

AMENDMENTS

April 1, 1990	New Sec. 7.4 and associated section renumbering; Sec. 10.2; Sec. 10.4; Sec. 13.1; Sec. 13.7; Sec. 18.1
February 15, 1993	Sec. 10.6 Permit Duration and Sec. 13.6 Public Hearing Notification Requirements
February 4, 1994	Sec. 10.6 Permit Duration
April 21, 1995 Uses	Sec. 4.1 Permitted Uses as of Right and Nonregulated
March 15, 1997	Sec. 2 Definitions; Sec. 6 Application Requirements; Sec. 9 Considerations for Decision; Sec. 10 Decision Process and Permit; Sec. 13 Amendments
January 1, 2000	Sec. 6.4 d., 13.1 a., 13.2, 13.6, 13.7, 13.8, 17.1, 18.1 References to New Wetlands and Watercourses Map; Sec. 10.2 Public Hearings
May 1, 2006	Sec. 18.1 Application Fees; 18.2 Complex Application Fee and associated section renumbering; Sec. 18.3

TOWN OF GROTON
INLAND WETLANDS AND WATERCOURSES REGULATIONS

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APRIL 1, 1989

SECTION 1
TITLE, AUTHORITY AND PURPOSE

- 1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable, irreplaceable, and 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; hydrological stability and control of flooding and erosion; the recharging and purification of groundwater; and the existence of many forms of animal, aquatic, and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures, and other uses, all of which have despoiled, polluted, and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment, thus adversely affecting the ecological, scenic, historic, and recreational values and benefits of the State for its citizens now and forever more.

The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable, and unregulated uses, disturbance, or destruction is in the public interest and is essential to the health, welfare, and safety of the citizens of the State. It is, therefore, the purpose of these regulations to protect the citizens of the State by making provisions for the protection, preservation, maintenance, and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state, or local authority; preventing damage from erosion, turbidity, or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife, and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational, and other public and private uses and values; and protecting the State's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse, and mismanagement by providing an orderly process to balance the need for the economic growth of the State and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the State, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

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

- 1.3 The Inland Wetlands Agency of the Town of Groton was established in accordance with Ordinance No. 112 adopted October 1, 1973, and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Groton.
- 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 all provisions of the Inland Wetlands and Watercourses Act and shall grant, deny, or limit any permit, and in granting a permit the Inland Wetlands Agency may grant it upon such terms, conditions, limitations, or modifications for all regulated activities or activities in accord with Section 4, in inland wetlands and watercourses in the Town of Groton pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2 DEFINITIONS

2.1 As used in these regulations:

"Accessory structure" means a subordinate use or structure incidental to the primary use of the site.

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

"Agency" means the Inland Wetlands Agency of the Town of Groton.

"Agency member" means a member or an alternate member of the Inland Wetlands Agency of the Town of Groton.

"Aquifer" means areas of stratified drift which may conduct or yield significant quantities of groundwater. Areas are generally shown on the Groton Stratified Drift Map.

"Bogs" are usually distinguished by evergreen trees and shrubs recognized as bog species and underlain by peat deposits, poor drainage, and highly acidic conditions.

"Building structure" means any structure intended for the shelter, housing, or enclosure of persons, animals, or materials associated with the primary use of the site.

"Clear-cutting" means the harvest of timber which removes all trees down to a two inch (2") diameter at breast height.

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

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

"Designated agent" means an individual designated by the Agency to carry out its functions and purposes.

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

"Disturbing the natural and indigenous character of the land" means that the activity will significantly alter the inland wetlands and watercourses by reason of removal or deposition of material, clear-cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

"Farming" means use of land for the growing of crops, raising of livestock, or other agricultural use.

"Feasible" means able to be constructed or implemented consistent with sound engineering principles. (New Eff: 3/15/97)

"Flood plain" means a nearly level alluvial plain that borders a stream and is subject to flooding unless protected artificially.

"Flood zone" means areas of the 100-year flood as shown on the most recent Flood Insurance Rate Map by the Federal Emergency Management Agency.

