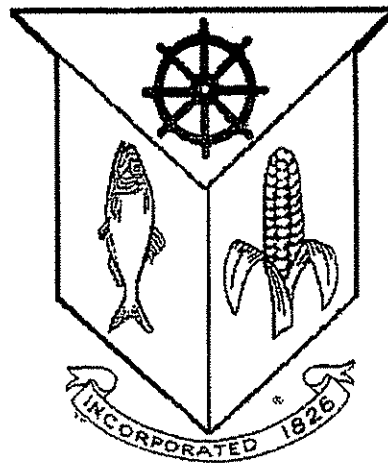


Town of Madison



Inland Wetlands Regulations

Effective July 1, 2004

**INLAND WETLANDS AND WATERCOURSES REGULATIONS
FOR THE
TOWN OF MADISON, NEW HAVEN COUNTY, CONNECTICUT**

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SECTION I

TITLE AND AUTHORITY

- 1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures or 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 Madison".
- 1.3 The Inland Wetlands and Watercourses Agency of the Town of Madison was established in accordance with an ordinance adopted June 28, 1974, and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of Madison.
- 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 issue, issue with term, conditions, limitations or modifications, or deny permits for all regulated activities affecting inland wetlands and watercourses in the Town of Madison pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION II

DEFINITIONS

- 2.1** As used in these regulations:
- a. "Act" means the Inland Wetland and Watercourses Act, Sections 22a-36 through 22a-45 inclusive of the General Statutes, as amended.
 - b. "Accessory building" means a building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building, but excluding swimming pools and tennis courts.
 - c. "Agency" means the Inland Wetlands Agency of the Town of Madison.
 - d. "Bogs" are areas usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.
 - e. "Building" means a man-made object, including structures, machinery, equipment, accumulations, swimming pools, tennis courts and decks, but excluding a fence less than six feet high.
 - f. "Clear-cutting" means the harvest of timber products in a fashion which removes all species of trees down to a 2-inch diameter at breast height.
 - g. "Commission member" means a member or seated alternate of the Inland Wetlands and Watercourses Agency of the Town of Madison.
 - h. "Commissioner of Environmental Protection" means the commissioner of the State of Connecticut Department of Environmental Protection.
 - i. "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.
 - j. "Deposit" includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.
 - k. "Designated agent" means an individual(s) designated by the Madison Inland Wetlands Agency to carry out its functions and purposes.
 - l. "Discharge" means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.

- m. "Disturbing the natural and indigenous character of the wetland or watercourse" means that the activity will alter the inland wetland and watercourses by reason of removal or deposition of material, clearing the land, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.
- n. "Essential to the farming operation" means that the proposed activity is necessary and indispensable to sustain farming activities on an existing farm.
- o. "Farming" means using any tract of land for growing crops; raising livestock or other agricultural use.
- p. "Feasible" means able to be constructed or implemented consistent with sound engineering principles.
- q. "Gardening" means the tilling of soil, planting, cultivating, and harvesting of vegetable matter.
- r. "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.
- s. "Harvesting of crops" means gathering plants or animals or plant or animal products which have been grown to be harvested.
- t. "Hammonasset Watershed" is the area from the Hammonasset River to the highest ridge within the Town of Madison on either side of the River, which divides the area drained into the Hammonasset from the drainage into other river systems.
- u. "Management practices" means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sediment controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.
- v. "Marshes" are areas with soils that exhibit aquatic 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 ground surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.
- w. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, mud, peat, debris, sand, refuse, or waste.
- x. "Municipality" means the Town of Madison, New Haven County, Connecticut.

- y. "Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.
- z. "Permit" means the whole or any part of any license, certificate of 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.
 - aa. "Permittee" means the person to whom such permit has been issued.
 - bb. "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
 - cc. "Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of (erosion, or by) any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.
 - dd. "Prudent" means economically and otherwise reasonable in the 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.
 - ee. "Regulated Activity" means any operation within or use affecting a wetland or watercourse by obstruction, by construction, by alteration, by removal or deposition of material or by pollution of such wetlands, whether or not they appear on the Official Inland Wetlands and Watercourses Map of the Town of Madison, and shall not include the specified activities in Section 4 of these regulations which will be subject to regulation as specified in Section 4.
 - ff. "Regulated area" means any inland wetland or watercourse as defined in these regulations, whether or not they appear on the Official Inland Wetlands and Watercourses Map of the Town of Madison and buffer areas.
 - gg. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.
 - hh. "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.

