

INLAND WETLANDS AND WATERCOURSES REGULATIONS

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**THE INLAND WETLANDS AND WATERCOURSES
REGULATIONS OF THE TOWN OF MANCHESTER, CONNECTICUT**

SECTION 1 TITLE AND AUTHORITY

WHEREAS The Manchester Planning and Zoning Commission has been authorized by Town Ordinance to regulate the inland wetlands and watercourses in the Town of Manchester in accordance with Public Act No. 155 of the 1972 Session of the General Assembly as amended, and

WHEREAS it is incumbent upon the Manchester Planning and Zoning Commission to promulgate regulations in conformity with the regulations promulgated by the Commissioner of Environmental Protection of the State of Connecticut for the purpose of protecting the wetlands and watercourses within the Town, and

WHEREAS the Planning and Zoning Commission deems that it is fundamental to regulate land in the vicinity of wetlands and watercourses, and

WHEREAS 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.

WHEREAS the Planning and Zoning Commission deems that the wetlands within the Town shall be pictorially represented on a map or maps entitled:

INLAND WETLANDS AND WATERCOURSES

NOW THEREFORE these regulations shall be known and cited as the Inland Wetlands and Watercourse Regulations of the Town of Manchester, Connecticut and are adopted.

SECTION 2 DEFINITIONS

- (1) "Act" means the Inland Wetland and Watercourses Act, Sections 22a-36 through 22a-45 of the General Statutes as amended.
- (2) "Agency" means the Manchester Planning and Zoning Commission.
- (3) "Bogs" are areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

- (4) "Clear-cutting" means the harvest of timber products in a fashion which removes all species of trees down to a 2" diameter at breast height.
- (5) "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.
- (6) "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
- (7) "Discharge" means the emission of any water, substance or material into wetlands or watercourses whether or not such substance causes pollution.
- (8) "Disturbing the natural and indigenous character of the land" means that the activity will significantly alter the inland wetland or 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.
- (9) "Farming" means using any tract of land for growing crops, raising livestock or other agricultural use.
- (10) "Feasible" means able to be constructed or implemented consistent with sound engineering principles.
- (11) "Gardening" means the tilling of soil, planting, cultivating and harvesting of vegetable matter.
- (12) "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.
- (13) "Habitat" means areas or environments in which an organism or biological population normally lives or occurs.
- (14) "Harvesting of Crops" means gathering plants or animals or plant or animal products which have been grown to be harvested.
- (15) "License" means the whole or any part of any permit, certificate or approval or similar form of permission which may be required of any person by the provisions of these regulations or the Inland Wetlands and Watercourses Act, Public Act. No. 155 (1972) as amended.
- (16) "Marshes" are areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.

- (17) "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.
- (18) "Municipality" means the Town of Manchester, Connecticut.
- (19) "Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale or for use as stock for grafting.
- (20) "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.
- (21) "Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the Town of Manchester by reason of erosion, 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.
- (22) "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;
- (23) "Regulated Activity" means any operation within or use of a wetland or watercourse or within 50 feet of a wetland or watercourse, 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 3 of these regulations.
- (24) "Regulated Area" means any inland wetland or watercourse as defined in these regulations.
- (25) "Remove" includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, grub, clear-cut timber, bulldoze, dragline or blast.
- (26) "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any of the waters of the Town of Manchester, including, but not limited to change in odor, color, turbidity or taste.
- (27) "Restrictive Conservation Easement" (RCE) means a limitation in the form of an easement agreement executed by or on behalf of the owner of the land, water, or wetland (the Land) described in the RCE in favor of the Town of Manchester or its agent. The fee simple interest in the Land contained in the RCE area shall remain with the owner of Land, subject to the RCE in favor of the Town. The purpose of the RCE is to retain such land, water or wetland areas predominately in their natural, scenic, or open condition or in their agricultural, farming, forest, or open space use, and to ensure the long term protection and preservation of these areas.

