporation, company, limited liability 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.

"Preservation" means the long-term protection of wetlands and other aquatic resources and associated uplands through the implementation of legal and physical mechanisms.

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

"Regulated Activity" means any use of or operation within, but not limited to, a wetland, watercourse or review area involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands, watercourses or review area but shall not include the specified activities in section 4 of these regulations. Additionally, the following activities located within the regulated area or review area are regulated activities: clearing of vegetation, grubbing, filling, excavating or grading of land, clear cutting of trees, or conducting any construction activities. The Commission may rule that any other activity located within such review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

"Regulated Area" means any wetlands or watercourses and the review area.

"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 physical, chemical or biological properties of waters of the state, including, but not limited to, change in odor, color, turbidity, taste.

"Review Area" means the 100 foot wide area located adjacent to wetlands or watercourses, including that area adjacent to the high tide line of the Connecticut River and its tributaries, within which area a permit is required for certain activities that are defined in these regulations as regulated activities. Such 100-foot distance shall be the horizontal distance and shall be measured perpendicular to the boundary of the wetlands and the ordinary high water line of non-tidal watercourses or the extreme high tide line on tidal waterways. In addition, Review Area includes any area more distant than 100 feet, where, in the judgment of the Commission or its designated representative, activities, such as those defined above in "Regulated Activity", are likely to impact or affect wetlands or watercourses.

"Significant Impact 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, watercourse or review area:

1. Any activity involving deposition of material that will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system outside the area for which the activity is proposed;

2. Any activity that substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system;
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support aquatic plant or animal life and habitats; or to prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions;
4. Any activity that is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse;
5. Any activity that causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area;
6. Any activity that is likely to cause or has the potential to cause pollution of a wetland;
7. Any activity that 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 watercourses with soils that exhibit aquatic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.

"Submerged lands" means lands that are inundated by water on a seasonal or more frequent basis.

"Town" means the Town of Deep River.

"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, 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 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 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 of the Soil Conservation Service of the U.S. Department of Agriculture (USDA), as it may be amended from time to time. Such areas may include filled, graded, or excavated sites which possess an aquatic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

"Wetland Function" means any function the wetland serves including but not limited to groundwater discharge/recharge, flood flow alteration, finfish habitat, sediment/toxicant retention, nutrient removal, production export, sediment/shoreline stabilization, wildlife habitat, recreation, educational and scientific value, visual quality, and endangered species habitat.

Section 3 Inventory of Regulated Areas

- 3.1 The map of regulated areas entitled "Inland Wetlands and Watercourses Map, Deep River, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Commission. In all cases, the actual character of the land, the distribution of wetland soil types and location of watercourses shall determine the precise location of regulated areas. 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 person may petition the Commission for an amendment to the map. All petitions for 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. Such proof may include, but not be limited to, aerial photography, remote sensing imagery, resource mapping, and wetlands delineation by a soil scientist, or other available information. The Commission shall require such an owner to provide an accurate delineation of regulated areas in accordance with section 15 of these regulations.
- 3.3 The Commission or its designated agent(s) shall maintain a current inventory of regulated areas within the Town. The Commission may amend its map as more accurate information becomes available. All map amendments are subject to the public hearing process outlined in section 15 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 subsection shall not be construed to include road construction or the erection of buildings not directly related to the farming operation. The provisions of this subsection shall not be construed to include relocation of watercourses with continual flow, filling or reclamation of watercourses with continual flow or wetlands. The provisions of this subsection shall not be construed to include clear cutting of timber except for the expansion of agricultural crop land. The provisions of this subsection shall not be construed to include the mining of top soil, peat, sand, gravel or similar materials 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 a municipal planning, zoning, or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 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. Any person claiming a use of wetlands permitted as a right under this 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 or her right thereunder;
 - 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 and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition 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 through 22a-410 of the General Statutes.
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42 of the Connecticut General Statutes or July 1, 1974, which ever is earlier, provided such pipe is on property which is zoned as residential but 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.
- 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.
- 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, ice skating, and cross-country skiing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, grading, construction, and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the 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 shall, prior to commencement of such operation or use, notify the Commission on an application 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.