- ii. "Significant activity" means any activity, including, but not limited to, the following activities which may have a major effect or significant impact:
 - 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 watercourses system.
 - 2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
 - 3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support desirable fisheries, wildlife, or other biological life; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
 - 4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
 - 5. Any activity which causes substantial diminution of flow of a natural watercourse or ground water levels of the regulated area.
 - 6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
 - 7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

- jj. "Soil Scientist" means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

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

- ll. "Swamp" means an area with soils that exhibit aquic moisture regimes and are dominated by wetland trees and shrubs.

- mm. "Town" means the Town of Madison, New Haven County in the State of Connecticut.

- nn. "Vernal Pool" means a seasonal or permanent body of water in a defined depression or basin that lacks a fish population (a self-sustaining number of native fish) and supports or is capable of supporting breeding and development of amphibian or invertebrate species that require such bodies of water during all or a portion of their life cycle.

- oo. "Waste" means sewage or any natural or man-made substance, liquid, gaseous, solid or radioactive, which may pollute or have the potential to pollute any of the wetlands or watercourses of the Town.

- pp. "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 section 22a-28 through 22a-35 inclusive of the Connecticut General Statutes, as amended. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

- qq. "Wetlands" means land, including submerged land as defined in Section 2.1(kk) of these regulations, not regulated pursuant to section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as very poorly drained, poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Soil Conservation Service of the U. S. Department of Agriculture (USDA) mapped or unmapped per the Inland Wetlands and Watercourses Map of the Town of Madison. Such areas may include filled, graded, or excavated sites which possess an aquic soil moisture regime as defined by the USDA Cooperative Soil Survey.

SECTION 3

INVENTORY OF REGULATED AREAS

- 3.1 The map of regulated areas, entitled "Inland Wetlands and Watercourses Map, Madison, Connecticut," delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Town Clerk or the Inland Wetlands Agency. In all cases, the precise location of the regulated areas shall be determined by the actual character of the land, the distribution of the regulated soil types, and locations of watercourses. Such determination shall be made by field inspection and testing conducted by a soil scientist certified where soil classifications are required, or where watercourse determinations are required, by other qualified individuals deemed acceptable to the Agency.
- 3.2 Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map, may petition the Agency to change the designation. All petitions for a map change shall be submitted, in writing in accordance with Section 16 of the regulations and 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(s) shall monitor and maintain general surveillance of all regulated areas. The Agency may amend its map as more accurate information becomes available. Any person may petition for an amendment to the map. Petitioners shall bear the burden of proof for all requested map amendments. Such map amendments are subject to the public hearing process outlined in Section 16 of these regulations.

SECTION 4
PERMITTED USES AS OF RIGHT & NON-REGULATED 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 subsection 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 top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purpose of sale;
- b. A residential home (i) for which a building permit has been issued, and/or (ii) on a subdivision lot provided the permit has been issued or the subdivision has been approved by the Planning and Zoning Commission as of July 1, 1974, and further provided that 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, and has not expired. Any person claiming a use of wetlands permitted as a right under this subdivision shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his or her right hereunder;
- c. Boat anchorage or mooring, not to include dredging or dock construction;
- d. Uses incidental to the enjoyment or maintenance of residential property. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of more than 10 cubic yards of material from or into a wetland or watercourse, or diversion or alteration of a watercourse without specific approval of the Madison Inland Wetlands Agency or its designated agent.
- 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 through 22a-410 of the Connecticut General Statutes.

4.2 The following operations and uses shall be permitted as [a] non-regulated uses in wetlands and watercourses provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
- b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell-fishing and cross-country skiing where otherwise legally permitted and regulated.