- (28) "Significant Impact Activity" means any activity, including, but not limited to, the following activities which may have a major effect or significant impact.
- a. Any activity involving a deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system; or
 - b. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
 - c. 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, provide recreation or open space or other functions; or
 - d. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourses; or
 - e. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area; or
 - f. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse; or
 - g. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- (29) "Soil Scientist" means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.
- (30) "Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.
- (31) "Swamps" are areas with soils that exhibit aquatic moisture regimes and are dominated by wetland trees and shrubs.
- (32) "Waste" means sewage or any natural or man-made substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters within the Town of Manchester.
- (33) "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, public or private, vernal or intermittent, which are contained within, flow through or border upon the Town of Manchester or any portion thereof, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes as amended. Watercourses include aquatic, plant or animal life and habitat in the watercourse. Intermittent water courses 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;

- (34) "Wetlands" means land, including submerged land, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes as amended, 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 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 include aquatic, plant or animal life and habitats in the wetlands.

SECTION 3 OPERATIONS AND USES IN WETLANDS

- 3.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- (a) Grazing, farming, nurseries, gardening, harvesting of crops and farm ponds of three (3) 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 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 mining of top soil, peat, and, 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 subdivision approved by the Planning and Zoning Commission as of July 1, 1974 and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the 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 the largest minimum residential lot size permitted in the municipality and containing a residence. Such incidental uses shall include the maintenance of existing structures and landscaping, but shall not include the removal or deposition of substantial amounts of material from or into a wetland, or diversion or alteration or a watercourse.
 - (e) Construction and operation by water companies as defined in Title 16, 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 through 22a-410 of the Connecticut General Statutes, as amended.

- (f) Maintenance relating to any drainage pipe which existed before July 1, 1974, provided such pipe is on property which is zoned as residential but does not contain hydrophytic vegetation. For the 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.

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

- (a) Conservation of soil, vegetation, water, fish, shellfish, and wildlife.
- (b) Outdoor recreation including play and sporting areas, golf courses, field trails, nature study, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell-fishing and cross-country skiing where otherwise legally permitted and regulated.

3.3 Within fifty (50) feet of the banks or edge of a river, stream, brook, pond, lake or regulated wetland area, no regulated activity shall be conducted until the particular operation has been authorized by the Agency.

3.4 Any person or persons intending to conduct such operations or uses as described in Sections 3.2 and 3.3 shall make application for a permit as required by Section 4 of these regulations. Any regulated activity or use legally existing as of the effective date of these regulations shall be exempt therefrom and permitted to continue provided that no new or additional activity or use is conducted.

3.5 All other operations and uses in wetlands not mentioned in Sections 3.1 and 3.2 are prohibited except as they may be licensed by the Agency. Any person or persons intending to conduct an operation or use not mentioned in Sections 3.1 and 3.2 shall make application for a permit as required by Section 4 of these regulations. If any operation or use involves a regulated activity, the Agency may regulate such activity.

3.6 To carry out the purposes of this section, any person proposing to carry out a permitted or non-regulated operation or use of a wetland or watercourse, which may disturb the natural and indigenous character of the wetland or watercourse, shall, prior to commencement of such operation or 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 non-regulated use of the wetland or watercourse. Emergency repairs by utility and town agencies may be

undertaken prior to the submittal of such notification provided the utility or town agency shall notify the Agency of all emergency repair operations as soon as possible after the need for the repair is determined. The Agency or its designated agent shall rule that the proposed operation or use or emergency repair is a permitted or a non-regulated 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.

By the terms of the definition of a regulated activity, the Agency shall regulate only those activities which:

- (a) remove material from,
- (b) deposit material in,
- (c) construct, build or erect upon,
- (d) obstruct,
- (e) alter, or
- (f) pollute a wetland or watercourse.

SECTION 4 APPLICATION FOR PERMIT

4.1 Receipt of Application by Agency

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, or thirty-five days after such submission, whichever is sooner.

4.2 Veracity of Supplied Information

All information submitted in an application shall be considered factual, or in the case of proposed or anticipated activity binding. A knowing failure of the applicant or any of his, her or its agents to provide correct information, or performance exceeding the levels of activity proposed or anticipated shall be sufficient grounds for the revocation of any permit or penalty as set forth in Section 7 of these regulations.

4.3 Application Documents Required

All applications submitted to the Agency shall include information sufficient to enable the Agency to ascertain fully the proposed activity or use.

