

**Inland Wetlands and Watercourses
Regulations
of the
Town of Washington, Connecticut**



**Town of Washington
Inland Wetlands and Watercourses Commission**

Effective: December 1, 2008

The Inland Wetlands and Watercourses Regulations of the
Town of Washington

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FOREWORD

The Purpose and History of These Regulations

Of all the watchdog and regulatory responsibilities performed by town commissions in Connecticut, only those overseeing inland wetlands and watercourses are mandated (rather than simply permitted) by state statute. The reasons for mandating local wetlands and watercourses regulations are simple:

First, wetlands and watercourses are crucial parts of the system that produces the water we drink.

Second, wetlands and watercourses are the primary flood-control systems present in the landscape.

Third, wetlands and watercourses are important segments of the whole environment, supporting everything from the air we breathe to the wildlife around us.

Fourth, wetlands and watercourses are major resources for public and private recreation.

Fifth and applying to all the above, wetlands and watercourses do not respect political boundaries; actions taken in wetlands and watercourses in one community may well produce severely adverse effects in other communities.

Thus, the Inland Wetlands and Watercourses Act of 1974 (Section 22a-36 to 22a-45 of the Connecticut General Statutes, as amended) states that because wetlands and watercourses perform many valuable functions, they are to be protected from random, unnecessary, undesirable, and unregulated uses and disturbances and destruction. The Act requires that the State Department of Environmental Protection (DEP) and each Connecticut municipality:

---Minimize the disturbance and pollution of wetlands and watercourses;

---Maintain and improve water quality;

---Prevent damage from erosion and water turbidity and siltation;

---Prevent the loss of aquatic, vegetable and animal life;

---Deter and inhibit the danger of flood and resulting pollution;

---Protect the quality of wetlands and watercourses for the sake of conservation, economics, aesthetics, recreation, and other uses;

---Protect potable fresh water supplies from drought, over-draught, pollution, and other misuse and mismanagement.

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The Act further requires, and provides the basis for, an orderly regulatory process that balances the need for economic growth and need to use the land and water with the need to protect the environment for the sake of generations to come.

The Town of Washington, in anticipation of the passage of the Inland Wetlands and Watercourses Act of 1974, authorized the preparation of Inland Wetlands and Watercourses Regulations and the establishment of an Inland Wetlands and Watercourses Commission at a Town Meeting on October 1, 1973. Its first regulations were promulgated on June 14, 1974; ten days after the Act became law. They have been amended from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act of the State of Connecticut.

All Connecticut municipalities were required to regulate wetlands and watercourses as of July 1, 1988. After a public hearing, the State Department of Environmental Protection may revoke the regulatory authority of a municipal wetland agency if it finds that such agency has consistently failed to perform its duties; costs of review of such revocation shall be borne by the municipality.

The Washington Inland Wetlands and Watercourses Commission invites written suggestions for improving the clarity, efficiency, fairness, and orderliness of these regulations and its regulatory processes.

Copies of the State Statutes are available for inspection in the office of the Washington Town Clerk.

SECTION 1

TITLE AND AUTHORITY

- 1.01** These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Washington."
- 1.02** Pursuant to the Inland Wetlands and Watercourses Act, (Sections 22a-36 to 22a-45) inclusive, of the Connecticut General Statutes as amended, The Washington Inland Wetlands and Watercourses Commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with special provisions, or deny permits for all regulated activities on inland wetland and watercourses within the Town of Washington.
- 1.03** The use of all regulated areas AND ANY AREAS ON WHICH REGULATED ACTIVITIES ARE CONDUCTED in the Town of Washington shall be subject to these regulations.

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SECTION 2

DEFINITIONS

As used in these regulations and the Agency's deliberations:

- 2.01** "Act" means the Inland Wetlands and Watercourses Act, **Sections 22a-36 through 22a-45**, inclusive, of the Connecticut General Statutes, as amended.
- 2.02** "Agency" means the Inland Wetlands and Watercourses Commission of the Town of Washington.
- 2.03** "Aquic" means a mostly reducing soil moisture regime nearly free of dissolved oxygen due to the saturation by groundwater or its capillary fringe and occurring at periods when the soil temperature at 50 centimeters (19.685 inches) is above 5C (41F).
- 2.04** "Best 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.
- 2.05** "Boat Anchorage" means a structure where boats and/or vessels are anchored or secured in place, including but not limited to a dock, pier, wharf, or bulkhead.
- 2.06** "Bogs" are watercourses distinguished by the predominance of evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
- 2.07** "Clear-cutting" means the harvest or removal of the majority of timber in a fashion that removes trees larger than two inches in diameter measured at a height of four and one-half feet, or the removal of vegetation in a manner that significantly alters the natural or indigenous character of the regulated area.
- 2.08** "Clearing" means removal of vegetation, including but not limited to, woody species less than two (2) inches in diameter, young trees, bushes and shade-tolerant plants.
- 2.08** "Commissioner of Environmental Protection" means the commissioner of the State of Connecticut Department of Environmental Protection.