"Gardening" means the tilling of soil, planting, cultivating, and harvesting of vegetable matter.

"Grazing" means using any tract of land to feed or supply farm animals with grass or pasture, to tend farm animals, or feeding or growing silage and herbage.

"Harvesting of crops" means gathering plants or animals or plant and animal products which have been grown to be harvested.

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

1. Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system (this generally shall be 100 cubic yards or more); or
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, or other functions; or
4. Any activity which causes substantial turbidity, siltation, or sedimentation in a wetland or watercourse; or

5. Any activity which causes a substantial change in the flow of a natural watercourse or in the groundwater levels of the regulated area; or
6. Any activity which causes or has the potential to cause pollution of a wetland or watercourse, as may be measured by the Department of Environmental Protection Water Quality Standards and Classifications; or
7. Any activity which destroys or adversely affects unique wetland or watercourse areas having demonstrable scientific or educational value.

"Marshes" are areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered, and areas of open water six inches (6") or more in depth are common.

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

"Minor activity" means a proposed activity which is not a major activity.

"Municipality" means the Town of Groton, New London County, State of Connecticut.

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

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

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

"Person" means any person, firm, partnership, association, corporation, company, organization, or legal entity of any kind, including municipal corporations, government 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 resulting from any filling or excavation activity.

"Prudent" means economically and otherwise reasonable in light of the 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. (New Eff: 3/15/97)

"Regulated activity" means any operation or use of a wetland or watercourse involving removal or deposition of material; or any obstruction, construction, alteration, or pollution of such wetlands or watercourses, and those activities adjacent to wetlands or watercourses outlined in Section 5.3 of these regulations, but shall not include the specified activities in Section 4 of these regulations.

"Regulated area" means any inland wetlands or watercourses as defined in these regulations.

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

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

"Soil Scientist" means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management. (Eff: 3/15/97)

"Soil type" means soil type as identified in the National Cooperative Soil Survey, by the Soil Conservation Service of the U.S. Department of Agriculture (USDA).

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

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

"Town" means the Town of Groton, New London County, State of Connecticut.

"Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters 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, as

amended. Intermittent watercourse 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. (Eff: 3/15/97)

"Wetlands" means lands, including submerged lands as defined in Section 2.1 of these regulations, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consist of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soil 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 National Cooperative Soil Survey. (Eff: 3/15/97)

SECTION 3
INVENTORY OF REGULATED AREAS

- 3.1 The map of regulated areas, entitled "Wetlands and Watercourses Map, Groton, Connecticut," delineates the general location and boundaries of inland wetlands and the general location of watercourses. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determinations shall be made by field inspection by the Agency's designated agent and/or testing conducted by a soil scientist where soil classifications are required, or where watercourse determinations are required, by other qualified individuals deemed acceptable to the Agency. Copies of this map are available for inspection in the Office of the Town Clerk or the Planning Department.

- 3.2 Any property owner who disputes the designation of any part of his or her land as a regulated area on the Wetlands and Watercourses Map may petition the Agency to change the designation. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with Section 13 of these regulations may be required of the property owner when the Agency requires an accurate delineation of regulated areas.

- 3.3 The Inland Wetlands Agency or its designated agent shall inventory and maintain current records of all regulated areas within the Town. The Agency may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the Town. Such map amendments are subject to the public hearing process outlined in Section 13 of these regulations.

SECTION 4
PERMITTED USES AS OF RIGHT AND NONREGULATED USES

- 4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation. The provisions of this section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear-cutting of timber except for the expansion of agricultural crop land, or the mining of topsoil, peat, sand, gravel, or similar material from wetlands or watercourses for the purpose of sale.
 - b. A residential home for which a building permit has been issued or on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Groton Planning Commission as of June 30, 1974, and further provided no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as of right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing house and well locations, septic system, driveway, approval dates, and/or other necessary information to document his entitlement.
 - c. Boat anchorage or mooring, not to include dredging or dock construction.
 - d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of material from or into a wetland or watercourse, or diversion or alteration of a watercourse.
 - e. Construction and operation by water companies, as defined by Section 16-1 of the 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-410 of the General Statutes.

- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a 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 subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place. (New Eff: 4/21/95)
- 4.2 The following operations and uses shall be permitted as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetlands or watercourses by removal or deposition of material, alteration or obstruction of water flow, or pollution of the wetland or watercourse.
- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion or to encourage proper fish, wildlife and silviculture practices.
 - b. Outdoor recreation including the use of play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing, and cross-country skiing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands or watercourses involving filling, excavation, dredging, clear-cutting, grading, and excavation or any other alteration or use of wetlands or watercourses not specifically permitted by this section shall require a permit from the Agency in accordance with Section 5 of these regulations.
- 4.4 To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse which may disturb the natural and indigenous character of the land, shall, prior to commencement of such operation or use, notify the Agency on an Application for Permit form, 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 the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a

nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time and such ruling will be reviewed by the Agency at its next regular meeting.

SECTION 5
REGULATED ACTIVITIES TO BE ALLOWED BY PERMIT

5.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Agency of the Town of Groton.

5.2 The Agency shall regulate any activity in or upon a wetland or watercourse involving removal or deposition of earth material, or any obstruction, construction, alteration or pollution of such wetlands or watercourses and any other regulated activity outside of a wetland or watercourse which may have an effect on it, unless such operation or use is permitted or nonregulated pursuant to Section 4 of these regulations.

5.3 Separating Distances and Buffers

The following recommended setbacks and buffers may be established to protect the quality and integrity of wetlands and watercourses for specific uses and activities:

<u>Use or Activity</u>	<u>Buffer</u>
1. Subsurface sewerage disposal system	100'
2. Building structure primary, and/or accessory structure	100'
3. Removal or deposition of earth material or demolition debris, grading	100'
4. Storage or stockpiling of any construction material, debris, motor vehicles, or installation of portable sanitation equipment	50'

The Agency may require or establish distances or areas exceeding or below this recommendation.

5.4 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Town of Groton Inland Wetlands Agency, or violating any other provision of these regulations shall be subject to the enforcement proceedings and penalties prescribed in Section 12 of these regulations and any other remedies as provided by law.

SECTION 6
APPLICATION REQUIREMENTS

- 6.1 Any person wishing to undertake a regulated activity shall apply in writing for a permit on a form provided by the Agency. The application shall include an application form and such information as prescribed by Section 6.4 and, in the case of a major activity, by Section 6.5 of these regulations. Application forms may be obtained from the Planning Department.
- 6.2 All applications shall contain such information as is necessary for a fair and informed determination of the issues.
- 6.3 The Agency and the applicant may hold a pre-application meeting to preliminarily review the project or to determine whether or not the proposed application involves a major activity. The pre-application request shall be in writing. Whenever possible, the determination relative to major activities should be made at the pre-application meeting.
- 6.4 All applications shall include the following information in writing:
- a. The applicant's name, home and business addresses, and telephone numbers, including all principals involved.
 - b. The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application.
 - c. Applicant's interest in the land.
 - d. The geographical location of the property which is to be affected by the proposed activity shown on the Wetlands and Watercourses Map.
 - e. The purpose and a description of the proposed activity.
 - f. Alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen.
 - g. A site plan to scale showing existing and proposed conditions in relation to wetlands and watercourses, including: identification of the inland wetlands and watercourses, a computation of the area(s) (in acres and square feet) of wetland or watercourse disturbance, soil type(s), vegetation, flood zones, fill or excavation in cubic yards, structures, and clearing. Where inland wetlands have been field identified, numbered wetland flags shall be shown on the site plan.

- h. If a public hearing is held, the names and addresses of adjacent property owners within 150' of the property.
- i. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information.
- j. Authorization for the members of the Agency and its designated agent to inspect the property, at reasonable times, both before and after a final decision has been issued.
- k. Any other information the Agency deems necessary to the understanding of what the applicant is proposing, including specific information required under Section 6.5.
- l. Submission of the appropriate filing fee based on the fee schedule established in Section 18 of these regulations.