4.3.01 Minimum Application Requirements

The following documents shall be included with all applications:

- (a) Completed Application Form (1 copy)

1. The applicant's name, address and telephone number;
 2. Address of the property(ies) on which the activity is being proposed;
 3. The owner's name (if not the applicant), address, telephone number, and a written consent to the proposed action set forth in the application except in the case of an application for map amendment which shall not require the owner's written consent;
 4. Applicant's interest in the land;
 5. The reasons for the requested action;
 6. The names and addresses of owners of abutting properties including owners in adjoining municipalities, if applicable;
 7. Detailed description to the work to be conducted in regulated areas;
 8. Computation of the wetland or watercourse area and the 50 foot non-wetland regulated area that is being disturbed or altered. Areas of disturbance shall be expressed in square feet. Volume of material to be removed or filled shall be expressed in cubic feet;
 9. Estimation of wetland or watercourse area being created;
 10. Lineal feet of stream, brook or river alteration; and
 11. The Department of Environmental Protection reporting form shall be part of the application and the following information shall be provided by the applicant: name of applicant; location and name of the project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered.
- (b) Plot Plan in sufficient number as may be required by the Agency.
1. a. For applications for work to be conducted on property other than a single residential lot, or within wetlands or watercourses on a single residential lot, plans shall be submitted with a minimum certification of a Class D survey drawn on a sheet size of 24" by 36" to a scale not less than 1" = 40' provided that for sites exceeding 50 acres in area the Director of Planning or his/her designee, may authorize an alternative scale not greater than 1" = 20' or less than 1" = 100'. Sheet size shall not be affected by the scale selected and authorized;
 - b. For applications for work to be conducted in the 50 foot non-wetland regulated area only on a single residential lot, plans may be submitted on

sheets not smaller than 8 ½" by 11" which accurately show the dimensions and boundaries of the property.

2. A key map at a scale of 1" = 2000';
3. Addresses of all abutting properties;
4. The geographical location of the property which is to be affected by the proposed activity;
5. Identification of all wetland areas and watercourses.

(c) Topographical Plan in sufficient number as may be required by the Agency.

The topographical map, drawn to the same scale as the plot plan, shall show the following: elevations of the site by 2' contours, streams, vegetation and all buildings. All topographical information may be shown on the Plot Plan if convenient.

- (d) When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within 500 feet of the boundary of Vernon, Bolton, Glastonbury, East Hartford or South Windsor, the applicant shall give written notice of the proposed activity, certified mail return receipt request, to the adjacent municipal wetland agency on the same day of filing an inland wetland permit application with the Agency. Documentation of such notice shall be provided to the Agency.
- (e) Fee in the amount set by the Agency for such applications.
- (f) In the event an application requires a public hearing, the Agency shall notify all owners of record of abutting property.
- (g) The Agency shall, in accordance with Connecticut General Statutes Sections 8-7d (f) and 22a-42b, notify the town clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:
 1. Any portion of the property affected by a decision of the Agency is located within 500 feet of the boundary of an adjoining municipality;
 2. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 3. A significant portion of the sewer or water drainage from the site will flow through and significantly impact the sewage or water drainage within the adjoining municipality; or,
 4. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

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

- (h) 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 located within the watershed of a water company as defined in Section 25-32a, 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 agency of such municipality. Such notice shall be made by certified mail, return receipt requested and shall be mailed within seven (7) days of the date of the application.

4.3.02 Additional Documents Required

Any person wishing to carry out a regulated activity (occurring within a wetland or watercourse) shall include in the application the following documents; persons carrying out regulated activities within a 50 foot distance from the wetlands or watercourses may not be required to submit these documents unless it is determined that they are needed to evaluate the work and its impacts on the wetlands and watercourses. All plans shall be drawn on a sheet size of 24" by 36" to a scale of not less than 1" = 40' provided that for sites exceeding 50 acres in area the Director of Planning may authorize an alternative scale not greater than 1" = 20' or less than 1" = 100'. Sheet size shall not be affected by the scale selected and authorized. Plans shall be prepared by a licensed land surveyor or professional engineer, as applicable, bearing the surveyor's and/or engineer's stamp and signature:

- (a) Site Plan in sufficient number as may be required by the Agency. The site plan drafted in accordance with the requirements of Section 4.3.01.(b) 1.a. shall show all proposed uses including types and location of buildings, structures, roads, drainage, sewers, water lines, wells, landscaping, etc.

