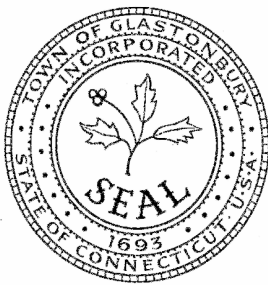


JUNE 6, 2008

**[READY TO PROCEED
WITH PUBLIC HEARING]
DRAFT**

**INLAND WETLANDS & WATERCOURSES
Regulations of the Town of Glastonbury, CT**

[JANUARY 24, 2008]



TOWN OF GLASTONBURY
2155 Main Street
Post Office Box 6523
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JUNE 6, 2008
DRAFT INLAND WETLANDS AND
WATERCOURSES REGULATIONS TOWN OF GLASTONBURY

[JANUARY 24, 2008]

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SECTION 1

Title and Authority

- 1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state.

It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by

- minimizing their disturbance and pollution;
- maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority;
- preventing damage from erosion, turbidity or siltation;
- preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof;
- deterring and inhibiting the danger of flood and pollution;
- protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and
- protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement;

all 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 Glastonbury".
- 1.3 The Inland Wetlands and Watercourses Agency of the Town of Glastonbury was established in accordance with an ordinance adopted January 8, 1974 and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of Glastonbury.
- 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 Agency 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 in the Town of Glastonbury General Statutes, as amended.

1.6 Bases for special provisions, standards or requirements contained within subsection of these regulations:

- (a) [Wetlands' buffer] **Upland review** areas. The concept of [wetlands' buffer] **upland review** areas has its origins in a document entitled A Guide for Streambelts – Systems of Natural Environmental Corridors in Connecticut, United States Department of Agriculture, Soil Conservation Series, Storrs, Connecticut, September 1972. Prior to adoption of these regulations, such [buffer] **upland review** areas were previously regulated under Section 3.25 of the Town of Glastonbury Building Zone Regulations, effective date of October 22, 1973, as amended through August 1, 1987, but said Section 3.25 was repealed after such [buffer] areas became regulated under the Inland Wetlands and Watercourses Regulations, Town of Glastonbury Connecticut, adopted in 1989. Furthermore, this [wetlands'] **upland review** buffer area concept was acknowledged by the State of Connecticut Department of Environmental Protection as referenced in their June, 1997 publication *Guidelines for Upland Review Area Regulations Under Connecticut Inland Wetlands and Watercourses Act* which establishes that the relationship between a wetland or watercourse and its surrounding upland is complex and that certain activities in upland [or wetlands' buffer] areas affect wetlands and watercourses. As established in the definition for the ["wetlands' buffer areas"] **"upland review area"** in Section 2 of these regulations, said [buffer] **upland review** area: extends two-hundred feet beyond the boundary of the wetland or watercourse within **targeted** watershed boundaries **and subwatersheds** of special concern, **and along the main stems of targeted watercourses of special concern** that are identified in the Town of Glastonbury; and extends one-hundred feet beyond the boundary of the wetland or watercourse within all other areas in the Town of Glastonbury.
- (b) Design standard for ten (10.0) percent or less of cumulative impervious surface coverage on a land use proposal (Section 7.7.1.1). This standard was identified by initiatives of the State of Connecticut's University of Connecticut Cooperative Extension System under their Nonpoint Education for Municipal Officials (NEMO) program which links land use to water quality. Scientific research studies have ascertained that once a watershed area's cumulative imperviousness exceeds ten percent, the watercourse, including its water quality, degrades to a point where environmentally engineered mitigation measures cannot restore the degraded watercourse. Additionally, the concept for this standard is further promoted, documented and referenced within publications of the Center for Watershed Protection, including their Watershed Protection Techniques quarterly bulletin on urban watershed restoration and protection tools. **Within the targeted watersheds of special concern for which this ten percent maximum impervious coverage standard applies, consideration of this standard will involve a determination that exceedance will likely result in an adverse impact to the wetlands and watercourses.**

SECTION 2

Definitions

2.1 As used in these regulations:

"Act" means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.

"Agency" means the Inland Wetland and Watercourses Agency of the Town of Glastonbury

"Bogs" are watercourses that are distinguished by the presence of evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.

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

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

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

"Cumulative impervious surfaces coverage" means the percentage of the total land area (associated with the proposed regulated activity) that is proposed to be covered with surfaces that cannot infiltrate rainfall, including but not limited to rooftops, pavement, sidewalks and driveways.

"Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit.

"Designated Agent" means the Town's Environmental Planner or any other individual(s) specifically designated by the Agency to carry out its functions and purposes.

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

"Essential to the farming operation" means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.

"Farming" means use of the land for growing of crops, raising of livestock or other agricultural use consistent with the definition as noted in Section 1-1(q) of the Connecticut General Statutes, as amended.

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

"High intensity soils mapping" means the investigations for and the creation of a detailed Order 1 soils map within a specified land area established by the Agency; such map being prepared by a soil scientist and at a scale of 1:1,200 or 1:2,400.

"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.

"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 the dominance of soft-stemmed herbaceous plants. The water table in marshes is 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, mud, debris, sand, refuse or waste.

"Municipality" means the Town of Glastonbury.

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

"Permit" means License, 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.

"Permittee" means the person to whom a license or permit has been issued.

"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.

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

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

"Regulated activity" means any operation within or use of a wetland or watercourse or [a wetlands buffer] **an upland review** area involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 4 of these regulations. **The Agency may rule that any other activity located within such upland review area or in other non-wetland or non-watercourse area is likely to adversely impact or affect wetlands and watercourses and, therefore, is a regulated activity.**

“Regulated area” means an aggregate area comprised of any inland wetland or watercourses and the [wetlands buffer] **upland review** area as defined and determined pursuant to these regulations.

“Remove” includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, bulldoze, dragline, blast or similar activity that displaces material.

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

"Significant impact" means any activity, including, but not limited to, the following activities which may have a major effect:

1. Any activity involving deposition or removal of material which 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.
2. Any activity which 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; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which damages or destroys unique wetland or watercourse areas or such 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 that are distinguished by the dominance of wetland trees and shrubs.

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

"Town" means the Town of Glastonbury.

“Upland review area” means:

1. that area (not regulated by the State of Connecticut pursuant to Sections 22a- 28 through 22a – 35 of the Connecticut General Statutes as amended) within a radius of two-hundred (200) feet from each point on the boundary of a wetland or watercourse within the following **targeted watersheds of special concern:**
 - a. the Salmon River watershed, including all of its tributaries (e.g. Blackledge River, Flat Brook, Dickenson Brook);
 - b. the Cold Brook watershed, including all of its tributaries (e.g. Dark Hollow Brook, Mott Hill Brook);

- c. the Grindle Brook watershed upstream of the outlet/spillway of Great Pond, including all of its tributaries;
 - d. the **Glastonbury portion of the** Hales Brook [(main stem located within the Town of Portland)] watershed, including all of its tributaries (**the main stem of Hales Brook is located within Portland**);
 - e. the Roaring Brook watershed upstream of Hebron Avenue, including all of its tributaries;
 - f. the Slab Gut Brook watershed, including all of its tributaries;
 - g. the Salmon Brook watershed upstream of Addison Road, including all its tributaries;
 - h. the Wintergreen Brook watershed upstream of Thompson Street, including all of its tributaries; and
 - i. the **Glastonbury portion of the** Hop Brook [(located within the Town of Manchester)] watershed (**Hop Brook is located within Manchester and its watershed in Town is a small drainage area generally located to the east of Manchester Road and north of Mountain Road**).
2. that area (not regulated by the State of Connecticut pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended) within a radius of two-hundred (200) feet from each point on the boundary of a wetland directly adjacent to or contiguous with the main stem of the following **targeted** watercourses **of special concern**:
 - a. the Connecticut River, including Keeney Cove;
 - b. Roaring Brook downstream of Hebron Avenue; and
 - c. Salmon Brook downstream of Addison Road.
 3. that area (not regulated by the State of Connecticut pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended) within a radius of one-hundred (100) feet from each point on the boundary of a wetland or watercourse for all other areas within the Town not specified in 1 and 2 above.
 4. **in very specific situations, that area (not regulated by the State of Connecticut pursuant to Sections 22a-29 through 22a-35 of the Connecticut General Statutes as amended) extending beyond the specified 100 and 200 foot upland review areas, as identified in the immediately preceding 1, 2 and 3 above, whereby the Agency has: examined a proposed activity that lies beyond the specified 100 and 200 foot upland review areas in relation to said activity's potential impacts or affects on the wetlands and watercourses; and ruled that such proposed activity is likely to adversely impact or affect the wetlands or watercourses and is regulated activity.**

"Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands and 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, inclusive, of the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

“Watershed” means the drainage area that contributes runoff waters to a specific watercourse at a selected site (e.g. upstream of a confluence with another watercourse, upstream of a specified road crossing) along said watercourse.