6.5 If proposed activity involves a major activity as determined by the Agency and defined in Section 2.1 of these regulations, additional information may be required based on the nature and anticipated effects of the activity including, but not limited to, the following:

- a. Site plans for the proposed use or operation of the property which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the development drawn by a licensed surveyor, professional engineer, or landscape architect registered in the State of Connecticut or by such other qualified persons.
- b. Engineering and other reports, analyses, and additional drawings to fully describe and assess the proposed project and any associated filling, excavation, drainage or wastewater discharges, hydrologic or hydraulic modifications affecting wetlands, watercourses, or water quality. Reports may be required to be prepared by professionals in those particular fields. Hydrologic analysis may be required to examine the project's effect upon the entire watercourse watershed and may be required to be by a method approved by the Agency's agent.
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service. The Agency may require the applicant to have the wetlands delineated in

the field by a soil scientist and that the field delineation be incorporated into the site plans.

- d. Description of the ecological communities and functions of the wetlands or watercourses and adjacent uplands involved with the application and a description of how the proposed activity will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application.
- e. An alternative analysis and a description of each alternative considered and why it was deemed neither feasible nor prudent. The Agency may require the applicant to submit written information concerning consideration of alternative actions to minimize wetland and watercourse impacts.
- f. Analysis of chemical or physical characteristics of any fill material.
- g. Measures which would mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation, and obstruction of drainage, or which otherwise safeguard water resources.
- h. Subsurface sewerage disposal system buffers may be required to be verified by a Department of Environmental Protection approved hydraulic and/or effluent renovation/treatment analysis to be conducted by the applicant. The Agency is authorized to impose separating distances that exceed the above or Connecticut Department of Health Services requirements based on the magnitude of discharge, soil, and geologic condition, and potential degradation of water quality.

6.6 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 of other municipal or private property within the adjoining municipality.

- 6.7 The application form and five copies of the plans accompanying the application form shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Inland Wetlands Agency.
- 6.8 Any application to extend the expiration date of a previously issued permit or amend an existing permit shall be filed with the Agency sixty-five (65) days prior to the expiration date for the permit in accordance with Sections 6.4 through 6.7 of these regulations. Any application for amendment, modification, renewal, or extension shall be made in accordance with this section provided:
- a. The application may incorporate, by reference, the documentation and record of the original application;
 - b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
 - c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property for which the permit was issued;
 - d. The Agency may accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and may allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
 - e. (Deleted; effective 3/15/97)
- 6.9 A reporting form shall be completed during the application process which provides the Commissioner of the Department of Environmental Protection with information necessary to properly monitor the inventory of State wetlands. The reporting form shall be part of the application and the following sections shall be completed by the applicant: name of applicant; name of the project; project descriptions; area of wetlands and/or lineal feet of watercourse proposed to be altered. The Agency shall be responsible for the remaining information and any corrections on the form and for filing it in accordance with Section 22a-28 (M)-1 of the Inland Wetland and Watercourse Regulations of the Department of Environmental Protection.

SECTION 7
APPLICATION PROCEDURES

- 7.1 All applications shall be filed with the Planning Department of the Town of Groton.
- 7.2 In the case of any application where any portion of the wetland or watercourse on which the regulated activity is proposed is located within 500 feet of the boundary of the City of Groton, Town of Ledyard, or Town of Stonington, the applicant shall give written notice by certified mail, return receipt requested, to the adjacent municipal wetland agency. This written notice shall be given to the adjacent municipality on the same day of filing an inland wetland permit application with the Town of Groton Inland Wetlands Agency. Documentation of such notice shall be provided to the Agency.
- 7.3 The Agency or its agent shall, by registered mail, within seven (7) days of application receipt, notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:
- 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. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or
 - d. Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.4 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be 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. (New Eff: 4/1/90)

- 7.5 The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency, provided such meeting is no earlier than three business days after receipt, or thirty-five (35) days after such submission, whichever is sooner.
- 7.6 At any time during the review period prior to the closure of the public hearing, the Agency may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitations as set forth in Section 10.2.
- 7.7 All applications shall be open for public inspection.
- 7.8 Incomplete applications may be withdrawn or denied.
- 7.9 The Agency shall classify the application as one of the following:
- a. Nonregulated Activity - This classification shall be given to any application which the Agency determines does not involve a regulated activity. Upon assignment of such classification, a permit shall not be necessary to conduct the proposed activity.
 - b. Minor Activity
 - c. Major Activity

The Agency shall inform the applicant, or the applicant's authorized agent, in writing of the classification.