- (b) Grading Plan in sufficient number as may be required by the Agency.

The grading plan shall show:

1. Existing and proposed site levels by contours at 2-foot intervals.
2. Volume and type of material for any land fill deposit.
3. Nature of soil remaining after any removal or excavation process.
4. Depth of water table.
5. Information concerning possibility of erosion or leaching from deposited or removed materials.

- (c) Engineering Plan in sufficient number as may be required by the Agency.

The engineering plan shall show full details, including profiles and cross sections of all works and construction proposed on the land including, but not limited to, storm sewers, drainage, roadways, culverts, retaining walls, sanitary sewage disposal, sedimentation control, alteration or obstruction of watercourses, etc.

- (d) Narrative in sufficient number as may be required by the Agency.

The following reporting information, at a minimum, shall accompany all inland wetland applications. This information may be submitted in a narrative form or may be included on the plans.

1. Description of the activity and purpose of the activity;
2. Environmental impact of the proposed regulated activity on wetlands or watercourses;
3. Discussion of 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;
4. 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;
5. Identification of any irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
6. Availability of preferable alternative locations on the subject parcel or, in the case of activity of sufficient magnitude, the availability of other reasonable locations;
7. The uses of any other technical improvements or safe guards which could feasibly be added to the plan or action;
8. Measures which would mitigate the impact of any aspect of the proposed regulated activity(s). Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and

would protect or enhance the wetland's or watercourse's natural capacity to support fish and wild life, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage, and to provide recreation and open space.

- (e) Effective for applications received on or after April 1, 1997, the applicant shall submit a storm water management report as required in the Manchester Public Improvement Standards.

4.3.03 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 space boundary of an adjoining municipality;
- (b) Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- (c) Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality;
- (d) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

4.3.04 The application shall conform to the Manchester Public Improvement Standards.

4.4 Electronic copies of site development plans shall be submitted in accordance with the "Town of Manchester, CT Geographic Information System, Policies and Rate Schedules" as adopted by the Board of Directors, January 21, 2003, and as amended.

4.5 Application for Extension of Expiration Date

Any application to extend the expiration date of a previously issued permit shall be filed with the Agency not later than sixty-five (65) days prior to the expiration date for the permit in accordance with Subsections 4.3.01 and 4.3.02 of these Regulations. Any application for renewal or extension shall be made in accordance with this Section provided:

- (a) A completed application form in accordance with Section 4.3.01 is submitted.
- (b) The application may incorporate by reference the documentation and record of the original application;
- (c) The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;

- (d) 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;
- (e) The Agency may accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity. The application shall describe the extent of the work completed at the time of filing and the schedule for completing the activities authorized in the permit.
- (f) The Agency shall evaluate the application pursuant to Section 6 of these Regulations and grant the application as filed, grant it with any terms or limitations, or deny it without prejudice with respect to the filing of a new permit application.

Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which require a new permit application or 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. Permit renewal and extension may be subject to the calling of a public hearing.

SECTION 5 SIGNIFICANT IMPACT OR MAJOR EFFECT

If the Agency finds that the activity applied for involves or may involve a significant impact or major effect on the wetland or watercourse, the applicant shall submit additional information including but not limited to:

- (a) Soil Sample Data, if the parcel lies within or partly within an area believed to contain poorly drained, alluvial and/or floodplain soils. The data shall show precisely where each specific soil type is found. Soil types identified shall be consistent with the categories established by the National Cooperative Soils study of the U.S. Conservation Service.
- (b) Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions;
- (c) 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 with each alternative and a description of why each alternative considered was deemed neither feasible nor prudent;
- (d) Analysis of chemical or physical characteristics of any fill material;

- (e) Description of 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 wetlands or watercourses including recreational uses and natural habitats, flood prevention, degradation of water quality, erosion and sedimentation control and obstruction of drainage, or which otherwise safeguard water resources.