- 4.3 Movement of equipment in or through wetlands or watercourses is subject to approval by the Inland Wetlands Enforcement Officer.
- 4.4 All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, clearing, and grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Section 6 of these regulations.
- 4.5 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 that 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. The Agency or its designated agent shall rule that the proposed operation or use 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 may make such ruling on behalf of the Agency at any time. Initiation of the permitted use or operation shall be within one year, and any ruling pursuant to this section shall expire within one year, from date of approval unless otherwise extended by the Agency or its designated agent.

SECTION 5

ACTIVITIES REGULATED BY THE STATE

- 5.1 In addition to any permit or approval required by the Agency, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- a. Construction or modification of any dam pursuant to Section 22a-401 through 22a-411 of the Connecticut General Statutes, as amended;
 - b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349a of the Connecticut 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 Connecticut General Statutes, as amended;
 - d. Diversion of water, including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day or any piping, culverting, channelization, relocation, damming or other alteration of the location of flow of any surface waters of the state where the tributary watershed area above the point of alteration is 100 acres or larger pursuant to Section 22a-365 through 22a-378a of the Connecticut General Statutes, as amended;
 - e. Discharges into the waters of the state pursuant to Section 22a-430 of the Connecticut 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.
- 5.2 Any permit, decision or order issued by the Commissioner of Environmental Protection shall be binding upon the Agency as to those matters within the Commissioner of Environmental Protection's jurisdiction.
- 5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Section 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.5 The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under sections 22a-403 or 22a-41 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or dam construction permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.

SECTION 6

REGULATED ACTIVITIES SUBJECT TO PERMIT

- 6.1 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 Madison.
- 6.2 The Agency shall regulate any operation within 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 any other regulated activity, unless such operation or use is permitted or non-regulated pursuant to Section 4 of these regulations.
- 6.3 The Agency shall regulate the location, placement, and construction of a subsurface sewage disposal system within 100 feet of a wetland and/or watercourse boundary approved by the Agency.
- 6.4 The Agency shall regulate the placement of any building or accessory building or addition thereto within 100 feet of an inland wetland or watercourse and/or any ground disturbance within 100 feet of an inland wetland or watercourse other than as permitted under Section 4 of these regulations as an as-of-right or non-regulated use.

- 6.5 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Town of Madison Inland Wetlands Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 15 of these regulations and any other remedies as provided by the law.

SECTION 7

APPLICATION REQUIREMENTS FOR REGULATED ACTIVITIES

- 7.1 Any person intending to undertake a regulated activity shall apply for a permit on a form entitled "Application for Regulated Activity Permit". An application shall include an application form and such information as prescribed by Section 7.4 and, in the case of a significant activity, by Section 7.5 of these regulations. Application forms may be obtained in the office of the Madison Inland Wetlands Agency.
- 7.2 If an application to the Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Agency in accordance with this section, no later than the day the application is filed with the Planning and Zoning Commission.
- 7.3 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.
- 7.4 All applications shall include the following information in writing or on maps or drawings:
- a. Completed application form entitled "Application for Regulated Activity Permit" to include:
 1. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
 2. Alternatives considered and subsequently rejected by the applicant and why the alternative as set forth in the application was chosen; all such alternatives also shall be diagrammed on a site plan or drawing unless waived by the Agency;
 3. 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 intentional misrepresentation or misleading information.
 4. Authorization for the commissioners and agents of the Agency to inspect the property, at reasonable times, both before and after a final decision has been issued.
 5. The owner's name, mailing address and telephone number and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed.
 6. The applicant's interest in the land.