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- 2.09** "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.
- 2.10** "Deposit" means, but shall not be limited to: fill, grade, dump, place, discharge or emit.
- 2.11** "Discharge" means emission of any water, substance, or material into any wetlands, watercourses or waters of the state whether or not such substance causes pollution.
- 2.12** "Disturb the Natural and Indigenous Character of the Land" means that the activity will significantly alter inland wetlands, watercourses, and /or upland review areas.
- 2.13** "Duly Authorized Agent" means an individual designated by the Commission to assist in the carrying out of its functions and purposes.
- 2.14** "Essential to the Farming Operation" means that the proposed activity is necessary and indispensable to sustain farming activities on an existing farm.
- 2.15** "Farming" shall be consistent with the definition as noted in **Section 1-1(q)** of the Connecticut General Statutes, as amended. (See Appendix A)
- 2.16** "Feasible" means able to be constructed or implemented consistent with sound engineering principles and best management practices.
- 2.17** "Fire Ponds" means ponds (which are wetlands under these regulations) created for the specific purpose of fire protection. The ponds must have a capacity of at least 60,000 gallons of available water storage and the natural capability of refill through springs or streams. They must be located so as to provide easy access for the Washington Fire Department.
- 2.18** "Flood Plain" means a normally dry land area that is subject to partial or complete inundation by the overflow of inland water and/or the unusual and rapid accumulation of runoff or surface waters from any source.
- 2.19** "Forestry" means silviculture and the harvesting or logging of trees for sale as Christmas trees, firewood, poles, lumber, chips, or mulch.
- 2.20** "Hydrophilic Vegetation" means plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- 2.21** "Informed Judgment" means judgment based on reference to these regulations and on past regulatory experience of members of the Commission; it may also include judgment informed by professional advice, reports, publications and documents.

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- 2.22** "Intermittent Watercourse" means one delineated by a defined channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposit 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 hydrophilic vegetation.
- 2.23** "Invasive Species" means non-native plants that have the ability to become established and abundant in new areas and which can thereby damage existing ecosystems or displace native species.
- 2.24** "Inventory Map" means the map entitled "Official Inland Wetlands and Watercourses Map, Washington, CT" The map is available for inspection in the Land Use office.
- 2.25** "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, of the Connecticut General Statutes, as amended.
- 2.26** "Marshes" means watercourses that are distinguished by a scarcity or absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water tables in marshes are at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonable water table fluctuations are encountered.
- 2.27** "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, slash, woodchips, refuse or waste.
- 2.28** "Mitigation Measures" means activities designed to render less harsh or offset the impact of a regulated activity on a wetland or watercourse. Mitigation activities can be included in an application's conditions of approval.
- 2.29** "Municipality" means the Town of Washington, Connecticut.
- 2.30** "Nurseries" means places where plants are grown for sale, transplanting, or experimentation.
- 2.31** "Owner" means a holder of an interest in the subject property, as recorded in the Town of Washington land records.
- 2.32** "Permit" see license.
- 2.33** "Permittee" means the person to whom a license has been issued.
- 2.34** "Person" means any person, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

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- 2.35** "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.
- 2.36** "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.
- 2.37** "Regulated Activity" means any operation within or use of a wetland or watercourse or upland review area involving draining, removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses or upland review areas, but shall not include the specified activities in **Section 4** of these regulations. Furthermore, any discharging of storm water on the land, clear cutting, clearing, grubbing, filling, grading, paving, excavating, constructing, in wetlands, watercourses or upland review areas is a regulated activity. The agency may rule that any activity located in an upland review area or in any other non-wetland or non-watercourse area that is likely to impact or affect wetlands and watercourses is a regulated activity.
- 2.38** "Regulated Area" means any inland wetland or watercourse of the Town of Washington, small or large, natural or manmade, existing seasonally or year-round and which need not appear as a wetland or watercourse on the Inventory Map.
- 2.39** "Regulated Setback" see definition for "Upland Review Area".
- 2.40** "Remove" means, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear-cut, bulldoze, operate a dragline and/or blast.
- 2.41** "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, which in the informed judgment of the commission is a deleterious alteration.
- 2.42** "Significant Impact" means any MAJOR AFFECT ON A WETLANDS OR WATERCOURSE RESULTING FROM ANY, BUT NOT LIMITED TO THE FOLLOWING ACTIVITIES:
- a)** Any activity involving deposition or removal of material that will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
 - b)** Any activity that substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.