Section 5

Activities Regulated by the State

- 5.1 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 or 22a-35 of the Connecticut General Statutes.
- 5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair order issued by the Commissioner of Environmental Protection under section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under sections 22a-403 or 22a-41 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or dam construction permit from the Commissioner of DEP under section 22a-401 of the General Statutes shall not be required to obtain a permit from a municipal wetlands Commission for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.
- 5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401

of the Federal Clean Water Act, as amended, for activities regulated by the U. S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.

Section 6

Regulated Activities to be Licensed

- 6.1 No person shall conduct or maintain a regulated activity (see definitions) without first obtaining a permit for such activity from the Conservation and Inland Wetlands Commission of the Town of Deep River.
- 6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provisions of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 14 of these regulations and any other remedies provided by law.

Section 7

Application Requirements

- 7.1 Any person wishing to undertake a regulated activity or to renew a permit to conduct such activity shall apply for a permit on a form provided by the Commission. An applicant shall include a completed application form with information as prescribed by subsection 7.5 and, in the case of a significant activity, by subsection 7.6 of these regulations. Application forms may be obtained in the offices of the Deep River Town Clerk or the Conservation and Inland Wetlands Commission.
- 7.2 If an application to the Town of Deep River Planning, Zoning, or Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, as defined in section 2 of these regulations, the applicant shall, in accordance with Sections 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application to the Conservation and Inland Wetlands Commission, in accordance with this section, no later than the day the application is filed with such planning, zoning or planning and zoning commission.
- 7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the Commission.
- 7.4 A prospective applicant may request the Commission to determine whether or not the proposed activity involves a significant impact activity.
- 7.5 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; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate office's name, address, and telephone number;
 - b. The owner's name, mailing address and telephone number and written consent of the property owner if the applicant is not the owner of the property upon which the subject activity is proposed;
 - c. The applicant's interest in the land;
 - d. The geographical location of the property which is the subject of the proposed activity and a description of the property 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, and areas upland of the review area whose disturbance may affect inland wetlands and watercourses;
 - e. A narrative detailing 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;

- f. Alternatives which would have less or no environmental impact to wetland or watercourses and why the alternative as set forth in the application was chosen, all such alternatives shall be diagramed on a site plan or drawing;
- 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 and mailing addresses of adjacent land owners;
- I. 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;
- j. Written authorization for the members and agents of the Commission to inspect the subject property at reasonable times, before and after a final decision has been issued for the life of the permit;
- k. A completed DEP reporting form. The Commission shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
- l. A computation of the area(s) of wetland or watercourse disturbance, upland review area disturbance, total area of disturbances, percentage of impervious cover;
- m. Engineering, hydrogeologic, soils, ecological and other reports and information as deemed necessary by the Commission.
- n. Submission of the appropriate filing fee established in section 19 of these regulations.

7.6 At the discretion of the Commission or its agent, or when the proposed activity involves a significant impact activity as determined by the Commission and defined in section 2 of these regulations, additional information in addition to that listed above, based on the nature and anticipated effects of the activity, including but not limited to the following, may be required:

- a. Site plan set drawn, signed, and sealed by a licensed surveyor or professional engineer meeting the accuracy of an A-2 survey, or by a landscape architect registered in the State of Connecticut or by such other qualified person acceptable to the Commission, to include but not limited to the following:
 - 1. Existing conditions identifying complete legend, site location, all existing features including but not limited to boundaries of land ownership, adjacent property owners, existing topography (2 foot contours), existing structures, delineated wetlands, watercourses, and upland review area boundaries, and approximate wetlands and watercourses on adjacent properties within 100 feet of the existing property boundary. Also to include areas where contamination has been identified.
 - 2. Proposed conditions to include existing conditions and proposed site conditions including but not limited to identification of proposed regulated activities in relation to wetlands, watercourses, and their watersheds, and any impacts to the regulated areas which may occur, proposed limits of disturbance, clearing or cutting of vegetation, blasting, excavation, filling, grading, construction, compensation etc.
 - 3. Drainage and/or utility locations identifying all proposed conditions including grading, drainage and utilities structures.
 - 4. Soil erosion and sedimentation control plan.
 - 5. Detail sheets
 - 6. Other plans if applicable to include but not limited to the following:

- i. title sheet,
 - ii. construction plans to include, sequencing, phasing, temporary staging areas, material storage piles, access roads, storm water BMPS, blasting, wood chipping or rock crushing operations, etc.
 - iii. plan and profiles
 - iv. landscape plan to include genus/species of proposed plants
 - v. pre and post site watershed maps,
 - vi. local watershed map identifying all pre and post discharges from the site and the wetlands and watercourses to which discharges are ultimately delivered
 - vii. subdivision map
- b. Engineering reports and analyses and additional drawings to fully describe the proposed activity 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. Natural Resources Conservation Service. The wetlands shall be delineated in the field by a soil scientist and that the field delineation be incorporation 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 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; and
- g. Management practices and other measures designed to mitigate the impact of the proposed activity. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to 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 promote public health and safety.
- h. Proposed mitigation of impacts of the proposed activity. Such measures may include, but are not limited to, plans or actions which avoid negative impacts, destruction or diminution of wetlands or watercourses including but not limited to their functions, physical characteristics, vegetation, recreational uses, natural drainage patterns, water quality, and natural habitats. Also, which prevents flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.
- i. Demonstration that the release rate of storm water runoff of the developed site shall not exceed the release rate and volume of the undeveloped site for all intensities and durations of rainfall up to a 100 year storm, essentially maintaining pre and post development hydrographs or demonstrate why this is not feasible or prudent.
- j. Demonstration that the project has been designed at a minimum in accordance with guidance and recommendations set forth in the 2002 Connecticut DEP Soil Erosion and Sediment Control Manual (as updated) and the 2004 Stormwater Quality Manual (as updated).

- 7.7 The applicant shall certify whether:
- Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
 - Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or
 - Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.8 Ten (10) copies of all application materials shall be submitted to comprise a complete application, unless an applicant is otherwise directed, in writing, by the Commission.
- 7.9 Any application to renew or amend an existing permit shall be filed with the Commission in accordance with section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend an existing permit shall contain the information required under section 7 of these regulations provided:
- The application may incorporate the documentation and record of the prior application;
 - 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;
 - The application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
 - The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property or the use of the property for which the permit was issued;
 - The Commission may, prior to the expiration of a permit, accept an untimely application to renew 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 renewed 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;
- 7.10 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.
- 7.11 A copy of the "as built" site conditions may be required to be submitted to the Agency prior to issuance of the Certificate of Occupancy or upon completion of the project if no C.O. is required. The "as built" must include, but is not limited to, the following:
- The location of the wetlands and watercourses
 - Any Conservation Deed Restriction / Easements / Rights of Ways
 - All foundations, driveways, and impervious surfaces
 - All property boundaries.

Section 8 Application Procedures

- 8.1 All applications, petitions, appeals, requests or plans shall be submitted to the Conservation and Inland Wetlands Commission of the Town of Deep River.
- 8.2 The Commission shall, in accordance with Connecticut General Statutes section 8-7d(f), 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:
- 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. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or
- d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

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

- 8.3 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the Conservation and Inland Wetlands Commission of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within 7 days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.
- 8.4 The date of receipt of any application, petition, appeal, or request 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.
- 8.5 At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection.
- 8.7 Incomplete applications may be denied.
- 8.8 Applicants not providing the information required by these regulations or requested by the Commission in a reasonable and respectful manner may have their matter adjourned at the discretion of the Commission and shall then be asked to have a representative present the application in their stead at the next regularly scheduled meeting of the Commission.

Section 9 Public Hearings

- 9.1 The Commission shall hold a public hearing on an application if the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses or 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 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 fourteen days after the day of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person may appear and be heard and may be represented by agent or by attorney.
- 9.2 Notice of the public hearing shall be published by the Commission 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. The hearing shall be completed within thirty-five days of its commencement. Action shall be taken on such application within thirty-five days after the completion of a public hearing.