- b. A site plan showing:
 - 1. A locus map showing the geographical location of the property;
 - 2. Inland wetlands and watercourse boundaries and designation of type of wetland or watercourse, as defined in Sections 2.1pp and 2.1qq;
 - 3. The proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
 - 4. Areas of wetland or watercourse disturbance;
 - 5. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S.S.C.S.;
 - 6. Vegetation;
 - 7. Two foot contours in areas of proposed regulated activity;
 - 8. Existing and proposed conditions in relation to the inland wetlands and watercourses;
 - 9. Soil and erosion control methods to be installed; and a plan for their removal.
 - 10. Boundaries of land ownership and adjacent property owners;
 - 11. A site plan not greater than 1 inch = 40 feet.
 - c. Any other information the applicant deems necessary to the understanding of what is being proposed.
 - d. Submission of the appropriate filing fee based on the fee schedule in Section 21 of these regulations.
- 7.5** If the proposed activity involves a significant activity as defined in Section 2.1ii of these regulations, additional information, based on the nature and anticipated effects of the activity, including, but not limited to, the following is required unless waived at the discretion of the Agency:
- a. Site plans with information listed in Section 7.4(b) for the proposed use or operation of the property which will be affected, drawn by a licensed surveyor and professional engineer registered in the State of Connecticut.
 - b. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to wetlands and watercourses.
 - c. 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 and watercourse functions.
 - d. A biological evaluation of any wetlands or watercourses pertinent to the proposed activity including:
 - 1. Dominant botanical species, rare species and forest age classes of flora;
 - 2. Habitat value of the affected property for all wildlife species;
 - 3. Depth of water table below surface or level of water if inundated.
 - 4. Note the location of all vernal pools.
 - e. A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative and a description of why each alternative considered was deemed neither feasible nor prudent.

- f. The effect of the proposed activity or use upon a watercourse within or partly within the affected property including:
 - 1. PH or alkalinity/acidity level;
 - 2. Turbidity or solids in parts per million;
 - 3. Bacteria count on coliforms per milliliter;
 - 4. Flow, if any, in cubic feet per second;
 - 5. Estimate of the changes in 1. through 4. resulting from the proposed usage.

 - g. Best management practices and other 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.
- 7.6 In addition, the Agency may require such other data as it deems necessary to evaluate the application in light of the purposes and policies of the regulations including, but not by way of limitation, an impact statement prepared pursuant to Section 7.5.
- 7.7 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 run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.8 The applicant shall submit to the Agency one (1) copy of the application form and materials and three (3) maps as outlined in Sec. 7.4(b) and, if applicable, 7.5, and any other materials required by the Agency.
- 7.9 The applicant shall complete a reporting form during the application process which provides the Commissioner of the Department of Environmental Protection with information necessary to monitor properly the inventory of State wetlands. The reporting form shall include the following: the name of the applicant, the name of the project, a project description, the area of wetlands and/or lineal feet of watercourses to be altered.

SECTION 8
APPLICATION PROCEDURES

- 8.1** All applications shall be filed with the Inland Wetlands Agency of the Town of Madison.
- 8.2** 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 five hundred feet of the boundary of another municipality, the applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the inland wetlands agency of such other municipality. The applicant shall furnish a copy of the return receipt to the Inland Wetlands Agency of the Town of Madison.
- 8.3** If a public hearing is to be held on any application for a permit, notice of the public hearing shall be mailed by the applicant by certified mail to the owner(s) of record, as determined by the current Assessor's files, of abutting land and all parties of record no less than fifteen (15) days prior to the day of the hearing with proof of mailing submitted to the Inland Wetlands office.
- 8.4** The Agency shall, in accordance with Section 22a-42b of the Connecticut General Statutes, 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 run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Notice of the pendency of such application shall be made by certified mail return receipt requested and shall be mailed within seven (7) days of the date of receipt of the application.

- 8.5** When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the Town of Madison and with the Agency. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.

- 8.6 The date of receipt of the 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.
- 8.7 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. Requests for such additional information shall not stay the time limitations as set forth in Section 11.2 of these regulations.
- 8.8 If a public hearing is to be held on any application for a permit, all documentary evidence in support of the application shall be filed with the Agency and available for public inspection no less than fifteen (15) days prior to the day of the hearing or any reconvening thereof.
- 8.9 All applications shall be open for public inspection.
- 8.10 Incomplete applications may be denied.