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

[“Wetlands buffer area”]

SECTION 3

Inventory of Inland Wetlands and Watercourses

- 3.1 The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, Glastonbury, 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 Agency. 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.
- 3.2 Any person may petition the Agency for an amendment to the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to aerial photography, remote sensing imagery, resource mapping or other available information. The Agency may require such person to provide an accurate delineation of regulated areas in accordance with Section 15 of these regulations.
- 3.3 The Agency shall maintain a current inventory of wetlands and watercourses within the town. The Agency may amend its map as more accurate information becomes available.
- 3.4 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 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, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale; clear cutting of timber except for the expansion of agricultural crop land;
- b. a residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the building 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 of the Connecticut General Statutes, or as of July 1, 1974, whichever 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;
- c. boat anchorage or mooring not to include dredging or dock construction;
- d. uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse, or diversion or alteration of a watercourse;
- e. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-403 of the Connecticut General Statutes and;
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subsection, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.
- g. Activities within the wetlands buffer area, as defined in these regulations, are determined by the Agency under Section 4.4 of these regulations not to adversely affect any wetland or watercourse.]

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

- a. conservation of soil, vegetation, water, fish, shellfish and wildlife; and
- b. outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, cross-

country skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.

- 4.3 A license or permit shall be required from the Agency prior to all activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, grading or other earthen disturbance 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 in accordance with Section 6 of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with Section 12 of these regulations.
- 4.4 To carry out the purposes of this section, any person proposing a permitted operation and use or a nonregulated operation and use shall, prior to commencement of such operation and use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of a wetland or watercourse. The Agency or its designated agent, **in consultation with the Agency's Chairman and concurrence by the Agency**, shall [rule] **affirm** that the proposed operation and use is a permitted or a nonregulated operation and use or that a license or permit is required. The designated agent for the Agency may make such [ruling] **affirmation** on behalf of the Agency at any time, or refer the matter for a ruling by the Agency.

SECTION 5

Activities Regulated Exclusively by the Commissioner of Environmental Protection

- 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 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.3 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 or a permit issued by the Commissioner of Environmental Protection under Sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a license or permit from the Agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 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.

SECTION 6

Regulated Activities to be Licensed

- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a license or permit for such activity from the Inlands Wetlands and Watercourses Agency of the Town of Glastonbury.
- 6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency or its designated agent, or to be violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.

SECTION 7

Application Requirements

- 7.1 Any person intending to conduct a regulated activity, or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Agency. The application shall: contain the information described in this section and any other information the Agency may reasonably require; and comply with any required design standards identified in Section 7.7.1 of these regulations. Application forms may be obtained in the Office of Community Development or online from the Town's website.
- 7.2 If an application to the Town of Glastonbury Plan and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse **or upland review area**, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a license or permit to the Agency in accordance with this section, no later than the day the application is filed with such plan and zoning commission.
- 7.3 All applications shall contain prescribed information as is necessary for a fair and informed determination thereon by the Agency.
- 7.4 The Agency and the prospective applicant may hold a pre-application meeting: to examine the scope of a proposed regulated activity; or to determine whether or not the scope of a proposed regulated activity or an application involves a significant impact activity; **or to examine a proposed activity that lies beyond the 100 and 200 foot upland review area for a potential determination that said activity is a regulated activity pursuant to subsection 4 of the definition of upland review area within Section 2 of these regulations.**
- 7.5 Ten (10) copies of all application materials shall be submitted unless otherwise directed in writing by the Agency or its designated agent.
- 7.6 All applications shall legibly include the following information in writing or on maps or plans or drawings:
 - a. the applicant's name, home and business mailing addresses and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate officer's name, address, and telephone number;