SECTION 6 AGENCY CONSIDERATION OF AND ACTION ON APPLICATIONS

- 6.1 Upon receipt of a completed application the Agency shall schedule a meeting or public hearing and shall act on such application in accordance with the provisions of this section. No application shall be deemed complete unless it shall be in such form and contain such information as the Agency deems necessary for a fair and informed determination of the issues. The Agency shall inform the applicant of such necessary information. All applications shall be filed with the Planning Department of the Town of Manchester.
- 6.2 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 Manchester, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity.
 - (c) If the activity authorized by the inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.
 - (d) Any permit issued under this section for the development of property for which an approval is required under section 8-3, 8-25 or 8-26 of the general statutes 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.
 - (e) Modifications to wetlands permits may be granted by the designated enforcement agent without action by the Wetlands Agency provided the purpose and activity remain the same as originally approved and the activity is modified

in such a way that the impact to the wetlands is the same as or reduced compared to the original approval.

- (f) If a bond or insurance is required in accordance with Section 8 of these regulations, no permit shall be issued until such bond or insurance is provided.

6.3 If the Agency finds, on the basis of the evidence before it, that a proposed activity or use:

- (a) Does not involve any regulated activity as defined in these regulations, or
- (b) Involves only a use or operation mentioned in Section 3.1, or
- (c) Does not disturb the natural and indigenous character of the land by significant impact or major effect, a permit shall be granted forthwith.

Such license shall be subject to limitation or revocation if it is later shown that a regulated activity or non-permitted use is a consequence of that activity. The Agency shall state in its records its reasons for granting the permit.

6.4 If the Agency finds that a proposed activity or use involves a regulated activity which will not have significant impact or major effect on the wetland, it may grant a permit for the activity with or without the imposition of conditions. Such permit shall be granted within sixty-five days from the receipt of the application. The Agency shall notify the applicant by certified mail of its decision within fifteen days of the date of the decision and shall cause notice of its decision to be published in a daily newspaper having a general circulation in Manchester.

At any time during the review period, 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.

The Agency shall state in its records its reasons for granting the permit.

6.5 The 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 a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the agency not later than fourteen days after the receipt of such application, or the Agency finds that a public hearing regarding such application would be in the public interest. Such hearing shall be held no later than sixty-five days after the receipt of such application. At such hearing any person or persons may appear and be heard and may be represented by agent or by attorney. All applications, maps and documents relating to the application shall be open for public inspection. The Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with

the Agency on or before the fourteenth day after the date of receipt of such application.

The Agency shall send notice of the hearing to the applicant. The hearing shall be completed within thirty-five days of its commencement and action shall be taken on applications within sixty-five days after completion of a public hearing.

Notice of the hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for a hearing in a newspaper having a general circulation in the Town of Manchester.

The applicant shall be notified of the Agency's decision by certified mail within fifteen days of the date of the decision and the Agency shall cause notice of its decision to be published in a daily newspaper having a general circulation in Manchester.

In the case of any application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Agency shall consider the facts and circumstances set forth in Section 6.6 of these regulations. This finding and the reasons therefore shall be stated on the record in writing in the decision of the Agency.

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 in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.

- 6.6 The Agency, may grant an application as filed; grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive, of the Connecticut general statutes; or deny it. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourses. 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. Incomplete applications shall be denied.

The Agency shall state in its records its reasons for its decision.

In carrying out the purposes of Sections 22A-36 to 22A-45 of the 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 environmental impact of the proposed regulated activity on wetlands or watercourses including aquatic, plant or animal life and habitats in wetlands and watercourses;
- (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;
- (d) Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- (e) The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
- (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;
- (g) The availability of preferable alternative locations on the subject parcel or, in the case of activity of sufficient magnitude, the availability of other reasonable locations;
- (h) The availability of further technical improvements or safe guards which could feasibly be added to the plan or action;
- (i) The possibility of further avoiding reduction of the wetland's or watercourse's natural capacity to support desirable biological life, prevent flooding, supply

water, control sedimentation and/or prevent erosion, assimilate wastes, facilitate drainage, and provide recreation and open space;

- (j) The extent to which the exercise of property rights and public benefit derived from such use may or may not outweigh or justify the possible degradation of the inland wetland or watercourse, the interference with the exercise of other property rights, and the impairments or endangerment of public health, safety or welfare;
- (k) Measures which would mitigate the impact of any aspect of the proposed regulated activity(s). Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect or enhance the wetland's or watercourse's natural capacity to support fish and wild life, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage, and to provide recreation and open space.