SECTION 9

PUBLIC HEARINGS ON REGULATED ACTIVITY PERMITS

- 9.1 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 the 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 (14) days after the date of receipt of such application or the Agency finds that a public hearing regarding such application would be in the public interest. The Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the Agency on or before the fourteenth (14th) day after the receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.
- 9.2 Notice of the public hearing shall be published by the Agency at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland or watercourse is located.
- 9.3 Notice of the public hearing shall be mailed by the applicant by certified mail to the owner(s) of record, as determined by the current Assessor's files, of abutting land and all parties of record no less than fifteen (15) days prior to the day of the hearing with proof of mailing to the Inland Wetlands office.
- 9.4 In the case of any application which is subject to the notification provisions of Section 8.2 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(s) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

SECTION 10 CONSIDERATIONS FOR DECISION

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

- a. The application and its supporting documentation;
- b. Public comments, evidence and testimony from a public hearing;
- c. Reports from other agencies, commissions, and organizations including but not limited to: Conservation Commissions, Planning and Zoning Commissions, Building Officials, Health Officers and Conservation Organizations.
- d. The Agency may also consider comments on any application from the New Haven Soil and Water Conservation District, the South Central Regional Planning Agency or other regional organizations, agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
- e. Non-receipt of comments from agencies and commissions listed above within the proscribed time shall neither delay nor prejudice the decision of the Agency.

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

- a. The environmental impact of the proposed action, including the effects on the capacity of the inland wetlands and watercourses to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety;
- b. The applicant's purpose for, and 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 taking no action, or postponing action pending further study, and the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to: (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority; restore, enhance and create productive wetland or watercourse resources

- e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity. 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; 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.
- 10.3** 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 that Agency shall consider the facts and circumstances set forth in subsection 10.2 of this section. The finding and the reasons therefore shall be stated on the record in writing.
- 10.4** In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record 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.
- 10.5** In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that the application is consistent with the purposes and policies of these regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

SECTION 11

DECISION PROCESS AND PERMIT

- 11.1** The Agency, or its duly authorized agent acting pursuant to Section 13 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would: (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.

- 11.2** No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. The hearing shall be completed within thirty-five (35) days of its commencement and action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total of all extensions can not exceed sixty-five (65) days or may withdraw such application. Failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.
- 11.3** The Agency shall state upon its record the reasons and bases for its decision 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, as applicable and in accordance with Section 10 of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 11.4** 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 cause notice of its order in the issuance or denial of the permit to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies.
- 11.5** If an activity authorized by the inland wetland permit also involves an activity which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed by the Inland Wetlands Enforcement Officer with the Town of Madison Planning and Zoning Commission, and/or Zoning Board of Appeals within fifteen days of the date of decision.
- 11.6** If the Agency denies the permit as incomplete 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.
- 11.7** Any permit issued by the Agency for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years. 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 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. A permittee may apply for one or more extensions of a permit as provided under Section 12 of these regulations; however the combined total of all extensions granted may not exceed ten years from the issuance date of the original permit.

11.7 (continued) Any regulated activity approved by the agency shall be completed within one year from the time such activity is commenced provided the Agency may establish a specific time period within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the agency may extend: (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section.

All permits expire upon the completion of the acts specified thereon. All activities specified on a permit must be completed by the expiration of the permit or the permittee will be in violation of the Madison Inland Wetlands Regulations and may be subject to penalties as specified in the Connecticut General Statutes.

11.8 If a bond or insurance is required in accordance with Section 14 of these regulations, no construction can begin until the bond is posted according to the requirements in Section 14.1. Failure to submit the bond within the prescribed time frames in Section. 14.1 shall result in the regulated activity permit being automatically withdrawn.

11.9 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 Madison, 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 Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under Sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes no work pursuant to the wetland permit may begin until such approval is obtained.
- d. The permittee shall employ construction management practices consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- e. All permits issued which have not been completed in five years from original date of approval will be subject to formal review by the Agency and will require a new application.

11.10 Schedule of Construction of Regulated Activity:

Within fifteen (15) days of receiving approval of a regulated activity the applicant will forward to the Madison Inland Wetlands office a schedule for commencing and completing the regulated activity. The Applicant shall confirm or revise the schedule fifteen calendar days prior to commencement of construction. In the event the schedule(s) is not received within the time frames stipulated, the approval for the regulated activity is automatically withdrawn.