- b. the landowner's name, mailing address and telephone number and a **signed** written consent [of] **letter from** the landowner if the applicant is not the owner of the land upon which the subject activity is proposed;
- c. the applicant's interest in the land;
- d. using the appropriate United States Geological Survey quadrangle topographic map, a location map at a scale of 1 inch = 2,000 feet identifying the geographical location of the land which is the subject of the proposed activity;
- e. 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;
- f. a written narrative on the purpose and a description of the proposed regulated activity;
- g. the proposed erosion and sedimentation controls and other management practices and mitigation measures, such as but not limited to, any measures to detain or retain stormwater runoff or recharge groundwater, any plantings for habitat improvements, and any other measures proposed to mitigate the potential environmental impacts, which may be considered as a condition of issuing a permit or license 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, functional wetland or watercourse resources;
- h. a map at a scale of 1 inch equals 100 feet identifying the topographical features of the property to be affected by the proposed activity, adjacent lands, adjacent regulated areas, such as upstream and/or downstream areas as may be identified by the Agency or its designated agent, and other pertinent features including, but not limited to, existing, and proposed property lines, roads, and drives, existing and proposed buildings and their utilities, topography, soil types, the limits of inland wetlands, watercourses and [wetlands buffer] **upland review** areas, existing and proposed lands protected as open space or by conservation easements, and types of vegetative cover;
- i. a site plan at a scale that provides sufficient detail showing existing and proposed measures to mitigate the potential environmental impacts;
- j. a site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and **upland review** area(s) 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;
- k. a title block and legend of symbols used for each plan or map or drawing indicating the name of plan or map or drawing, date prepared and subsequent revision dates, and scale;
- l. names and addresses of abutting property owners as shown in the records of the tax assessor of the municipality as of the a date no earlier than thirty (30) days before the date the application is submitted to the Agency;

- m. certification 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 license or permit through deception or through inaccurate or misleading information;
- n. an alternative to the submitted application which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the submitted application was chosen; all such alternatives shall be diagramed on a site plan or drawing;
- o. the calculated (1) total area (square feet) of wetlands and watercourses on the subject property and (2) total area (square feet) of regulated area that would be potentially disturbed by the proposed regulated activities;
- p. authorization for the members and designated agent(s) of the Agency to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the license or permit;
- q. a completed DEP reporting form whereby the Agency or its designated agent 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;
- r. submission of the appropriate filing fee based on the fee schedule established in Section 15-22 of Town Code of Ordinances; and
- s. any other information the Agency deems necessary to understand exactly what the applicant is proposing.

7.7 Any application involving a land use proposal subject to these regulations and also subject to subdivision or special permit or planned area development application shall be required to contain the following additional information and to demonstrate compliance to the design standards contained in subsection 7.7.l:

- a. all wetland boundaries on the property shall be identified by a soil scientist using blue survey tape and located by a Licensed Land Surveyor; the soil scientist shall consecutively number the survey tapes that mark boundary lines of all wetlands on the subject property; the survey tape shall be located by a Licensed Land Surveyor **using field survey techniques** and each tape location and number shall be plotted onto the site plan;
- b. all watercourses identified on the property shall be located and accurately identified on the site plan to the satisfaction of the Agency or its designated agent;
- c. in the situation where [a wetlands buffer] **an upland review** area may extend onto the subject property due to the likelihood of the presence of wetlands or watercourses on a neighboring property, then one of the following shall occur:
 - 1. preferably, permission to identify and survey the wetlands boundary or watercourse limits from the neighboring landowner shall be sought after by the applicant; in which case if permission is granted, then the wetlands boundary and/or watercourse identification processes as presented in Section 7.7.a and 7.7.b above shall apply; or
 - 2. alternatively, a best-educated approximation method utilizing resource maps and other interpretive techniques shall be taken to approximate the wetlands boundary or watercourse limits on the neighboring property and the limits of the regulated area on the

subject property; the person responsible for approximating such boundaries and limits shall provide a report on the rationale used in approximating such boundaries and limits;