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- c) Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space, or perform other functions.
 - d) Any activity that is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
 - e) Any activity that causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
 - f) Any activity that is likely to cause or has the potential to cause pollution of a wetland or watercourse.
 - g) Any activity that damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- 2.43** "Soil Scientist" means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.
- 2.44** "Submerged Lands" means those lands that are inundated by water on a seasonal or more frequent basis.
- 2.45** "Swamps" are watercourses that are distinguished by the dominance of wetland trees and shrubs including but not limited to skunk cabbage, jack-in-the-pulpit, buttonbush, alder, willow, dogwood, virburnum, black-berried elder, sweetgale, leather-leaf, steeplebush, winterberry, shadbush, purple choke-cherry, spicebush, sweet pepperbush, highbush blueberry, white swamp azalea, red maple, silver maple, black ash, hemlock, white pine, tupelo, yellow birch, swamp white oak, pin oak and larch.
- 2.46** "Town" means the Town of Washington, Connecticut.
- 2.47** "Understory" means the vegetative cover, usually consisting of young trees, bushes and shade-tolerant plants that grow under tree canopies in wooded areas and includes the lower branches of larger trees.
- 2.48** "Upland Review Area" means the land within 100 feet, measured horizontally from the boundary of any wetland or watercourse. Furthermore, the Agency may rule that any part of a property where conditions such as steep slopes (12% or more) may cause a proposed activity to have a physical impact on a wetland or watercourse is an upland review area.
- 2.49** "Vernal Pool" means a seasonal or permanent body of water in a defined depression or basin, with or without egress, that lacks a fish population and in most years supports the breeding and development of amphibian or invertebrate species recognized as obligate to such bodies of water.

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- 2.50** "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, that may pollute or tend to pollute any of the wetlands and watercourses of the Town.
- 2.51** "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, seeps, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, that are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to **Sections 22a-28 through 22a-35**, inclusive, of the Connecticut General Statutes, as amended.
- 2.52** "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, as amended, that 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 that possess an Aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.
- 2.53** FURTHER DEFINITIONS: Any terms not defined within these Regulations shall be defined by common usage.
- 2.54** The words and phrases defined above need not be capitalized in these regulations in order for the definitions to apply.

SECTION 3

INVENTORY OF INLAND WETLANDS AND WATERCOURSES

- 3.01** The map of wetlands and watercourses entitled "Official Inland Wetlands and Watercourses Map, Washington, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses, but is not a comprehensive inventory of wetlands and watercourses. In all cases, the precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. The Agency 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.
- 3.02** Any person may petition the Agency for an amendment to the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to aerial photography, remote sensing imagery, resource mapping or other relevant information. The Agency may require such person to provide an accurate delineation of regulated areas in accordance with **Section 16** of these regulations.

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- 3.03** The Agency shall maintain a current inventory of regulated areas within the town. The Agency may amend its map as more accurate information becomes available.
- 3.04** All map amendments are subject to the public hearing process outlined in **Section 16** of these regulations.

SECTION 4

PERMITTED USES AS OF RIGHT & NONREGULATED USES

- 4.01** 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, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale.
 - b) Boat anchorage or mooring.
 - c) Uses incidental to the enjoyment and maintenance of residential property. Such incidental uses shall include maintenance of EXISTING structures and EXISTING landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland, watercourse, or upland review area, or diversion or alteration of a watercourse.
 - d) Construction and operation, by water companies as defined by **Section 16-1** of the Connecticut General Statutes, as amended, or by municipal water supply systems as provided for in **Chapter 102** of the Connecticut General Statutes, as amended, 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-403** of the Connecticut General Statutes, as amended.
 - e) Maintenance relating to any drainage pipe that existed before the effective date of any municipal regulations adopted pursuant to **Section 22a-42a** of the Connecticut General Statutes, as amended, or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophilic vegetation. For purposes of this

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subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

- 4.02** The following operations and uses shall be permitted, as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
- a) Conservation of soil, vegetation, water, fish, shellfish and wildlife.
 - b). Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated.
- 4.03** All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with **Section 6** of these regulations, or for certain regulated activities located outside of wetlands and watercourses, from the duly authorized agent in accordance with **Section 12** of these regulations.
- 4.04** To carry out the purposes of this section, any person proposing a permitted "as of right" operation and use or a non-regulated operation and use shall, prior to commencement of such operation and use, notify the Agency on an application form provided by it, and provide the Agency with sufficient information to enable it to properly determine whether the proposed operation and use is a permitted or non-regulated use of a wetland or watercourse. The Agency shall rule that the proposed operation and use or portion of it is a permitted or non-regulated operation and use or that the proposed operation and use is a regulated activity and a permit is required. If the Agency finds the proposed operation to be "as of right" or non-regulated use, all fees will be returned to the applicant.

SECTION 5

ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION

- 5.01** 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, as amended.

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- 5.02** 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 Connecticut General Statutes, as amended.
- 5.03** The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under **Section 22a-402** of the Connecticut General Statutes, as amended, or a permit issued by the Commissioner of Environmental Protection under **Sections 22a-403** of the Connecticut General Statutes, as amended. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.04** The Commissioner of Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to **Section 401** of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under **Section 404** of the Federal Clean Water Act, as amended.

SECTION 6

REGULATED ACTIVITIES TO BE LICENSED

- 6.01** No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands and Watercourses Commission of the Town of Washington, Connecticut.
- 6.02** Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in **Section 15** of these regulations and any other remedies as provided by law.

SECTION 7

PRE-APPLICATION ADVISORY PROCEDURE

- 7.01** Any person proposing to carry out a regulated activity IS STRONGLY ENCOURAGED TO appear before the Commission at a regularly scheduled meeting to discuss a proposed permit application and the supporting material required by the Commission.
- 7.02** A written notice requesting pre-application advice must be received by the Secretary of the Town's Land Use Commissions three (3) days before a

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scheduled meeting in order to be assured that the proposal will be included on the meeting agenda.