- 9.3 The applicant shall give written notice of the public hearing, via certified mail return receipt requested, to the abutting property owners, including those across streets or rights of way, no less than 10 (ten) days prior to the day of the hearing. Proof of the mailing and a copy of its notice must be available to the Commission no later than the day of the hearing. The notice may be a summary of the proposed application, but should contain at least:

- (1) The name of the applicant;
- (2) The name of the owner;
- (3) The location of the property;
- (4) A description of the proposed activity;
- (5) A statement that written comments may be sent to the Commission at the Town Office Building, or may be presented in person at the public hearing.

- 9.4 A sign shall be posted on the subject land which states the date, time, and place of the public hearing. Such sign will be provided by the applicant and shall be visible and legible to passersby on the principle street on which the property is located. Such sign shall indicate the general nature of the proposed activity for which a permit is being sought. The sign shall be posted at least 14 days prior to the public hearing. The sign shall be removed within 2 days of closing of the public hearing.

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 (Public Hearing only);
 - c. Reports from other agencies and commissions but not limited to the Town of Deep River.
 - d. The Commission may also consider comments on any application from the Middlesex County Soil and Water Conservation District, the Connecticut River Estuary Regional Planning Commission (CRERPA), the Connecticut River Gateway Commission 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.

The Commission shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:

- a. The environmental impact of the proposed regulated activity, 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 feasible and prudent alternatives to the proposed regulated activity including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of requiring actions of a different nature that

- would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- c. The relationship between the short term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
 - 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 the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, 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 visual impacts, recreational and other public and private uses and values of wetlands and watercourses to the community.
 - f. The suitability of the activity to the area for which it is proposed. This requires the balancing of the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology for the people of the state.
 - g. 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 In the case of an application that received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Commission shall consider the facts and circumstances set forth in subsection 10.2 of this section. The finding and the reasons shall be stated on the record in writing.
- 10.4 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the 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 he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5 For the purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant, or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6 A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetland or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 In reaching its decision on any application after a public hearing, the 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.

Section 11

Decision Process and Permit

- 11.1 The Commission, or its duly authorized agent acting pursuant to section 12 of these regulations, may in accordance with section 10 of these regulations grant the application as filed, grant it upon other terms, conditions, limitations or modifications necessary to carry out the purposes 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.
- 11.2 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 may appear and be heard and may be represented by agent or by 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 for the holding of the hearing and for action on such application provided the total extension of any such period shall not be longer than sixty-five days (65), or may withdraw such application. The failure of the Conservation and Inland Wetlands 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 must either be withdrawn by the applicant or denied by the Commission.
- 11.3 The Commission shall state upon its record the reasons and bases for its decision.
- 11.4 The Commission shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the 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 15-day period, the applicant may provide for publication within 10 days thereafter.
- 11.5 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, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Commission shall file a copy of the decision and report on the application with the Town of Deep River Planning, Zoning, or Planning and Zoning Commission within fifteen (15) days of the date of the decision thereon.
- 11.6 Any permit issued by the Commission for the development of land for which an approval is required under section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Commission may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Commission for any other activity shall be valid for not less than two years and not more than five years.
- 11.7 Permits are not transferable without prior written consent of the Commission.
- 11.8 If a bond or insurance is required in accordance with section 13 of these regulations, the Commission may withhold issuing the permit until such bond or insurance is provided.
- 11.9 General provisions in the issuance of all permits:
 - a. The Commission has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.

- b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Deep River, 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 under sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetlands permit may begin until such approval is obtained.
 - d. In conducting the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
 - e. Permits are not transferable without the prior written consent of the Commission.
 - f. Permits are not valid until all fees are paid.
 - g. The Wetlands Enforcement Officer shall be notified prior to the commencement of a permitted activity.
 - h. At the discretion of the Commission, the applicant may be asked to file the permit on the Land Records of the Town of Deep River.
- 11.10 No activity, including, but not limited to, blasting, clearing of vegetation, materials processing, storage of rock, soil, and similar materials, installation of temporary sediment basins, and/or altered phasing or construction sequence other than what was expressly presented on the plans and documents submitted as part of the application and approved by the Agency, is permitted without additional review by the Agency. If it is determined that these activities are regulated activities then a new application may be required for such activities.