- d. a written report by the soil scientist that includes the names of the applicant and project, the location of and limits of the property investigated, the dates of the soil investigations, certification that the mapping of soil types is consistent with the categories established by the national Cooperative Soil Survey of the U.S. Natural Resources Conservation Service, a description of each soil mapping unit investigated, the set of the consecutive numbers used on the survey tapes to identify the wetland boundaries, and a certified statement that the wetland boundaries and the mapping of soil types appearing on the site plan are, to the best of the soil scientist's knowledge, true and accurate;
- e. a map of sufficient scale shall be submitted indicating each surficial drainage area influencing each distinct wetland area or watercourse on the property;
- f. a wetlands and/or watercourses report, prepared by a qualified person, that contains a written description for each distinct wetland area and watercourse on the subject property, including, but not limited to wetland and watercourse characteristics related to physical features, vegetation, wildlife, ecological communities, wetland/watercourse functions and values, its/their relationship to adjacent upland areas, and effects of the proposed activity on these wetlands and watercourse characteristics.
- g. a site plan at a scale of 1 inch = 40 feet, or at a scale that exhibits greater detail, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state or by such other qualified person indicating the following:
 1. the location and limits of all wetlands, watercourses and [wetlands buffer] **upland review** areas;
 2. the proposed alterations and uses of wetlands, watercourses and [wetlands buffer] **upland review** areas;
 3. all proposed activities on the property (e.g. grading, filling and excavation of the land, removal of vegetation, surface and subsurface measures to manage the drainage of water, construction or placement of structures, landscaping, outdoor lighting) and existing and proposed conditions in relation to wetlands and watercourses, including activities and/or conditions located outside of the regulated area(s) that may have an impact on wetlands and/or watercourses; the details of any proposed outdoor lighting shall be shown on a separate lighting plan which also represents the estimated levels of light extending beyond the proposed source(s) of light;
 4. the land contours;
 5. the locations of other prominent features such as bedrock outcrops, stone walls, old woods roads, existing structures and drives, and trees deemed by the Agency or its designated agent to be of noteworthy value; and
 6. the boundaries of land ownership for the subject land and for the abutting properties along with the names of all such landowners;
- h. a written description of the alternatives considered and subsequently rejected by the applicant and why the alternative set forth in the application was chosen with all such alternatives diagrammed on a separate plan or drawing;
- i. a written 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 for each alternative;

- j. a written description of the management practices and other measures designed to mitigate the impact of the proposed activity;
- k. a written description of the intended or required physical and chemical characteristics of any fill material proposed within the regulated area; [and]
- l. design standards which shall be demonstrated in the application:
 - 1. for just those **targeted** watersheds identified within subsection 1 under the definition of “[wetlands buffer] **upland review area**” found within Section 2.1 of these regulations, the land use proposal related to the proposed regulated activity shall not result in the cumulative impervious surface coverage exceeding ten (10) percent on the subject property; exceptions to this standard shall be allowed by the Agency if at least four (4) affirmative votes support an Agency finding that the land use proposal provides comprehensive environmental management practices and mitigation measures to offset the adverse effects upon the watercourse resources were provided within the land use proposal; [and] **public road reconstruction projects within established public right-of-ways are exempt form the standard within this subsection;**
 - 2. the land use proposal shall be brought into existence utilizing the following policy as expressed in the following [order of priority] **hierarchy**:
 - a. avoid encroachment into all regulated areas;
 - b. avoid encroachment into all wetlands and watercourses;
 - c. avoid encroachment into any wetland and watercourse that exhibits multiple wetland and watercourse functions that are of high value;
 - d. avoid encroachment into any wetland and watercourse that exhibits multiple wetland and watercourse functions that are of moderate value;
 - e. avoid encroachment into any wetland and watercourse that exhibits one wetland and watercourse function that is of high value;
 - f. avoid encroachment into any wetland and watercourse that exhibits one wetland and watercourse function that is of moderate value; and
 - g. avoid encroachment into any wetland and watercourse that exhibits one wetland and watercourse function of low value; **and**
 - m. **the Agency may require applicants and or Permittees to develop and implement a water quality testing program (before and after development) that assesses the impacts or affects on downgradient wetlands and/or watercourses from the land use associated with the regulated activity; the results from such a required water quality testing program are solely intended for the collection and analysis of data for educational and scientific purposes.**

7.8 If the proposed activity involves a significant impact, as determined by the Agency, then additional information (in addition to all other information required within this Section 7), based on the nature and anticipated effects of the activity, including but not limited to the following, shall be required:

- a. a comprehensive written environmental impact statement report for the entire land use proposal, including, but not limited to a description of how the application 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;

- b. maps and descriptions that identify downstream and downgradient regulated areas which are off-site and their condition, existing off-site structures on adjacent properties and watershed or drainage area boundaries which influence the subject regulated area; and
- 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; and
- d. site specific, high intensity soils mapping that identifies the entire site's soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service.