- 7.03** In each pre-application procedure, the Commission will attempt to detail all the information and supporting material it will require as part of the eventual application. However, it is not foreclosed from requiring additional information and supporting material when it later considers the application. To facilitate the application process, the applicant should supply as much information as possible during the pre-application procedure so as to make the Commission fully aware of the character of the property in question and the scope of the proposed regulated activity.
- 7.04** Under no circumstances is the pre-application procedure to be considered a formal application to the Commission.
- 7.05** There are no filing fees required for the pre-application advisory procedure, BUT THE COMMISSION MAY REQUIRE THE PROSPECTIVE APPLICANT TO PAY FOR THE COMMISSION'S CONSULTANT TO EVALUATE THE PROPOSAL.
- 7.06** The Commission may, on the basis of the information before it, make a declaratory ruling, according to **Section 4.04** of these regulations, that a permit is not necessary.

SECTION 8

APPLICATION REQUIREMENTS

- 8.01** Any person intending to conduct a regulated activity, to correct a violation, to subdivide property and/or to seek an exemption shall apply for a permit on a form provided by the Agency. The application shall contain the information described in this section and any other information the Agency may reasonably require. Application forms may be obtained in the office of the Agency.
- 8.02** If an application to the Town of Washington Planning or Zoning Commissions for subdivision or resubdivision of land involves land containing wetlands or watercourses, the applicant shall, in accordance with **Sections 8-3(g), 8-3c, or 8-26**, as applicable, of the Connecticut General Statutes, as amended, submit an application for a permit to the Agency in accordance with this section, no later than the day the application is submitted to such commissions.
- 8.03** The application shall contain such information as is necessary for the agency to make a fair and informed determination.
- 8.04** An applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- 8.05** All applications shall include the following information in writing or on maps or drawings:

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- a) The applicant's name, (i.e. owner of record), home and business mailing addresses and telephone numbers
- b) The applicant's interest in the land.
- c) Identification of any duly authorized agent of the owner and, for each application, written authorization from the owner for said agent to act on his or her behalf.
- d) The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), and wetland vegetation.
- e) An 8 ½" x 11" photocopy of the pertinent section of the USGS Topographic quadrangle (on the same scale) with the project site outlined or pinpointed. Copies of the USGS Topographic map are available in the Land Use Office.
- f) 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 (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.
- g) Alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan or drawing.
- h) A site plan showing the proposed activity, existing and proposed conditions in relation to wetlands and watercourses and upland review areas, and identifying any further activities associated with, or reasonably related to, the proposed regulated activity that are made inevitable by the proposed regulated activity and that may have an impact on wetlands or watercourses. A certified soil scientist's report and sketch map may be required.
- i) A detailed construction sequence AND CONSTRUCTION SCHEDULE.
- j) 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.
- k) Authorization for the members and agents of the Agency to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit.
- l) A completed DEP reporting form. The Agency shall revise or correct, as necessary, the information provided by the applicant and submit the form to

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the Commissioner of Environmental Protection in accordance with **Section 22a-39-14** of the Regulations of Connecticut State Agencies, as amended.

- m) Any other information the Agency deems necessary to the understanding of what the applicant is proposing.
- n) Submission of the appropriate filing fee based on the fee schedule established in **Section 20** of these regulations.

8.06 At the discretion of the Agency or its agent, or when the proposed activity involves a potential significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, may be required:

- a) Names and mailing addresses, Assessor's map, block and lot numbers of adjacent property owners.
- b) Site plans for the proposed activity and the land that will be affected thereby; the plans should 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 land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person.
- c) Engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan.
- d) 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 and watercourses shall be delineated in the field by a certified soil scientist and the soil scientist's field delineation shall be depicted on the site plans. REPORT AND SKETCH MAP BY THE SOIL SCIENTIEST TO BE INCLUDED WITH THE APPLICATION.
- e) A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions.
- f) A 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 which would cause less or no environmental impact to wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent.
- g) Analysis of chemical or physical characteristics of any fill material.
- h) Best management practices and other measures designed to mitigate the impact of the proposed activity.

8.07 The applicant shall certify whether:

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- 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.
 - d) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 8.08** Two (2) copies of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed by the Agency.
- 8.09** Any person intending to renew or amend a permit to conduct a regulated activity shall apply for a permit on a form provided by the Agency. Any application to renew or amend an existing permit shall be filed with the Agency in accordance with **Section 9** of these regulations prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall:
- a) Incorporate the documentation and record of the prior application.
 - b) Detail the reasons for and nature of all proposed amendments.
 - c) Describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit.
 - d) State the reason why the authorized activity was not initiated or completed within the time specified in the permit.
 - e) Describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued.
 - f) The Agency may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity.
- 8.10** Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.