As a measure to mitigate the impact and effect of any aspect of the proposed regulated activity(s), and to protect and enhance the wetland's capacity to successfully support the above listed aims, the applicant may propose, and after consideration, the Commission may accept as a condition to approval of the plan, a Restrictive Conservation Easement (RCE) as a way to ensure the proposed plan will not disrupt or inhibit the ability of any wetlands area to support the above. The applicant may also propose that an RCE be established to maintain, protect, enhance, or create wetland recreational or open space, as may be determined to be necessary or desirable by the Commission.

- 6.7 If the Agency denies the permit without prejudice or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The Agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for the purposes of appeal.
- 6.8 The applicant may consent to one or more extensions of the periods specified in this section for the holding of a hearing and for action on such application, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such application. The failure of the Inland Wetlands Agency to act within any time period specified in this section, 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.

SECTION 7 ENFORCEMENT

- 7.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations.
- 7.2 Application for a permit shall constitute permission for, and consent to, Agency inspections of the site of a proposed activity at all reasonable times before or after the granting of a permit.
- The Agency, or its designated agent, shall have authority to enter at all reasonable times upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of these regulations.
- 7.3 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 Act or these regulations, the agency or its duly authorized agent may:
- (a) Issue a written order by certified mail, 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 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 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 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 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, appearing at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, providing a written reply to the notice or filing 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 provided in Subsection (a) of this Section or other enforcement proceedings as provided by law.
- 7.4 The Agency may suspend or revoke a permit if it finds that the applicant has not complied with the terms, conditions or limitations set forth in their permit or has exceeded the scope of the work as set forth in the application including application plans. Such suspension or revocation shall occur only after giving notice to the

permittee of the facts or conduct which warrant such action and after a hearing at which the permittee is given an opportunity to show compliance with the requirements for retention of the permit. The Agency may issue such cease and desist orders as are necessary to preserve the issues for hearing.

- 7.5 The applicant shall be notified of the Agency's decision by certified mail within fifteen days of the date of the decision and the Agency shall cause notice of its order in revocation or suspension of a permit to be published in a daily newspaper having general circulation in the Town of Manchester.
- 7.6 Any person who commits, takes part in, or assists in any violation of any provision of these regulations shall be subject to the penalties provided in the Inland Wetlands and Watercourses Act as amended and to such other penalties as the law may provide.

SECTION 8 BOND AND INSURANCE

- 8.1 The applicant, upon approval of the license, and at the discretion of the Agency, may be required to file a performance bond in an amount and with sureties and in a form approved by the Agency.
- 8.2 The bond and sureties shall be conditioned on compliance with all provisions of these regulations and conditions imposed on license approval.
- 8.3 The applicant may be directed to certify that he has public insurance against liability which might result from the proposed operation or use covering any and all damages which might occur within two years of completion of such operations, in an amount to be determined by the Agency commensurate with the projected operation.

SECTION 9 APPEALS

Any person aggrieved by any regulation, order, decision or action made by the Agency pursuant to these regulations may, within fifteen days after publication of such regulation, order, decision or action appeal to the Superior Court as provided in the Inland Wetlands and Watercourses Act, Section 22a-43 of the Connecticut General Statutes, as amended. Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

SECTION 10 OTHER PERMITS AND LICENSES

Nothing in these regulations shall obviate any requirement for an applicant to obtain any other assent, permit or license required by law or regulation by the Town of Manchester, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection

and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

SECTION 11 CONFLICT AND SEVERANCE

- 11.1 Where there is a conflict between the provisions of these regulations and those of any other applicable statute, ordinance or regulation, the provisions of the statute, ordinance or regulation which imposes the most stringent standards for the use of the wetland or watercourse shall govern.
- 11.2 The invalidity of any work clause, sentence, section, part 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 12 INVENTORY OF REGULATED AREAS

- 12.1 Areas of regulated soil types are shown on the Town of Manchester Inland Wetland and Watercourses Map. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetlands soil types and locations of watercourses, such determinations shall be made by field inspection and testing conducted by a soil scientist where soil classifications are required or by consideration of any valid information as determined by the agency including aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information.