7.9 The applicant shall certify whether:

- a. any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- b. traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c. sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or
- d. water runoff from the improved site will impact streets or any other property within the adjoining municipality.

7.10 Any application to renew or amend an existing license or permit shall be filed with the Agency in accordance with Section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the license or permit. Any application to renew or amend such an existing license or permit shall contain the information required under Section 7 of these regulations provided:

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

7.11 Any application to renew for up to, but not exceeding a 5 year time period, shall be granted upon request of the Permittee unless the Agency finds that there has been a substantial change in circumstances which requires a new license or permit application or an enforcement action has been undertaken with regard to the regulated activity for which the license or permit was issued, provided the original license or permit shall not exceed a maximum of ten years.

SECTION 8

Application Procedures

- 8.1 All applications, requests, petitions, appeals or plans to be submitted to the Inland Wetlands and Watercourses Agency of the Town of Glastonbury shall be submitted to the municipal Office of Community Development. The application fee shall be paid at the time of filing of an application. A schedule of fees established under Section 15-22 of the Town Code of Ordinances shall be available at the Office of Community Development.
- 8.2 The Agency 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 affected by a decision of the Agency is within five hundred feet of the boundary of an adjoining municipality;
 - 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;
 - a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
 - water runoff from the improved site will impact streets or any other 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.
- 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] **25-32a** of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company **and the Commissioner of Public Health in a format prescribed by said commissioner**, provided such water company **or such commissioner** 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 Agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed [within] **not later than** seven days [of] **after** the date of the application. The water company **and the Commissioner of Public Health**, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.
- 8.4 The date of receipt of a petition, application, request, appeal or plan shall be the day of the next regularly scheduled meeting of the Agency, immediately following the day of submission to the Agency of such petition, application, request, appeal or plan 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 Agency may reasonably require. Requests for such 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.

SECTION 9

Public Hearings

- 9.1 The Agency shall not hold a public hearing on an application unless: a) the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses; b) 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 such a public hearing is filed with the Agency not later than fourteen (14) days after the date of receipt of such application; or, c) the Agency finds that a public hearing regarding such application would be in the public interest. A public hearing shall be held no later than sixty-five (65) days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At a public hearing any person or persons may appear and be heard. The Agency may issue a license or permit without a public hearing provided no petition provided for in this subsection is filed with the Agency on or before the fourteenth day after the date of receipt of the application.
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 The applicant shall provide, by certified mail, return receipt requested, written notice of the public hearing to the owner(s) of record of abutting land(s) no less than fifteen (15) days prior to the day of the hearing. The applicant shall provide evidence certifying this requirement to the Agency.
- 9.4 [In the case of any application which is subject to the notification provisions of subsection 8.2 of these regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.]

SECTION 10

Considerations for Decision

- 10.1 The Agency may consider the following in making its decision on an application:
- a. the application and its supporting documentation;
 - b. reports from other agencies and commissions, departments and officials including, but not limited to the Town of Glastonbury:
 1. Plan and Zoning Commission;
 2. Building Official;
 3. Health Director or registered sanitarian;
 4. Town Engineer or Assistant Town Engineer; and
 5. Director of Community Development, Planner, or Environmental Planner;
 - c. the Agency may also consider comments on any application from the North Central Soil and Water Conservation District, the Capitol Region Counsel of Governments Regional Planning Agency or other regional organizations, 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;

- d. non-receipt of comments from state and regional agencies, other agencies, commissions, departments, and officials listed in subsection 10.1.b and 10.1.c above within the prescribed time shall neither delay nor prejudice the decision of the Agency; and
- e. for an application for which a public hearing is held, public comments, evidence and testimony.

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

- a. the **adverse** environmental impact of the proposed regulated activity on wetlands or watercourses, including the **adverse** effects on the inland wetlands' and watercourses' capacity to support desirable biological life, to prevent flooding, to supply and protect surface and groundwater resources, to control sediment, to facilitate drainage **and** to control pollution [to support recreational activities, and to promote public health and safety];

[the 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 which would provide similar benefits with different environmental impacts, such as using a different location for the activity;]

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

[the relationship between the short-term uses of the environmental and the maintenance and enhancement of long-term productivity, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options;]

[irreversible and irretrievable commitment of resources which would be involved in the proposed activity; this requires recognition that the inland wetlands and watercourses of the State of Connecticut are an indispensable, irreplaceable and fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling and removal of material, by the diversion, diminution or obstruction of water flow including low flows, and by the erection of structures, and other uses;]