SECTION 8
PUBLIC HEARINGS

- 8.1 A public hearing shall be held on all applications involving a major activity. A public hearing may be held on applications which do not involve major activities if the Agency determines it is in the public interest. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.
- 8.2 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 the Town.
- 8.3 Adjacent property owners within 150 feet of the property boundary on which the proposed regulated activity will take place shall be given written notice by the applicant of the location and nature of the proposed activity and the date, time, and place of the public hearing. Notice shall be sent by certified mail to the actual owner not less than fifteen (15) days before the scheduled public hearing. Proof of mailing shall be furnished to the Agency before or at the commencement of the public hearing.
- 8.4 In the case of any application which is subject to the notification provisions of Section 7.3 of these regulations, a public hearing shall not be conducted until the clerk(s) of the adjoining municipality or municipalities have received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

SECTION 9
CONSIDERATIONS FOR DECISION

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

- a. The application and its supporting documentation.
- b. Public comments, evidence, and testimony.
- c. Reports from other agencies and commissions including, but not limited to, the Town of Groton Conservation Commission, Planning Commission, Zoning Commission, Building Official, and Health Official.
- d. The Agency may also consider comments on the application from the Department of Environmental Protection, New London County Soil and Water Conservation District, the Southeastern Connecticut Regional Planning Agency, or other regional organizations or agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
- e. Non-receipt of comments from municipal or Town agencies and commissions and as listed in "c." above, within the prescribed time, shall neither delay nor prejudice the decision of the Agency.

9.2 Standards and Criteria for Decision

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

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses, including the effects on the inland wetland's and watercourse's capacity to support fish and wildlife, prevent flooding, supply and protect surface and ground waters, to control sediment, facilitate drainage, control pollution, support recreational activities, and promote public health and safety. (Eff: 3/15/97)
- 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. This consideration

should include, but is not limited to, the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts. (Eff: 3/15/97)

- c. 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. This should include consideration of the extent to which the proposed activity involves tradeoffs 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. (Eff: 3/15/97)
- d. Irreversible and irremediable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (A) prevent or minimize pollution or other environmental damage, (B) maintain or enhance existing environmental quality, or (C) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. 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. (Eff: 3/15/97)
- 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. 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. (Eff: 3/15/97)
- f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities

associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses. (Eff: 3/15/97)

- g. Measures which would mitigate the impact of any aspect of the proposed regulated activities. Such measures include, but are not limited to, actions which would avoid adverse impact or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, and facilitate drainage.

9.3 In the case of an application which received a public hearing pursuant to a finding by the Inland Wetlands Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Agency shall consider the facts and circumstances set forth in Section 9 of these regulations. This finding and the reasons thereof shall be stated on the record, in writing, in the decision of the Agency. (Eff: 3/15/97)

9.4 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 and watercourses, the Agency shall propose on the record, in writing, the types of alternatives which the applicant may investigate provided this section 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. (New Eff: 3/15/97)