Section 12

Action by Duly Authorized Agent

- 12.1 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 of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on the application form provided by the Commission and shall contain the information listed under Section 7.5 of these regulations. Notwithstanding the provisions for receipt and processing applications prescribed in sections 8, 9 and 11 of these regulations, such agent may approve or extend such activity at any time.
- 12.2 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 wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within 15 days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. At such hearing, any person may appear and be heard and may be represented by agent or by attorney. 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 13

Bond and Insurance

- 13.1 Upon approval of the application and prior to commencement of approved activities, the applicant may, at the discretion of the Agency, be required to file a bond in an amount approved by the Commission or its designated agent. The bond shall be in an amount and form approved by the Commission.
- 13.2 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.

Section 14

Enforcement

- 14.1 The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.
- 14.2 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 during the life of the permit.
- 14.3 If the Commission or its designated agent finds that any person, including contractors or others assisting or taking part, 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 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 Connecticut General Statutes, as amended.
 - b. issue a notice of violation to such a 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 14.3.a or other enforcement proceedings as provided by law.
 - c. file a Certificate of Violation in the land records in accordance with Sec. 22a-44(b) of the Connecticut General Statutes. After satisfactory resolution of the violation the Agency shall file a release and remove the notice of the Certificate of Violation.
- 14.4 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 that warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is 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 within the municipality.

- 14.5 Any person who knowingly violates any provision of the Inland Wetlands and Watercourses Act shall be liable for the cost of the restoration of the affected wetland or watercourse to its original condition, insofar as is possible, prior to the violation. Any one who conducts regulated activities without a permit may be subject to enforcement action and/or fines and/or fees per Section 19.5 of these regulations, and subject to fines of up to \$1000 per day may be levied against such violator, in accordance with section 22a-44 of the State of Connecticut General Statutes.
- 14.6 The Permittee shall immediately inform the Agency's staff of problems involving sedimentation, erosion, downstream siltation, or any other adverse impacts which develop in the course of or are caused by the work herein authorized.

Section 15 Amendments

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Deep River may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection or as new information regarding soils and inland wetlands and watercourses become available.
- 15.2 An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands 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 decision. 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 regulations consistent with the provisions of the Act as of the date of such decision.
- 15.3 These regulations and the Town of Deep River Inland Wetlands and Watercourses Map shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least 35 days before the public hearing on their adoption.
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Deep River, Connecticut" shall contain at least the following information:
- a. The Petitioner's name, mailing address and telephone number;
 - b. The address, or location, of the land affected by the petition;
 - c. The name and mailing addresses of the owners of abutting land;
 - d. The petitioner's interest in the land affected by the petition;
 - e. Map(s) showing the geographical 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
- f. The reasons for the requested action.
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Deep River, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to soils mapping by a certified soil scientist, professional interpretation of aerial photography and remote sensing imagery, resource mapping, or other information acceptable to the Commission. If such person is the owner, developer or contract purchaser of the land that is the subject of the petition, or if such person is representing the interests of such an owner, developer, or purchaser, in addition to the information required in subsection 15.4, the petition shall include:
- a. The name, mailing address and telephone number of the owner(s) of such land and the owner(s)'s agent or other representative;
 - b. The name and mailing 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 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 relation to existing and proposed wetland and watercourse boundaries.
- 15.6 Watercourses shall be delineated by a soil scientist, ecologist or other qualified individual.
- 15.7 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having general circulation in the municipality where the land that is subject to 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 such hearing. A copy of all materials including maps and documents relating to the petition shall be filed in the office of the town clerk for public inspection at least ten days before such hearing.
- 15.8 The Commission shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty five (65) days after receipt of such petition. The hearing shall be completed within thirty five (35) days after commencement. The Agency shall act upon the changes requested in such petition within sixty five days (65) 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 by attorney. The petitioner may consent to one or more extensions of any period specified in this subsection provided the total extension for all such periods shall not be 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.
- 15.9 The Commission shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

Section 16

Appeals

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

Section 17
Conflict and Severance

- 17.1 If there is a conflict between the provisions of these regulations, the provision that 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 that can be given effect without such valid part or parts.
- 17.2 If there is a conflict between any provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