11.11 Construction of a Regulated Activity.

The Agency may require the following as part of a condition of approval:

- a. The construction of a regulated activity shall be under the supervision of a Professional Engineer registered as such in and by the State of Connecticut.
- b. Upon receipt of approval of a regulated activity the applicant must forward to the Town of Madison Inland Wetlands office within fifteen calendar days the name, address and telephone number of the Professional Engineer retained by the applicant to supervise construction.
- c. The Professional Engineer must submit weekly reports to the Town of Madison Inland Wetlands office. These reports shall be received no later than the following Tuesday for the preceding week and shall contain the following:
 1. Work completed the past week.
 2. Work anticipated and scheduled for the next two weeks.
 3. Report of any problems.
- d. Failure to submit a report will result in appropriate enforcement by the Town of Madison Inland Wetlands Agency or its authorized Agent.

SECTION 12 EXTENSION, TRANSFER AND MODIFICATION OF REGULATED ACTIVITY PERMITS

- 12.1** Any application to modify or to extend the expiration date of a previously approved 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 Section 8. Any extensions, modifications or transfers of applications granted under previous regulations shall comply with the current regulations in effect at the time such extensions or transfers are granted. Any application for extension, transfer, or modification 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 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.

- 12.2** The Agency shall evaluate the application for extension, transfer or modification pursuant to Section 10 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 subsequent permit application.
- 12.3** No permit shall be assigned, transferred, sublet or sold without the written permission of the Agency or its designated Agent.
- 12.4** Applications for renewals of expired permits shall comply with Section 11.7 of these regulations.

SECTION 13 ACTION BY DULY AUTHORIZED AGENT

- 13.1** The Agency may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made in accordance with Sections 7.4, 7.7, and 7.9 on the "Application for Regulated Activity Permit", a form provided by the Agency, and shall contain the information listed under Section 7.4 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9, and 11 of these Regulations, such agent may approve or extend such an activity at any time.
- 13.2** Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.

SECTION 14 BOND AND INSURANCE

- 14.1** Upon approval of an application and prior to issuance of a permit, the applicant is required to file a bond or other surety in a form approved by the Agency in accordance with the schedule for regulated activities unless waived by the Agency.
- 14.2** 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.
- 14.3** For the purpose of the Section, a bond shall mean one of the following:
- a.** A surety bond issued by a company licensed to do business in the State of Connecticut, accompanied by the Power of Attorney of the person executing the bond for the company. Said company shall have offices in New Haven County and must submit certification from its home office that the local office in New Haven County has authority to pay out the full value of the bond.
 - b.** A bond secured by an assigned passbook savings account or a certificate of deposit representing funds deposited in a financial institution which is on the list of those approved for deposit of Town funds.
 - c.** Cash or certified check in the required amount deposited with the Treasurer of the Town of Madison.
- 14.4** Bonds shall be executed in accordance with the sample forms supplied by the Agency, with proper reference made to all maps and plans describing the regulated activity covered by the bond, and shall be satisfactory to the Agency or its agent(s) and to Town Counsel as to form, sufficiency and manner of execution.
- a.** Bonds secured by a passbook savings account or certificate of deposit shall be accompanied by the savings passbook(s) or certificate of deposit passbook(s) which shall remain in the possession of the Town until final release of the bond.
 - b.** When the bond is secured by a passbook savings account or a certificate of deposit, the total amount in any single account or certificate may not exceed the maximum amount per account guaranteed by the Federal Deposit Insurance Corporation. Where the total amount of the bond required exceeds FDIC coverage for a single account, additional accounts shall be established to ensure that all deposited funds are FDIC insured.
- 14.5** Where a bond has been posted and work covered by said bond has not been completed within the terms of such bond, the Town may declare the bond to be in default and require that all work be completed regardless of the extent of development at the time the bond is declared to be in default.

- 14.6 Upon written request from the permittee, the bond shall be released after approval of the completed regulated activity by the Agency or its agent(s). Upon written request from the permittee and a determination by the Agency or its agent(s) that a substantial portion of the work guaranteed by the bond has been completed, the commission or its agent may approve partial release(s) of the surety.
- 14.7 A separate bond of \$200 will be posted by each applicant to guarantee the removal of temporary siltation controls once the area is stabilized and all siltation controls at the completion of the project.
- 14.8 The Agency requires the applicant to certify and provide the Agency with a copy of its liability insurance against liability which might result from the proposed activity covering any and all damage which might occur within two (2) years of completion of such activity. Such liability insurance shall be not less than \$500,000.