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SECTION 9

APPLICATION PROCEDURES

- 9.01** All petitions, applications, requests or appeals shall be submitted to the Inland Wetlands Commission of the Town of Washington.
- 9.02** The Agency shall, in accordance with **Section 8-7d(f)** of the Connecticut General Statutes, as amended, 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)** Any portion of the property affected by a decision of the agency is within five hundred 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 on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality.
 - d)** Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

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

- 9.03** 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, as amended, 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 agency 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 Agency.
- 9.04** The date of receipt of an application (or petition or request or appeal) shall be the day of the next regularly scheduled meeting of the Agency, immediately following the day of submission to the Agency or its agent of such application (or petition or request or appeal) or thirty-five days after such submission, whichever is sooner.

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- 9.05** At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in **Section 12.02** of these regulations.
- 9.06** All applications shall be open for public inspection.
- 9.07** Incomplete applications may be denied.

SECTION 10

PUBLIC HEARINGS

- 10.01** The Agency shall not hold a public hearing on an application unless 1) the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, 2) a petition requesting a hearing and signed by at least twenty-five persons who are eighteen years of age or older and who reside in Washington, CT is filed with the Agency not later than fourteen days after the date of receipt of such application, or 3) the Agency finds that a public hearing regarding such application would be in the public interest. The Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the Agency on or before the fourteenth day after the date 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 or persons may appear and be heard.
- 10.02** Notice of the public hearing shall be published at least twice at intervals of not less than two (s) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the least not less than two (2) days, before the date set for the hearing in a newspaper having a general circulation in each town where the affected and watercourse is located.
- 10.03** It shall be the responsibility of the applicant to send written notification of the pending public hearing to all property owners within 200 feet of the subject property. Notification shall be by certified mail/return receipt requested, on forms provided by the Land Use office. The applicant shall submit to the Agency a list of names and addresses of all notified property owners and all certified mail receipts prior to the commencement of the hearing. Certified letters sent to adjoining property owners to inform them of public hearings shall be postmarked no later than ten days prior to the hearing.

SECTION 11

CONSIDERATIONS FOR DECISION

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

- a) The application and its supporting documentation.
- b) Reports from other agencies and commissions including but not limited to the Town of Washington:
 - 1) Conservation Commission
 - 2) Planning Commission
 - 3) Zoning Commission
 - 4) Building Department Official
 - 5) Health Department Official
 - 6) Volunteer Fire Department
- c) The Agency may also consider comments on any application from the Northwest Conservation District and/or other regional, State, and Federal organizations, and also agencies in adjacent municipalities that may be affected by the proposed activity or other technical agencies or organizations which may undertake additional studies or investigations.
- d) Non-receipt of comments from state agencies and commissions listed in **Section 11.01b and 11.01c** above within the prescribed time shall neither delay nor prejudice the decision of the Agency.
- e) For an application for which a public hearing is held, public comments, evidence and testimony.

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

- a) The potential environmental impact of the proposed regulated activity on wetlands or watercourses.
- b) The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity; these alternatives should cause less or no environmental impact to wetlands or watercourses.
- c) The relationship between the short term and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
- d) Irreversible damage to and/or irretrievable loss of wetland or watercourse resources that 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 that 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

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

11.03 In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in **Subsection 11.02** of this section. The finding and the reasons therefore shall be stated on the record in writing.

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

11.05 For purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands and watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.

11.06 A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.

11.07 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. However, the Agency is not precluded from seeking advice from its own experts concerning information already in the record of the public hearing. The applicant shall have the right to rebut any such advice or testimony.

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SECTION 12

DECISION PROCESS AND PERMIT

- 12.01** The Agency, may, in accordance with **Section 11** of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures that would mitigate the impacts of the regulated activity and that 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 or create productive wetland or watercourse resources.
- 12.02** No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. 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 Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.
- 12.03** The Agency shall state upon its record the reasons and bases for its decision.
- 12.04** The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the 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.
- 12.05** If an activity authorized by an inland wetlands permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under **Sections 8-3(g), 8-3c, or 8-26** of the Connecticut General Statutes, as amended, the Agency shall file a copy of the decision and report on the application with the Town of Washington Planning or Zoning Commissions within fifteen (15) days of the date of the decision thereon.

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- 12.06** Any permit issued by the Agency 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, as amended, shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years.
- 12.07** No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.
- 12.08** If a bond is required in accordance with **Section 14** of these regulations, the Agency may withhold issuing the permit until such bond is provided.
- 12.09** General provisions in the issuance of all permits:
- a) The Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
 - b) All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Washington, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.
 - c) If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under **Sections 8.3(g), 8-3c, or 8-26** of the Connecticut General Statutes, as amended, no work pursuant to the wetland permit may begin until such approval is obtained.
 - d) In constructing the authorized activities, the Permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.

SECTION 13

ACTION BY DULY AUTHORIZED AGENT

- 13.01** The Agency may delegate to its duly authorized agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetland or watercourse provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to **Section 22a-39** of the Connecticut

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General Statutes, as amended. Requests for such approvals shall be made in writing to the authorized agent and contain the information necessary to make an informed decision (see **Section 8.05**). After carrying out the site inspection, the reason for denial or approval of the request shall be recorded in writing by the authorized agent and submitted to the Agency for review and filing.