SECTION 10
DECISION PROCESS AND PERMIT

- 10.1 The Agency may grant the application as filed, grant it upon such terms, conditions, limitations or modifications necessary to carry out the purposes of the Inland Wetlands and Watercourses Act, as amended, or deny it. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (A) prevent or minimize pollution or other environmental damage, (B) maintain or enhance existing environmental quality, or (C) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. (Eff: 3/15/97)
- 10.2 The Inland Wetlands Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, or unless a petition signed by at least twenty-five persons requesting a hearing is filed with the Agency not later than fourteen days after submission of such application or unless the Agency finds that a public hearing regarding such application would be in the public interest. The Inland Wetlands Agency may issue a permit without a public hearing provided no petition provided for in this subsection is filed with the Agency not later than fourteen days after the date of receipt of the application. Such hearing shall be no later than sixty-five days after receipt of such application. The hearing shall be completed within forty-five (45) days of its commencement. Action shall be taken on such applications within thirty-five (35) days after completion of a public hearing or in the absence of a public hearing within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such application. The failure of the Inland Wetlands 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 must either be withdrawn by the applicant or denied by the Agency.) The applicant may grant the Agency an extension of the above time limits. (Eff: 1/1/00)
- 10.3 The Agency shall state upon its records the reasons and basis for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 10.4 The Agency shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, and the Agency shall publish notice of its decision 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. A copy of all Agency decisions shall be forwarded to the Commissioner of Environmental Protection in such a form as prescribed by the Commissioner. (Eff: 4/1/90)

- 10.5 If an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, a special permit, variance, or special exception, a copy of the decision and report on the application shall be filed with the Town of Groton Planning Commission and/or Zoning Commission within fifteen (15) days of the date of the decision.
- 10.6 Any permit issued under this section for the development of property for which zoning approval, subdivision approval, or special permit approval is also required 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 under this section for any other activity shall be valid for not less than two years and not more than five years. Any such permit shall be renewed upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years. Any permit renewal request shall be made in conformance with Section 6.8 of these regulations. (Eff: 3/15/97)
- 10.7 No permit shall be assigned or transferred without written notice to the Agency.
- 10.8 The applicant shall file the original permit in the Land Records of the Town Clerk. (Eff: 3/15/97)
- 10.9 If a bond or insurance is required in accordance with Section 11 of these regulations, no activity shall commence until such bond or insurance is provided.
- 10.10 General provisions in the issuance of all permits:
 - a. In evaluating applications in which the Agency relied in whole or in part on information provided by the applicant, 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 Groton, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any

federal, state, and municipal laws or regulations pertinent to the property or activity.

- c. If the activity authorized by the inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance, or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.

SECTION 11
BOND AND INSURANCE

- 11.1 Upon approval of the application and prior to commencement of any activity, the applicant may, at the discretion of the Agency, be required to file a Letter of Credit, Passbook, or bond with such surety satisfactory to the Agency in such amount and in a form approved by the Agency.
- 11.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions, and limitations established in the permit.
- 11.3 The Agency may require a person or applicant to take reasonable precautions to protect persons and property from injury and damage which may foreseeably result from the activity in the wetlands. These measures may include, but are not limited to, requiring the person or applicant or any agent or contractor to acquire or have public liability insurance during construction or work.

SECTION 12 ENFORCEMENT

- 12.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations.
- 12.2 The Agency may condition a permit upon it or its agents making regular inspections of the regulated activities. In no event shall a permit condition hereunder limit the authority of the Agency or its agents to make inspections under any other provision of these regulations as any statute, law, order, or decree.
- 12.3 If the Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility, or condition which is in violation of the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, as amended, or these regulations or any provisions thereof, 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 section shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended;
 - b. Suspend or revoke a permit if it finds that the applicant has not complied with the terms, conditions, or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application, including application plans. Prior to revoking any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended

action. The permittee shall be given an opportunity at a hearing to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision;

- c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the 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 a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order as provided in subsection "a." of this section or other enforcement proceedings as provided by law.

All of the Agency's actions, rights, and remedies herein are in addition to any other rights, remedies, claims, and courses of action arising under any provision of these regulations or of any provision of any statute, law, order, or decree. All Agency rights, remedies, and actions shall be cumulative and the Agency's act or failure to act under any provision of these regulations or of any statute, law, order, or decree, shall not be construed as limiting or impairing in any way or manner the authority of the Agency or its agents to act under any other provision of these regulations or of any statute, law, order, or decree.