- 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 license or 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 functional and productive wetland or watercourse resources;

[measures which would mitigate the impact of any aspect of the proposed regulated activity; such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetland and watercourses and which could be feasibly carried out by the applicant and would protect the wetlands' or watercourses' natural capacity to support fish and wildlife, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage, and provide recreation and open space;]

- e. the character and degree of injury to, or interference with, safety, health or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed regulated activity; [or the creation of conditions which may do so, especially those resulting from activities within the wetlands buffer area; this includes recognition of potential damage from erosion, turbidity or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community;]
- f. impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands and watercourses.

[the proposed regulated activity does not interfere with the drainage system of the area or does not constitute a possible flood hazard, considering the general topography of the area, the watercourses pattern of the vicinity and the size of the drainage areas involved; and]

[the suitability of the regulated activity to the area for which it is proposed; this requires a balancing of the need for 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 and the benefit of generations yet unborn.

In applying the above standard and criteria, the Agency shall consider activity in the [wetlands' buffer] **upland review** area with respect to its **adverse** impacts on the related wetland and/or watercourse. An activity in the [wetlands buffer] **upland review** area, which is determined [by the Agency under] **pursuant to** Section 4.4 of these regulations, not to **adversely** affect any wetland or watercourse is not a regulated activity.

- 10.3 In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a license or 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 10.2 of this section. The finding and the reasons therefore shall be stated on the record and 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 Agency shall propose, on the record and in writing, the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the license or permit or to present alternatives to the proposed regulated activity.
- 10.5 For purposes of this section, (1) “wetlands and watercourses” includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) “habitats” means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6 [A municipal inland wetlands] **The Agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.**
- 10.7 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a license or permit should be issued. The applicant has the burden of demonstrating that the submitted application is consistent with the purposes and policies of these regulations and Sections 22a-36 to 22a-45, inclusive of the Connecticut General Statutes.
- 10.8 **In the case of a ruling by the Agency that a proposed activity that lies beyond the specified 100 and 200 foot upland review areas is a regulated activity pursuant to subsection 4 of the definition of upland review area within Section 2 of these regulations, the Agency shall render a finding, and its supporting reasons, that such proposed activity is likely to adversely impact or affect the wetlands and watercourses. The applicant has the burden of proof of demonstrating that such a proposed activity beyond the specified 100 and 200 foot upland review areas is not likely to cause an adverse impact upon or adversely affect the wetlands or watercourses.**

SECTION 11

Decision Process and the License or Permit

- 11.1 The Agency, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, 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 **to the wetlands and watercourses**, (b) maintain or enhance existing **the environmental quality of the wetlands and watercourses**, or (c) in the following order of priority: restore, enhance, and create functional and productive wetland or watercourse resources.
- 11.2 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)] **sixty-**

five (65) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. 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.

- 11.3 The Agency shall state upon its record the reasons and bases for its decision.
- 11.4 The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen day period, the applicant may provide for the publication of such notice within ten days thereafter.
- 11.5 If an activity authorized by a license or 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, the Agency shall file a copy of the decision and report on the application with the Town of Glastonbury Plan and Zoning Commission or the Town of Glastonbury Zoning Board of Appeals, whichever applies, within fifteen (15) days of the date of the decision thereon.
- 11.6 Any license or 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 shall be valid for five (5) years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any license or permit issued by the Agency for any other activity shall be valid for not less than two (2) years and not more than five (5) years.
- 11.7 No license or permit issued by the Agency shall be assigned or transferred without the written permission of the Agency, and only after the proposed assignee or transferee has appeared before the Agency and reviewed the terms of the license or permit with the Agency.
- 11.8 Any application to renew a license or permit shall be granted upon request of the Permittee unless the Agency finds that there has been a substantial change in circumstances which requires a new license or permit application or an enforcement action has been undertaken with regard to the regulated activity for which the license or permit was issued provided no license or permit may be valid for more than ten (10) years.
- 11.9 If a bond is required in accordance with Section 13 of these regulations, the Agency may withhold issuing the license or permit until such bond is provided.
- 11.10 General provisions in the issuance of all licenses or 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 license or permit may be modified, suspended or revoked.
 - b. All licenses or 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 Glastonbury, 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 license or 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, no work pursuant to the wetland permit may begin until such approval is obtained.
- d. In [constructing] **conducting** the authorized activities, the Permittee shall implement such management practices consistent with the terms and conditions of the license or permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.