Notwithstanding the provisions for receipt and processing applications prescribed in **Sections 9, 10 and 12** of these regulations, such agent may approve or extend such an activity at any time.

- 13.02** Any person (applicant) 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 Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with **Section 8.05** of these regulations.

SECTION 14

BONDING

- 14.01** The Agency may require as a permit condition the filing of a bond in such amount and in a form approved by the Agency.
- 14.02** The bond shall be conditioned on compliance with the provisions of these regulations and the terms, conditions and limitations established in the permit.
- 14.03** No work shall commence on any of the activities included in the permit until the bond is received by the Agency.

SECTION 15

ENFORCEMENT

- 15.01** The Agency may appoint an agent or agents to act on its behalf with the authority to issue notices of violation and cease and desist orders and to carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under **Section 11.02** of these regulations.

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- 15.02** The Agency or its agent may make regular inspections at reasonable hours of all regulated activities for which permits have been issued with the consent of the property owner or the authorized agent of the owner during the life of the permit.
- 15.03** In the case in which a permit has not been issued or a permit has expired, the Agency or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 15.04** If the Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition that is in violation of the Act or these regulations, the Agency 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 Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this 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 person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands, watercourses or upland review areas. This notice shall be in the form of a letter to the person responsible for the violation and shall be delivered by Certified Mail/Return Receipt Requested. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in **Section 15.04a** or other enforcement proceedings as provided by law.
- 15.05** The Agency may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit.

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The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

SECTION 16

AMENDMENTS

- 16.01** These regulations and the Official Inland Wetlands and Watercourses Map for the Town of Washington may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or a regulation of the Connecticut Department of Environmental Protection or as new information regarding soils and inland wetlands and watercourses becomes available.
- 16.02** An application filed with the Agency 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 wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 16.03** These regulations and the Official Town of Washington Inland Wetlands and Watercourses Map shall be amended in the manner specified in **Section 22a-42a** of the Connecticut General Statutes, as amended. The Agency 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 thirty-five days before the public hearing on their adoption.
- 16.04** Petitions requesting changes or amendments to the Official Inland Wetlands and Watercourses Map, Washington, Connecticut, shall contain at least the following information.
- a) The petitioner's name, mailing address and telephone number,
 - b) The address, or location, of the land affected by the petition,
 - c) The petitioner's interest in the land affected by the petition,
 - d) Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations, and

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e) The reasons for the requested action.

16.05 Any person who submits a petition to amend the Official Inland Wetlands and Watercourses Map, Washington, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land 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 **Section 16.04**, the petition shall include:

a) The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative.

b) The names and mailing addresses of the owners of abutting land.

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.

d) Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.

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

16.07 A public hearing shall be held on petitions to amend the Official Washington Inland Wetlands and Watercourses 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.

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

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16.09 The Agency shall make its decision and state, in writing, the reasons why the change in the Official Washington Inland Wetlands and Watercourses Map or the regulations was made.

SECTION 17

APPEALS

17.01 Appeal on actions of the Agency shall be made in accordance with the provisions of **Section 22a-43** of the Connecticut General Statutes, as amended.

17.02 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

SECTION 18

CONFLICT AND SEVERANCE

18.01 If there is a conflict among the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

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

SECTION 19

OTHER PERMITS

19.01 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 Washington, the State of Connecticut or 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 20

FEES

20.01 Method of Payment: All fees required by these regulations shall be submitted to the Agency by check or money order payable to the Town of Washington at the time the application is filed with the Agency.

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20.02 No application shall be granted or approved by the Agency unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to **Section 20.07** of these regulations.

20.03 The application fee is not refundable except as specified in **Section 4.04** of these regulations.

20.04 Definitions. As used in this section:

- a) "Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.
- b) "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.
- c) "Other uses" means activities other than residential uses or commercial uses.

20.05 Fee Schedule.

- a) Copy of IWC Regulations..... \$10.00
- b) Pre-application advice or review.....no charge
- c) State of Connecticut surcharge..... \$30.00
(Must be submitted with all permit and review applications)
- d) Application for ruling of As-of-Right or Non-regulated Uses (see **Section 4.04**).....\$60.00
- e) Application for a permit to conduct regulated activities or correct a violation:
 - 1) Residential Uses: Activity directly impacting and/or disturbing ½ acre or less of wetlands, watercourses, and/or upland review area..... \$60.00

Plus per additional ½ acre, or part thereof, of activity impacting and/or disturbing wetlands, watercourses, and/or upland review areas.....\$30.00
 - 2) Commercial:

Activity directly impacting and/or disturbing ½ acre or less of wetlands, watercourses, and/or upland review area \$100.00

Plus per additional ½ acre, or part thereof, of activity impacting and/or disturbing wetlands, watercourses, and/or upland review area.. \$25.00
 - 3) All Other Uses..... \$60.00