Section 18
Other Permits

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

Section 19
Application Fees

- 19.1 Method of Payment: All fees required by these regulations shall be submitted to the Commission, payable to the Town of Deep River, at the time the application is filed with the Commission.
- 19.2 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 19.7 of these regulations.
- 19.3 The application fee is not refundable.
- 19.4 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.
- 19.5 Fee Schedule. Application fees shall be based on the following schedule:
1. Regulated Uses – (Section 6)
Residential Uses\$50.00
 Plus: \$25.00/Lot for additional lots
 Plus Fee from Schedule A
Commercial/Industrial Uses\$100.00
 Plus Fee from Schedule A
All other uses.....\$50.00
 2. Permitted and Nonregulated Uses – (Section 4)
 Permitted uses as of Right (Subsection 4.1) NO CHARGE
 Nonregulated Uses (Subsection 4.2) NO CHARGE
 3. Significant Activity Fee – (See Section 2.1)\$200.00
 4. Map Amendment Petitions – (Subsection 15.4).....\$175.00
 Plus: Fee from Schedule B

5. Modifications, renewal or transfer of Previous Approval(See Section 7.9)
 - Residential Uses.....\$50.00
 - Commercial/Industrial Uses\$100.00

There shall be no fee for correcting typographical or other errors.
6. Environmental Quality Fund Fee...\$30.00 or as designated by the State of Connecticut
7. Authorized Agent Approval (Section 12)\$25.00
8. Public Hearing..... \$200.00
9. If any regulated activity has been initiated before a permit has been issued, the application fees shall be tripled.

SCHEDULE A. For the purpose of calculating the permit application fees, the regulated area in Schedule A is the total area of the wetlands and watercourses upon which a regulated activity is proposed.

<u>SQ. FT. REGULATED AREA</u>	<u>FEE/ONE THOUSAND SQ. FT. REGULATED AREA</u>
a. Less than 2,500.....	\$20.00
b. 2,500 to 50,000	\$40.00
c. More than 50,000	\$60.00

SCHEDULE B. For the purpose of calculating the map amendment petition fee, the regulated area in Schedule B is the total length of wetlands and watercourses boundary subject to the proposed boundary change.

<u>LINEAR FEET</u>	<u>FEE/100 LINEAR FEET REGULATED AREA</u>
a. Less than 500	\$20.00
b. 500 to 1,000	\$35.00
c. More than 1,000	\$43.00

- 19.6 Exemption: Boards, commissions, councils and departments of the Town of Deep River are exempt from all fee requirements.
- 19.7 Waivers: 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.
 - c. The Commission shall state upon its record the basis for all actions under this subsection.
- 19.8 The Town of Deep River Conservation and Inland Wetlands Commission may require additional technical assistance in evaluating an application submitted to the Commission in accordance with the regulations if it finds that the nature and intensity of development may have a significant impact on the site and its surrounding areas and that town staff will not be able to complete a technical review of an application in the time period prescribed by state statute. The expense of the additional technical assistance shall be estimated by the commission, based upon a preliminary estimate prepared by a qualified party or expert, and the estimated cost of reviewing the application times one hundred-fifty percent (150%) shall be paid by the applicant and deposited with the commission or its designated agent. Such deposit shall be made prior to review of the application and /or submission. Upon completion of the technical review and final action by the commission on the application, the town shall determine the costs incurred for the

review and refund the excess monies to the applicant. Applicants shall not be responsible for costs incurred for technical assistance which exceed one hundred-fifty percent (150%) of the commission's estimate.

Section 20

Records Retention and Disposition

- 20.1 The Commission and the Town Clerk for the Town of Deep River shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedules set for in subsection 20.2.
- 20.2 The public records administrator of the Connecticut State Library established the following records retention/disposition schedules for municipal Inland Wetlands Agencies effective April 24, 1989:

<u>RECORD TITLE</u>	<u>MINIMUM RETENTION</u>	<u>TOWN CLERK</u>
Applications (including supporting materials)	10 years	-
Decision Letter	10 years	Permanent
Approval 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
Tapes, Audio-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 21

Effective Date of Regulations

- 21.1 These regulations are 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 Deep River.