SECTION 15 ENFORCEMENT

- 15.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations.
- 15.2 The Agency or its agent may make regular inspections of all regulated activities for which permits have been issued under these regulations.
- 15.3 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, 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) 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 Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended.

- b. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, 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 the issuance of the order provided in Subsection "a" of this Section or other enforcement proceedings as provided by law.
 - c. 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. At the hearing the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit.
- 15.4 The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by personal service or by certified mail within fifteen (15) days of the date of its decision.
- 15.5 **If required by the Agency, the permittee shall mark the limits of the Wetland Review Area (100-foot setback from the Inland Wetlands Boundary) with markers placed at 50-foot intervals along the 100-foot setback line, facing the upland area. The Town of Madison shall supply the Wetland Review Area markers to permittee and collect a fee for such markers under the fee schedule established in Section 21.5 f.**

SECTION 16 AMENDMENTS

- 16.1 These regulations and the Inland Wetlands and Watercourses Map of the Town of Madison 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.
- 16.2 An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of the 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 subsection shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 16.3 These regulations and the Town of Madison Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.

- 16.4** Applications requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Madison, Connecticut" shall contain at least the following information:
- a. A completed application form entitled "Application for Inland Wetlands Boundary/Inland Wetlands Regulation Amendment"
 - b. A site plan prepared to the following standards:
 - 1. Size of the site plan or map shall be 24" x 36".
 - 2. Scale shall be 1 inch equals 40 feet.
 - 3. Site plan or map shall be prepared to A-2 standards by a land surveyor licensed in the State of Connecticut.
 - 4. The vertical control for elevation and sounding shall be based upon U. S. Geological Survey data.
 - c. The site plan shall contain the following:
 - 1. Inland wetlands and watercourses boundaries and designation of type of wetlands and watercourses as defined in Sections 2.1(pp) and 2.1(qq) and provided by a Soil Scientist.
 - 2. A locus map showing geographical location of property.
 - 3. Property lines of the real property to be attached.
 - 4. Owners of record of that property and adjoining properties.
 - 5. Structures existing on the affected property.
 - 6. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S.S.C.S.
 - 7. Elevations by contour lines at two (2) foot intervals in the areas of and immediately adjacent to the wetlands and watercourses.
 - 8. Significant vegetation, including tree lines in the areas of wetlands or watercourses.
 - 9. The inland wetlands and watercourses as shown on the official Madison Inland Wetlands and Watercourses Map.
 - d. A soil sample report prepared and certified by a soil scientist.
 - e. A list of the wetland flag coordinates on the map and mylar with coordinates of at least two points along proposed property line keyed to the map.
- 16.5** A public hearing shall be held on applications 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. 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.

- 16.6** Within sixty-five (65) days after the date of receipt of a complete application for a change in the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the application. The Agency shall complete the public hearing within thirty-five (35) days after the hearing commences. The Agency shall act upon the change requested in such application within sixty-five (65) days after the hearing. 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 of all extensions for all separate parts of the process does not exceed sixty-five (65) days, or may withdraw such application. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.
- 16.7** The Agency shall make its decision and state in writing the reasons why the change in the Inland Wetlands and Watercourses Map was made.
- 16.8** Within five (5) days of approval the applicant shall furnish as a final plan one (1) copy of the drawing meeting the requirements of the plan showing the approved location of the wetlands and watercourses boundary.
- 16.9** Within ninety (90) days following approval of a boundary change a mylar signed by the Chairman of the Inland Wetlands Agency showing the final plan shall be filed by the applicant at its expense in the office of the Town Clerk. Any plan not so filed within the prescribed ninety (90) days shall become null and void. However, the filing date of the final plan may be extended by mutual consent of the applicant and the Agency.
- 16.10** The Inland Wetland Agency may require a property owner to 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 includes 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 designation at an accuracy of an A-2 survey standard established by the State of Connecticut Board of Registry for Professional Engineers and Land Surveyors.

