



Town of Andover

17 SCHOOL ROAD • ANDOVER, CT 06232

Inland Wetlands and Watercourses Regulations

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SECTION 1- TITLE AND AUTHORITY

- 1.1** The Inland Wetlands and Watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement 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 Andover."

- 1.3 The Inland Wetlands and Watercourses Commission of the Town of Andover, established in accordance with Town Ordinance 74-01 as adopted and revised, shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of Andover, Connecticut.
- 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 Commission shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Andover pursuant to sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- 1.6 Areas of special concern in the Town of Andover include the following watercourses and their adjoining wetlands:
 - a. Bishop's Swamp
 - b. Andover Lake
 - c. Staddle Brook
 - d. Burnap Brook
 - e. Hop River
 - f. Skungamaug River
 - g. Cheney Brook ("Andover Lake Brook")
 - h. The Doris Chamberlain Pond located on Route 316 near School Road

SECTION 2- DEFINITIONS

As used in these regulations:

- 2.1 **"Act"** means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- 2.2 **"Bogs"** are watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
- 2.3 **"Clear-cutting"** means the harvest of timber in a fashion which removes all or substantially all trees down to a two-inch diameter at breast height.
- 2.4 **"Commission"** means the Inland Wetlands and Watercourses Commission of the Town of Andover.

- 2.5 **"Commission Member"** means a member of the Inland Wetlands and Watercourses Commission of the Town of Andover.
- 2.6 **"Commissioner of Energy and Environmental Protection"** means the commissioner of the State of Connecticut Department of Energy and Environmental Protection.
- 2.7 **"Continual flow"** means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.
- 2.8 **"Deposit"** includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
- 2.9 **"Discharge"** means emission of any water, substance, or material into waters of the state whether or not such substance causes pollution.
- 2.10 **"Disturb the natural and indigenous character of the wetland or watercourse"** means to alter the inland wetlands and watercourses by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.
- 2.11 **"Essential to the farming operation"** means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.
- 2.12 **"Farming"** means use of land for the growing of crops, raising of livestock or other agricultural use, shall be consistent with the definition as noted in Section 1-1(q) of the Connecticut General Statutes.
- 2.13 **"Feasible"** means able to be constructed or implemented consistent with sound engineering principles.
- 2.14 **"License"** means the whole or any part of any license, permit, certificate or of approval or similar form of permission which may be required of any person by the provisions of these regulations and the Act or other municipal, state and federal law sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- 2.15 **"Management practice"** means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction

methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

- 2.16 "Marshes"** are areas that exhibit aquatic moisture regimes and watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes, is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.
- 2.17 "Material"** means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.
- 2.18 "Municipality"** means the Town of Andover.
- 2.19 "Nurseries"** means land used for propagating trees, shrubs or other places where plants are grown for transplanting, sale, or for use as stock for grafting experimentation.
- 2.20 "Ordinary high-water mark"** means a mark on the land caused by the presence and action of water, which presence and action is so common and usual and so long continued in all ordinary years so as to mark upon the land a distinction between the abutting upland and the watercourse and ascertaining thereon an abrupt change in the characteristics of soil or vegetation or slope of the land.
- 2.21 "Permit"** -see License
- 2.22 "Permittee"** means the person to whom a permit has been issued.
- 2.23 "Person"** means any person, firm, partnership, association, corporation, company, limited liability company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- 2.24 "Pollution"** means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

- 2.25 "Prudent"** means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.
- 2.26 "Regulated activity"** means 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, but shall not include the specified activities in section 22a-40 of the Connecticut General Statutes. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water on the land within the following upland review areas is a regulated activity:
- a. Within 200 feet measured horizontally from the ordinary high-water mark of a river, stream, brook or from a wetland soil in those areas identified in section 1.6 of the Commission's Regulations "Areas of special concern".
 - b. Within 100 feet measured horizontally from the boundary of any other wetland or watercourse. The Commission may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.
 - c. Upland Review Area shall be increased to 200 feet if the slope is greater than 20% within 100' of a wetlands or watercourses to the regulated activity as identified in section 2.26 of the Commissions regulations.
- 2.27 "Remove"** includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast within 200 feet measured horizontally from the ordinary high water mark of the river, stream, brook or from a wetland soil in those areas identified in Section 1.6 of the Commissions regulations areas of special concern or within 100 feet measured horizontally from the boundary of any wetland or watercourse. The Commission may rule that any other activity located within such upland review area or in any non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.
- 2.28 "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.
- 2.29 "Significant activity impact"** means any activity, including, but not limited to, the following activities which may have a major effect or significant impact:

- a. Any activity involving deposition or removal of material which will or may have a major substantial effect or significant impact on the regulated area or on another part of the inland wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
 - b. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
 - c. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support fish aquatic, wildlife, or other biological life plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
 - d. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
 - e. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area wetland or watercourse.
 - f. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
 - g. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- 2.30 "Soil scientist"** means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.
- 2.31 "Swamps"** are watercourses with soils that exhibit aquatic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.
- 2.32 "Submerged lands"** means those lands which are inundated by water on a seasonal or more frequent basis.
- 2.33 "Town"** means the Town of Andover.
- 2.34 "Vernal Pool"** means a watercourse consisting of a confined basin depression which contains a small body of standing water, usually drying out for part of the year during warm weather. It can be natural or man-made, and lacks a permanent outlet or any fish population. Further, the occurrence of one or more of the obligatory species which include the fairy shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog and eastern spadefoot toad are necessary to conclusively define the vernal pool.

- 2.35 "Waste"** means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.
- 2.36 "Watercourses"** means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent; public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration, longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.
- 2.37 "Wetlands"** means land, including submerged land as defined in this section, not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the United States 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.

SECTION 3- INVENTORY OF REGULATED AREAS

- 3.1** The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, Andover, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Commission. In all cases, the precise location of regulated areas wetland and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands. and watercourses.
- 3.2** Any person may petition the Agency for an amendment to the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to aerial photography, remote sensing

imagery, resource mapping or other available information. The Agency may require such person to provide an accurate delineation of regulated areas in accordance with section 15 of these regulations.

- 3.3 The Commission shall maintain a current inventory of regulated areas within the town. The Commission may amend its map as more accurate information becomes available.
- 3.4 All map amendments are subject to a public hearing process outlined in section 15 of these regulations.

SECTION 4- PERMITTED USES AS OF RIGHT AND 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, and activities conducted by, or under the authority of, the Department of Energy and Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
 - b. A residential home (A) for which a building permit has been issued or (B) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987. Any person claiming a use of wetlands permitted as of right under this subdivision shall document the validity of said right by providing a certified copy of the building permit and 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 property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality (provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot size shall be two acres) and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse;
- e. Construction and operation, by water companies as defined by section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-403 of the Connecticut General Statutes;
- f. Maintenance related to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier provided such pipe is on property which is zoned as residential but which does not contain [hydrophytes] hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place; and
- g. Withdrawals of water for fire emergency purposes.

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

- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. 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.

- c. The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, “dry hydrant” means a non-pressurized pipe system that: (A) is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.
- 4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Commission in accordance with section 6 of these Regulations or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with section 12 of these regulations.
- 4.4 To carry out the purposes of this section, any person proposing a permitted operation and use or a non-regulated operation and use shall, prior to commencement of such operation and use, notify the Commission on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of a wetland or watercourse. The Commission shall rule that the proposed operation and use or portion of it is a permitted or non-regulated operation and use or that the proposed operation and use is a regulated activity and a permit is required.

SECTION 5- ACTIVITIES REGULATED EXCLUSIVELY BY THE STATE COMMISSIONER OF ENERGY AND ENVIRONMENTAL PROTECTION

- 5.1 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, commission or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-08 through 22a-05 of the Connecticut General Statutes, as amended.

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

SECTION 6- REGULATED ACTIVITIES TO BE LICENSED

- 6.1** No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Commission of the Town of Andover.
- 6.2** The Commission shall regulate any operation within 100' of a wetlands or watercourse, and within 200' of an area of special concern (Sec.1.6), 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** Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 14 of these regulations and any other remedies as provided by law.
- 6.4** The Commission shall regulate any activity that occurs in non-wetland upland or non-watercourse areas that are likely to impact or affect inland wetlands or watercourses.
- 6.5** The Agency and its agent or any specialists hired by the Agency to evaluate permit applications under these regulations shall have the right of free access

to any part of the property under consideration with the owners or agent of the owner's permission. The property owner may require that such persons have a letter of authorization from the Chairman or Secretary of the agency prior to permitting such access.