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- f) Application for review of subdivision without wetlands or watercourses, per
proposed lot.....\$10.00
- g) Application for review of subdivision with wetlands or watercourses, per
proposed lot.....\$100.00
- h) Repair of septic system (application required).....\$25.00
- i) Extensions, renewals, transfers, or minor revisions of
permits..... \$25.00
- j) Public Hearing Fee..... \$250.00
(Payable within five (5) business days of Hearing Notice publication)
- k) Fee for Amendment Request (refer to **Section 16**)..... \$100.00
- l) Consultant Coverage Fee.....To be determined

The Agency may, in accord with **Section 8-1c**, Connecticut General Statutes, as amended, charge an additional, estimated fee to recompense consultants and/or attorneys that the Agency finds it necessary to retain to provide review, analysis and recommendations to the Agency concerning information submitted by an applicant. Said fee shall be paid within 10 days of the applicant's receipt of notice of such estimate. Any portion of the fee in excess of the actual cost shall be refunded to the applicant no later than 30 days after publication of the Agency's decision. IF SPECIFIED AS A CONDITION OF APPROVAL, THE APPLICANT SHALL BE REQUIRED TO PAY FOR THE SERVICES OF A CONSULTANT TO MONITOR THE PROJECT.

20.06 Exemption: Boards, commissions, councils and departments of the Town of Washington are exempt from all fee requirements under these regulations.

20.07 Waiver: The applicant may petition the Agency 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 Agency should consider in its determination under this subsection. The Agency may waive all or part of the application fee if the Agency determines that:

1. 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
2. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.
3. The applicant has shown good cause.

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

SECTION 21

EFFECTIVE DATE OF REGULATIONS

21.01 These regulations are effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Washington.

APPENDIX A

Connecticut General Statute Section 1-1(q) as amended

Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoophouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

APPENDIX B

Connecticut General Statute Section 8-7d as amended

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Hearings and decisions. Time limits. Day of receipt. Notice to adjoining municipality.

(a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, or zoning board of appeals under this chapter, a planning commission under **Chapter 126** or an inland wetlands agency under **Chapter 440** and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, **Chapter 126 or Chapter 440**. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board or agency may, by regulation, provide for notice to persons who own or occupy land that is adjacent to the land that is the subject of the hearing. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered within sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, **Chapter 126 or Chapter 440**. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.

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

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

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

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

(f) The zoning commission, planning commission, zoning and planning commission, zoning board of appeals or inland wetland agency shall notify the clerk of any adjoining municipality of the pendency of any application, appeal, request or plan concerning any project on any site which:

(1) Any portion of the property affected by the decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality.

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

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

(4) Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, request or plan.

**END of Inland Wetlands Regulations
of the
Town of Washington**

PLEASE NOTE:

The following pages are NOT a part of the Inland Wetlands Regulations of the Town of Washington. They have been included to provide the applicant with additional information that may be helpful.

Included are:

- 1) Ordinance #720 Establishing Citation Procedures and Fines for Violations of The Inland Wetlands and Watercourses Regulations of the Town of Washington.

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- 2) A sample copy of the current application form (4 pages). Available at the Agency Land Use Office.
- 3) A sample copy of the CT DEP reporting form (1 page). Must use the yellow form available at the Agency Land Use Office.

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ORDINANCE # 720

A. PURPOSE

1. The purpose of this Ordinance shall be to encourage compliance with the Washington Inland Wetlands and Watercourses Regulations and to discourage violators from engaging in additional violations by increasing the penalties for such additional violations.

B. ISSUANCE OF CITATIONS

1. Pursuant to the authority vested in municipalities under Connecticut General Statutes Section 22a – 42g, as amended, any person authorized by the First Selectman of the Town of Washington may issue a citation for any violation of Washington's Inland Wetlands and Watercourses Regulations in the manner provided by this Ordinance. Any person so authorized shall be designated a Wetlands Citation Officer.
2. The Town shall maintain copies of all citations issued pursuant to this Ordinance for a period of no less than ten (10) years after the dates of issuance of the respective citations. The copies shall be indexed under the names of the persons to whom the citations were issued. Within ten (10) days after the final disposition of each citation, by payment of the specified fine or by a final decision on any appeal taken pursuant to the provisions of this Ordinance, a note shall be placed in the file on, or together with, the relevant citation indicating the nature of the final disposition. If no appeal is taken of a citation issued pursuant to this Ordinance, but the specified fine is not paid, a note to that effect shall be placed in the file on, or together with, the relevant citation.
3. Any such citation may be issued either by hand or by Certified Mail, return receipt requested. If the person named in such a citation fails or refuses to accept such mail, the citation may be sent by regular United States mail.
4. Any person receiving such a citation shall be allowed a period of thirty (30) days from his or her receipt of the citation to make an uncontested payment of the fine to the Town. If the citation has been sent by regular mail pursuant to the provision in Subsection B.3 of this Ordinance, the day of receipt of the citation shall be considered three (3) business days after the date of mailing the citation.
5. If a person who has been issued a citation does not make uncontested payment of the fine specified in the citation to the Town within the time allowed under Subsection B.4 of this Ordinance, the Wetlands Citation Officer shall send a notice to the person cited, informing such person anew: (1) of the allegations against him or her and the amount of the fines and; (2) that the person cited may contest liability before a Hearing Officer appointed by the First Selectman, as provided in Subsection C.1 of this Ordinance, by delivering to the Wetlands Citation Officer, c/o the Inland

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Wetlands Commission, in person or by Certified Mail, return receipt requested, within ten (10) days of the date of the notice, a written demand for a hearing; (3) that if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her; and (4) that such judgment may issue without further notice.