The Agency and/or its designated agent shall monitor and maintain general surveillance of the regulated areas within the Town to ensure that no unauthorized regulated activities occur.

- 12.2 The Agency may temporarily prohibit any person from conducting a regulated activity unless that person first obtains a permit as provided for by these Regulations while the Agency considers and acts upon amending the Inland Wetlands and Watercourses Map in accordance with the requirements set forth in Section 4.4.
- 12.3 If the Agency or its agent determine that the site of any activity, facility or condition may be within a wetland area or watercourse not currently mapped as such, which would constitute a regulated activity if it were conducted within or involved the use of a wetland or watercourse,
- (a) The Agency or its agent may prohibit the conduct of any such activity or the maintenance of any such facility or condition for a period of ten days from the issuance of Notice of Prohibition by certified mail to the owner or owners of record of the land to which the prohibition is to apply, unless a permit is first obtained under these Regulations as though the site were already mapped as a wetland.

- (b) Such prohibition shall expire after the ten day period unless, within such day period, the Agency votes to schedule a public hearing to be held within thirty days of the original Prohibition regarding the proposed amendment to the Inland Wetland and Watercourses Map affecting such land. The vote to conduct a public hearing shall automatically extend the prohibition to the date of the public hearing.
- (c) If such public hearing is held within the designated time period from the Notice of Prohibition, such prohibitions shall remain in effect until the earlier of the following events occurs:
 - 1. the expiration of the time limited for the Agency to act after the close of a public hearing under Section 6.5, or
 - 2. the rendering of a decision regarding such amendment.
- (d) Notice of such decision shall be given to the record owner of the land to which the prohibition applies as though such owner were an applicant for a permit under Section 6.5.
- (e) Any owner so notified shall be responsible to secure compliance with the notice by any person conducting such activity or maintaining such condition upon the owner's land. Such notice may also be given to, and shall be binding upon, any person conducting or maintaining such activity, facility or condition.

SECTION 13 AMENDMENTS

- 13.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Manchester may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available. Any amendment to the existing regulations shall apply only to applications filed after the effective date of the amendments to a new regulated activity or permitted activity proposed after the effective date of the amendments.
- 13.2 An application filed with an inland wetlands agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such agency with respect to such application shall not be dismissed by the superior court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses; or (2) to any change in regulations

necessary to make such regulations consistent with the provisions of the Connecticut General Statutes as of the date of such receipt.

13.3 These regulations and the Town of Manchester 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 determinations of boundaries, at least thirty-five days before the public hearing on their adoption.

13.4 Application for Amendments to Official Wetlands Map

- (a) Petitions requesting changes or amendments of the "Inland Wetlands and Watercourses Map, Manchester, Connecticut" shall submit a completed application form as prescribed in Section 4.3.01.
- (b) The application shall present documentation by a certified soil scientist that the land in question does not have a soil type classified by the National Cooperative soils survey as poorly drained, very poorly drained, alluvial, or flood plain. Such documentation shall include a map of the land in question signed by a certified soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted, along with their appropriate numerical designations at an accuracy of an A2 survey standard.
- (c) Watercourses shall be delineated by a competent soil scientist, geologist, ecologist or other individual satisfactory to the Agency.
- (d) 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 substantial circulation in the municipality at least twice at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last not less than two days, before such hearing. All materials including maps and documents relating to the petition shall be open for public inspection. A copy of such proposed boundary change shall be filed in the office of the town clerk, for public inspection at least ten days before such hearing.

13.5 Within sixty-five days after receipt of a complete petition for a change in the regulations or the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the petition. The hearing shall be completed within thirty-five days after commencement. The Agency shall act upon the changes requested in such petition within sixty-five days after the completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney.

13.6 The petitioner may consent to one or more extensions of the periods specified in this section for the holding of the hearing and for action on such petition, providing the

total extension of all such periods shall not be for longer than sixty-five days or may withdraw such petition. The failure of the Inland Wetlands Agency to act within any time period specified in this section, or any extension thereof, shall not be deemed to constitute approval of the petition.

- 13.7 The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetland and Watercourses Map or regulations was made.

SECTION 14 ACTIVITIES REGULATED BY THE STATE

14.0 The following activities shall be regulated by the Commissioner of the Department of Environmental Protection:

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