SECTION 7- APPLICATION REQUIREMENTS

- 7.1** Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit using the Town of Andover Inland Wetlands and Watercourses Commission Application for Permit form. The application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained at the Town Building and Land Use Department's office or the Town website at <https://www.andoverconnecticut.org>.
- 7.2** If an application to the Town of Andover Planning and Zoning Commission for subdivision or re-subdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3g, 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Commission in accordance with this section, no later than the day the application is filed with such planning and zoning commission.
- 7.3** The application shall contain such information as is necessary for a fair and informed determination thereon by the Commission.
- 7.4** A prospective applicant may request the Commission to determine whether or not a proposed activity involves a significant activity.
- 7.5** All applications shall include the following information in writing and/or on maps or drawings:
- a. The applicant's name, mailing address and telephone number(s); if the applicant is a Limited Liability Corporation or a Corporation, the managing member's or responsible corporate officer's name, address and telephone number;
 - b. If applicable, the name of any authorized agents (e.g., architect, engineer, survey, attorney), business name, mailing address, and phone number(s);
 - c. The applicant's interest in the land;
 - d. The land owner's name, mailing address and telephone number(s) and, if the applicant is not the owner of the land upon which the subject activity

- is proposed, the written consent of the owner. All applications involving land within the Andover Lake high water mark must include the Andover Lake Management Association (ALMA) as a co-applicant;
- e. A statement indicating whether an application has been filed with the Town of Andover Planning and Zoning Commission;
 - f. A statement indicating whether the land is part of a previously approved subdivision (if so, copies of all permits are to be submitted with the application);
 - g. A description of any other State or Town Permits pending for work on the land or required for work on the land;
 - h. The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands and/or watercourses to be disturbed, soil type(s), and wetland vegetation;
 - i. The purpose and a description of the proposed activity, including:
 - i. A detailed description of all activity, including any construction and/or disturbance;
 - ii. A description of the type and volume of material to be filled or excavated, (A) in the wetlands and/or watercourse(s) and (B) in the upland review area;
 - iii. A description of the amount and area of disturbance (A) in the wetland(s) and/or watercourse(s) and (B) in upland review area.
 - j. A description of 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;
 - k. A description of alternatives considered and subsequently rejected by the applicant which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be diagrammed on a site plan or drawing;
 - l. A site plan showing 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;
- m. Names and mailing addresses of adjacent land owners;
 - n. Statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
 - o. Authorization for the members and agents of the Commission and any consultant for the Commission to inspect the subject land, at reasonable times, both before and after a final decision has been issued and for the life of the permit;
 - p. A completed DEEP reporting form; the Commission and any consultant for the Commission shall revise or correct the information provided by the applicant, and submit the form to the Commissioner of Energy and Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
 - q. Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
 - r. The Commission may require that the applicant provide notice(s) to adjacent property owners when the commission determines it is in the public's best interest and/or if the impact from the proposed regulated activity has potential to impact neighboring properties. If required, notice of the Wetlands Meeting shall be mailed to the owner(s) of record of abutting land by the applicant, certified receipt requested, no less than fifteen (15) days prior to the Wetlands Meeting. The notice must be mailed to persons who own land that is adjacent to the land that is the subject of the applicants request for a wetland permit. and if required by the Commission, notice to be additionally provided by posting a sign on the land that is the subject of the wetland's application. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. All applications and maps and documents relating thereto shall be open for public inspection. Proof of such notification shall be provided to the commission by the applicant prior to the meeting the commission may choose to increase the extent or reach of the notice to subsequent adjacent property owners to be notified by the Applicant, certified receipt requested, should the commission determine it is in the public's best interest.
 - s. Submission of the appropriate filing fee based on the fee schedule established in Section 19 of these regulations.