6. If the person who is sent notice pursuant to Subsection B.5 of this Ordinance wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fine, either in person or by mail, to the Town. Any person who does not deliver or mail a written demand for a hearing within ten (10) days of the date of the notice described in Subsection B.5 of this Ordinance shall be deemed to have admitted liability and the Wetlands Citation Officer shall certify to the Hearing Officer that such person has failed to respond. The Hearing Officer shall thereupon enter and assess the fines provided for by this Ordinance and shall follow the procedures set forth in Subsection E.1 of this Ordinance.

C. CITATION APPEAL AND HEARING PROCEDURES

1. A person who chooses to appeal a citation and requests a hearing to this effect shall be given written notice of the date, time and place for the hearing by hand or by Certified Mail, return receipt requested. Such hearing shall be held no less than fifteen (15) days nor more than thirty (30) days from the date of mailing of notice, provided the Hearing Officer shall grant upon good cause shown any reasonable request by an interested party for postponement or continuance. The presence of a Commission Member or a Designated Agent shall be required at the hearing to present evidence on behalf of the Town. A person wishing to contest liability shall appear at the hearing and may present evidence on his or her behalf. Alternatively, the Hearing Officer may accept written information from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. If the person who received the citation fails to appear or has not submitted relevant written information as specified above, the Hearing Officer may enter an assessment of default against him or her upon a finding of proper notice and liability under the applicable provisions of the Inland Wetlands and Watercourses Regulations.
2. In the event that the Hearing Officer determines that he or she will not have an adequate opportunity to review documentation provided by any party to the hearing on the date of the hearing, he or she may order the hearing to be continued to a later date.
3. The Hearing Officer shall conduct the hearing in the order and form and with such methods of proof, as he or she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall announce his or her decision at the end of the hearing. If the Hearing Officer determines that the person who received the citation is not liable, the Hearing Officer shall dismiss the matter and enter that determination in writing

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accordingly. If the Hearing Officer determines that the person who received the citation is liable for the violation, the Hearing Officer shall forthwith enter and assess the fines against the person as provided by this Ordinance.

4. If the person who received the citation does not agree with the Hearing Officer's assessment, he or she may appeal the decision in Superior Court in accordance with the applicable provisions of the Connecticut General Statutes.
5. If the Hearing Officer's assessment is not paid on the date of its entry, the Hearing Officer shall send by First Class Mail a notice of assessment to the person found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court together with the applicable entry or filing fee. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes, as amended.
6. The First Selectman of the Town of Washington shall appoint one (1) or more Citation Hearing Officers, who shall be other than Wetlands Citation Officers, Commission members or employees of the Town, to conduct hearings as described in Subsections C.1 and C.3 of this Ordinance.

D. EXEMPTIONS

1. Notwithstanding the foregoing, pursuant to Section 22a – 42g, no fine shall be levied against the State of Connecticut or any employee thereof acting within the scope of his or her employment. Likewise, no fine shall be levied against the Town or any employee thereof acting within the scope of his or her employment.

E. SCHEDULE OF FINES

1. The amount of the fine specified in any citation shall be based upon the presence or risk of adverse affect on wetlands or watercourses associated with the violation, and the number of citations issued to the same person during the ten (10) years immediately prior to the date of the citation being issued.
2. Violations arising from regulated activities not conducted in wetlands or watercourses, which have not had a physical impact on wetlands and watercourses at the time of the citation, are nevertheless subject to fines if the activities are conducted within 100 feet of wetlands and watercourses and by their nature pose the risk of adverse physical impact on those resources.

The amount of the fines shall be as follows:

- \$ 150 If the violator has had no previous citations, the violation does not involve activity directly in a wetland or watercourse, and the activity has not had a physical impact on a wetland or watercourse.

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\$ 350 If either;

- 1) The violator has had a previous citation, but the violation does not involve activity directly in a wetland or watercourse, and the activity has not had a physical impact on a wetland or watercourse, or
- 2) If the violator has not had a previous citation, and the violation does not involve activity directly in a wetland or watercourse, but the activity has had a physical impact on a wetland or watercourse.

\$ 500 If either;

- 1) The violator has had no previous citations, but the violation involves activity directly in a wetland or watercourse, or
- 2) The violator has had a previous citation and the activity has had a physical impact on a wetland or watercourse, but the violation does not involve activity directly in a wetland or watercourse.

\$ 750 Same circumstances as above for the \$500 violation, but this is the violator's third offense.

\$1000 for all other violations.

The failure to comply with any provision of an enforcement order shall constitute a separate violation and shall be subject to a separate citation and fine.