SECTION 13
AMENDMENTS

- 13.1 a. These regulations and the Wetlands and Watercourses Map for the Town of Groton may be amended, from time to time, by the Agency in accordance with the provisions of the Connecticut General Statutes.
- b. An application filed with the Inland Wetlands Agency which is in conformance with the applicable inland wetlands regulations as of the date of receipt of such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt. The provisions of this subsection shall not be construed to apply: (Eff: 3/15/97)
1. to the establishment, amendment or change of boundaries of inland wetlands or watercourses; or,
 2. to any change in regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of such receipt. (Eff: 3/15/97)
- 13.2 Petitions requesting changes or amendments to the Wetlands and Watercourses Map, for the Town of Groton, shall contain at least the following information:
- a. The applicant's name, address, and telephone number.
 - b. The owner's name (if not the applicant), address, telephone number, and a written consent to the proposed action set forth in the application.
 - c. Applicant's interest in the land.
 - d. The geographic location of the property involved in the petition including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse area.
 - e. The reasons for the requested action.
 - f. The names and addresses of adjacent property owners within 150 feet of property.
 - g. A map showing proposed development of the property.

- 13.3 The Inland Wetlands Agency may require the property owner to present documentation by a soil scientist that the land in question does not have a soil type classified by the National Cooperative Soil Survey as poorly drained, very poorly drained, alluvial, or flood plain. Such documentation includes a map of the land in question signed by a soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted.
- 13.4 Watercourses shall be delineated by a soil scientist, geologist, ecologist, or other qualified individual.
- 13.5 Petitions requesting changes or amendments to the Inland Wetlands and Watercourses Regulations shall contain at least the following information:
- a. The applicant's name, address, and telephone number.
 - b. The existing and proposed text.
 - c. The reasons for the proposed amendment or change.
- 13.6 A public hearing shall be held on petitions to amend the Wetlands and Watercourses Map or Inland Wetlands and Watercourses Regulations. Notice of the hearing shall be published in a newspaper having substantial circulation in the municipality 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 hearing. A copy of such proposed amendment shall be filed in the Office of the Town Clerk for public inspection at least ten (10) days before such hearing.
- 13.7 Within ninety (90) days after receipt of a petition for a change in the Inland Wetlands and Watercourses Regulations or Wetlands and Watercourses Map, the Agency shall hold a public hearing to consider the petition. The Agency shall act upon the changes requested in such petition within sixty (60) days after the close of the hearing. The petitioner may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such petition. The failure of the Inland Wetlands 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.
- 13.8 The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Regulations or Wetlands and Watercourses Map was made.

SECTION 14
APPEALS

- 14.1 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.
- 14.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

SECTION 15
CONFLICT AND SEVERANCE

- 15.1 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 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.

SECTION 16
OTHER PERMITS

- 16.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits, or licenses required by law or regulation by the Town of Groton, State of Connecticut, and the Government of the United States, including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits, or licenses is the sole responsibility of the applicant. In all cases, Planning and Zoning decisions must give due consideration to the decisions of the Inland Wetlands Agency.

SECTION 17
EFFECTIVE DATE OF REGULATIONS

- 17.1 These regulations, including the Wetlands and Watercourses Map, Groton, Connecticut, application forms, fee schedule, and amendments thereto, shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Groton.

SECTION 18
APPLICATION FEES

18.1 Fee Schedule

	<u>MINOR</u>	<u>MAJOR</u>
One (1) lot/one (1) to two (2) dwelling units	\$150	\$400
Two (2) or more lots/three (3) or more dwelling units	\$150	\$400
One (1) lot/one (1) commercial or industrial building	\$150	\$400
Permit amendment or modification	\$150	\$400
Inland Wetlands and Watercourses Regulations or Wetlands and Watercourses Map amendments		\$400

(Eff: 5/1/06)

All fees include a \$30.00 state land use fee where applicable.

18.2 Complex Application Fee: If an application is deemed to be complex, the Inland Wetland Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not be limited to, the cost of retaining experts to analyze and review reports submitted by the applicant as part of the complex application. The Agency's designated agent shall estimate the Complex Application Fee within 21 days of the Agency's receipt of the application. The fee shall be paid prior to the Agency taking action on the complex application. Any portion of the complex application fee in excess of the actual costs incurred shall be refunded to the applicant after publication of the agency's decision.

18.3 Boards, commissions, councils, and departments of the Town of Groton are exempt from all fee requirements under Section 18 of these regulations.