- 7.6** At the discretion of the Commission or its Agents or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required: as determined by the Commission, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required unless otherwise determined by the Commission:
- a. Site plans for the proposed activity and the land which will be affected thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
 - b. Engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
 - c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;
 - d. A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
 - e. A description or how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative which would cause less or no environmental impact to wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent;
 - f. Analysis of chemical or physical characteristics of any fill material; and
 - g. Management practices and other measures designed to 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 fish and wildlife habitats, and functions which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.
 - h. Written description of the proposed construction process and sequence.

- 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** Ten (10) copies of all application materials shall be submitted to comprise a complete application, unless an applicant is otherwise directed in writing by the Commission.
- 7.9** Any application to renew or amend an existing permit shall be filed with the Commission in accordance with section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. The Commission shall determine whether an amendment or modification to an existing permit will require a new permit application. Any application to renew or amend such an existing permit shall contain the information required under section 7 of these regulations provided:
- a. The application may incorporate the documentation and record of the prior application;
 - b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
 - c. The application shall state the reason why the authorized activity was 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 use of the land for which the permit was issued;
 - e. The Agency may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity;
- 7.10** Any application to renew a permit shall be granted upon request of the permit holder unless the Commission 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 shall be valid for more than ten years, and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.

7.11 For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:

- a. For purposes of this section, “conservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space use.
- b. For purposes of this section, “preservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land, including, but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.
- c. No person shall file a permit application, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of such existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than sixty days prior to the filing of the permit application.
- d. In lieu of such notice pursuant to subsection 7.11c, the applicant may submit a letter from the holder of such restriction or from the holder’s authorized agent, verifying that the application is in compliance with the terms of the restriction.

SECTION 8- APPLICATION PROCEDURES

- 8.1** All petitions, applications, requests or appeals shall be submitted to the Andover Inland Wetlands and Watercourse Commission of the Town of Andover or the Town Clerk who shall act as agent of the Inland Wetlands and Watercourses Commission for the receipt of such petition, application, request or appeal.
- 8.2** The Commission shall, in accordance with Connecticut General Statutes sections 8-7d(f) and 22a-42b, notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal request or plan concerning any project on any site in which:
- a. Any portion of the property affected by a decision of the agency is within five hundred feet of the boundary of the adjoining municipality;
 - b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c. A significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the 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.
 - e. 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, petition, appeal, request or plan.
- 8.3** When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 25-32a of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application.
- 8.4** The date of receipt of any application, petition, request or appeal shall be the day of the next regularly scheduled meeting of the Commission immediately

following the day of submission to the Commission or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.

- 8.5 At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection.
- 8.7 Incomplete applications may be denied.

SECTION 9- PUBLIC HEARINGS

- 9.1 The Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses, 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 Commission not later than fourteen days after the date of receipt of such application, or the Commission finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing provided no petition provided for in this section is filed with the Commission on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application, all applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person may appear and be heard and may be represented by agent or by attorney.
- 9.2 Notice of the public 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 the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 Notice of the Public Hearings shall be mailed to the owner(s) of record of abutting land by the applicant, certified receipt requested, no less than fifteen (15) days prior to the hearing. The notice must be mailed to persons who own land that is adjacent to the land that is the subject of the hearing and if required by the Commission, notice to be additionally provided by posting a sign on the land that is the subject of the hearing. For purposes of

such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last completed grand list as of the date such notice is mailed. All applications and maps and documents relating thereto shall be open for public inspection. Proof of such notification shall be provided to the commission by the applicant prior to the hearing. The commission may choose to increase the extent or reach of the notice to subsequent adjacent property owners to be notified by the Applicant, certified receipt requested, should the commission determine it is in the best public interest.

- 9.4** In the case of any application which is subject to the notification provisions of subsection 8.3 of these regulations, a public hearing shall not be conducted until the clerk of the adjoining town(s) have received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.
- 9.5** Any significant changes to the plan or application shall be submitted to the Agent of the Commission and Town Clerk no later than 10 days prior to the public hearing. At the discretion of the Commission or its Agents, untimely significant changes may be received within a shorter time period.