SECTION 12

Action by Duly Authorized Agent

- 12.1 The Agency may delegate to its duly authorized agent or designated agent the authority to approve or extend a license or permit for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the agent or Agency and shall contain the information listed under Section 7.6 of these regulations, unless otherwise directed by the agent, and any other information the agent may reasonably require. 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 an 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 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 the Agency or 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 license or permit in accordance with Section 7 of these regulations.
- 12.3 **In the case of administering subsection 12.1 above for a proposed activity within the 200 foot upland review area, but said activity lies over one-hundred (100) feet away from the closest wetland or watercourse and the duly authorized agent finds that the conduct of such**

activity would result in no potential impact on any wetlands and watercourses, then the duly authorized agent may issue a waiver of the formal approval and publishing requirements contained within subsections 12.1 and 12.2 above.

SECTION 13

Bond

- 13.1 The Agency may require, as a condition to the license or permit, the filing of a bond in such amount and in a form approved by the Agency.
- 13.2 The bond shall be conditioned on compliance with the provisions of these regulations and the terms, conditions and limitations established in the license or permit.

SECTION 14

Enforcement

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its agent shall take into consideration the criteria for decision under Section 10.2 of these regulations.
- 14.2 The Agency or its agent may make regular inspections at reasonable hours, of all regulated activities for which licenses or permits have been issued under these regulations, and of all permitted as of right or nonregulated operations or uses authorized under Section 4 of these regulations. Such inspections shall occur only after the consent of the property owner or the owner's authorized agent.
- 14.3 In the case in which a license or permit has not been issued or a license or permit has expired, the Agency or its designated agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 If the Agency or its agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its 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 or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary license or permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Section 14.4 or other enforcement proceedings as provided by law.
- c. In addition to any other remedy allowed by law, any person who violates any provisions of the Town of Glastonbury's Inland Wetlands and Watercourses Regulations shall be subject to a fine of not more than one thousand dollars. The amount of the fine shall be based on the severity of the environmental impact of the unauthorized activity. Issuance of such fines shall be in accordance with procedures established in town ordinances, including the citation hearing procedure.

14.5 The Agency may suspend or revoke a license or permit if it finds that the Permittee has not complied with the terms, conditions or limitations set forth in the license or permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any license or 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 the Permittee is in compliance with its issued license or permit and any and all requirements for retention of the issued license or permit. The Permittee shall be notified of the Agency's decision to suspend, revoke, or maintain the issued license or 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 15

Amendments

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Glastonbury may be amended, from time to time, by the Agency 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 becomes available.
- 15.2 An application filed with the Agency which is in conformance with the applicable inland wetlands and watercourses regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in said regulations, including changes to [setbacks and buffers] **upland review areas**, 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.

- 15.3 These regulations and the Town of Glastonbury 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 (35) days before the public hearing on their adoption.
- 15.4 Petitions requesting changes or amendments to the Inland Wetlands and Watercourses Map for the Town of Glastonbury, 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
 - e. the reasons for the requested action.
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Glastonbury, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include:
 - a. the name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
 - b. the names and mailing addresses of the owners of abutting land;
 - c. documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
 - d. map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6 For the purposes of this section, watercourses shall be first identified and delineated by a soil scientist, geologist, ecologist or other qualified individual with final watercourse determinations decided upon by the Agency.
- 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 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 (2) days, the first not more than fifteen (15) days, nor less than ten (10) days,

and the last not less than two (2) days before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

- 15.8 The agency 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 (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such petition. Failure of the agency to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.9 The Agency shall make its decision and state, in writing, the reasons why or why not the change in the Inland Wetlands and Watercourses Map was made.

SECTION 16

Appeals

- 16.1 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.
- 16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

SECTION 17

Conflict and Severance

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

SECTION 18

Other Permits

- 18.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other approvals, assents, permits or licenses required by law or regulation by the Town of Glastonbury, 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 approvals, assents, permits or licenses is the sole

responsibility of the applicant.

SECTION 19

Effective Date of Regulations

19.1 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 Glastonbury.

**NOTE: These regulations were: adopted on xxxxx xx, 2008;
and effective on xxxxx xx, 2008.**