SECTION 17 APPEALS

- 17.1** 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.
- 17.2** Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

SECTION 18 CONFLICT AND SEVERANCE

- 18.1** If there is a conflict between or 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 part of these regulations shall not affect the validity of any other part which can be given effect without such invalid part.
- 18.2** If there is a conflict between the provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

SECTION 19 OTHER PERMITS

- 19.1** 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 Madison, 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 20 EFFECTIVE DATE OF REGULATIONS

- 20.1** These regulations including the Inland Wetlands and Watercourses Map 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 Madison.

- c. **SIGNIFICANT ACTIVITY APPLICATION FEE -**
Section 7.5 of these Regulations \$ 175.00
- d. **MAP AMENDMENT APPLICATIONS -**
Section 16.4 of these Regulations \$ 175.00
plus: Fee from Schedule B in this Section.
- e. **MODIFICATION, EXTENSION OR TRANSFER OF PREVIOUS APPROVAL -** \$ 50.00
Section 12 of these Regulations
(There shall be no fee for correcting typographical or other errors)
- f. **WETLAND REVIEW AREA MARKERS** \$2.00/marker
(One marker placed every 50 feet along 100 foot setback line from Inland Wetlands Boundary)

SCHEDULE A.

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

<u>Sq. Ft. Regulated Area</u>	<u>Fee/1000 Sq. Ft. of Regulated Area</u>
Less than and including the first 2,500	\$18.00
From 2,501 to 50,000	12.00
For any additional amount over 50,000	6.00

SCHEDULE B.

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

<u>Linear Ft. Boundary Area</u>	<u>Fee/100 Linear Ft. of Boundary</u>
Less than and including the first 500	\$20.00
From 501 to 1,000	15.00
For any additional amount over 1,000	8.00

SAMPLE APPLICATION FEE CALCULATIONS:

- a. Ten lot residential subdivision of eleven acres that include two acres of wetlands and watercourses:
Fee is the greater of:

- 1.) \$75 plus 2 X \$45 = \$165.00
- 2.) \$75 plus 10 X \$25 = \$325.00

Fee would be \$325.00.

If the proposed activity is a "significant activity", add \$175.00, which would make the fee \$500.00.

- b. Residential development of a single 2.8 acre building lot that includes 1.3 acres of wetlands and watercourses: Fee is the greater of:

- 1.) $\$75$ plus $1.3 \times \$45 = \133.50
- 2.) $\$75$ plus $1 \times \$25 = \100.00

Fee would be \$133.50.

If the proposed activity is a "significant activity", add \$175.00, which would make the fee \$308.50.

- c. Commercial development of a retail complex involving alteration and/or filling of 37,000 square feet of wetlands and watercourses. The proposed activity is a "significant activity".

The application fee is:

$\$75$ plus $2.5 \times \$18$ or **\$45** (first 2,500 sq. ft.) plus $34.5 \times \$12$ or **\$414** (remaining 34,500 sq. ft.), plus "significant activity" fee of **\$175** = a total application fee of **\$709.00**.

- d. Application for a map amendment involving 3,450 linear feet of wetland or watercourse boundary. The filing fee is:

$\$175$ plus $5 \times \$20$ or $\$100$ (first 500 ft.)
plus $5 \times \$15$ or $\$75$ (next 500 ft.)
plus $24.5 \times \$8$ or $\$196$ (last 2450 ft.)
for a total application fee of \$546.

21.6 Exemption. Boards, commissions, councils and departments of the Town of Madison are exempt from all fee requirements under Subsection 21.5 of this Section.

21.7 Waiver. The applicant may petition the Agency to waive, reduce or allow delayed payment of the fee required by Section 21.5 of the Regulations. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Agency may waive all or part of the application fee if the Agency determines that:

- a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or
- b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.

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

21.8 If more wetland area or wetland boundary is found during the site inspection, the applicant shall revise the application as required and shall forward the difference between the full fee required by the revised application and the fee already paid by the applicant to the Madison Inland Wetlands office prior to the hearing.