SECTION 10- CONSIDERATIONS FOR DECISION

- 10.1** The Commission may consider the following in making its decision on an application:
- a. The application and its supporting documentation.
 - b. For an application for which a public hearing was held, public comments, evidence and testimony,
 - c. Reports from other agencies and commissions including but not limited to the Town of Andover's:
 - Conservation Commission
 - Planning and Zoning Commissions
 - Building Official
 - Health Officer/Sanitarian
 - d. The Commission may also consider comments on any application from the Tolland County Soil and Water Conservation District, Council of Governments, or other regional organizations (i.e. Council of Elected Officials); 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 in subdivisions 10.1.(c) and (d) above within the prescribed time shall neither delay nor prejudice the decision of the Commission.

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 Commission 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 capacity 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;
- 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 including abutting or downstream property, which would be caused or threatened by the proposed activity, or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific, or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational, and other public and private uses and value of wetlands and watercourses to the community.

- f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.
- 10.3** In the case of an application which received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Commission 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 alternative to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Commission 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 (s)he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5** For purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6** A municipal inland wetlands Commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7** In reaching its decision on any application after a public hearing, the Commission 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 Commission 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.

- 10.8** In the case of an application where the applicant has provided written notice pursuant to subsection 7.11c of these regulations, the holder of the restriction may provide proof to the inland wetlands agency that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the inland wetlands agency shall not grant the permit approval.
- 10.9** In the case of an application where the applicant fails to comply with the provisions of subsection 7.11c or 7.11d of these regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such agency related to appeals. The inland wetlands agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.
- 10.10** Nothing in subsections 7.11c or 7.11d of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

SECTION 11- DECISION PROCESS AND PERMIT

- 11.1** The Commission, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourses resources. Such terms may include restrictions as to the time of year in which a regulated activity may be

conducted, provided the Agency, or its agent, determines that such restrictions are necessary to carry out the policy of sections 22a-36 to 22a-45, inclusive of the Connecticut General Statutes.

- 11.2** No later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application. The failure of the Commission 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 Commission shall be withdrawn by the applicant or denied by the Commission.
- 11.3** The Commission 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 Commission shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within ten days thereafter.
- 11.5** If an activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under sections 8-3(c), 8-3(g), or 8-26 of the Connecticut General Statutes, the Commission shall file a copy of the decision and report on the application with the Town of Andover Planning and Zoning Commission within fifteen days of the date of the decision thereon.
- 11.6** Any permit issued by the Commission for the development of land for which an approval is required under chapter 124, 124b, 126 or 126a of the

Connecticut General Statutes shall be valid until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued by the Agency for any activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years.

11.6.1 The term of any permit issued by the Commission on or after July 1, 2021 for the development of land for which an approval is required under chapter 124, 124b, 126 or 126a of the Connecticut General Statutes shall not take effect until each such approval, as applicable, granted under such chapter has taken effect, and shall be valid until the approval granted under such chapter expires or for ten years, whichever is earlier.

11.6.2 Any permit issued by the Commission prior to July 1, 2011 that was in effect and did not expire prior to July 1, 2021 shall be valid for a period not less than fourteen (14) years after the date of such approval. Further, notwithstanding the foregoing provisions of Section 11.6.2, any permit issued by the Commission on or after July 1, 2011, but prior to July 1, 2021, that was in effect and did not expire prior to March 10, 2020, shall expire not less than fourteen (14) years after the date of such approval.

11.6.3 Any permit described in Subsection 11.6.2 shall be renewed upon the request of the permit holder unless the Commission finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no such permit shall be valid for more than nineteen (19) years.

11.6.4 Any permit issued by the Commission for any activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years. Any permit described in this Subsection 11.6.4 shall be renewed upon the request of the permit holder unless the Commission finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no such permit shall be valid for more than ten (10) years.

11.7 If a bond or insurance is required in accordance with section 13 of these regulations, the Commission may withhold issuing the permit until such bond or insurance is provided.

11.8 General provisions in the issuance of all permits:

- a. The Commission has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false,

deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.

- b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Andover, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.
- c. If the activity authorized by the Commission's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under sections 8.3(c), 8-3(g), or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
- d. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- e. Permits are not transferable without the prior written consent of the Commission.

SECTION 12- ACTION BY DULY AUTHORIZED AGENT

- 12.1** The Commission may delegate to its duly authorized agent the authority to approve or extend the license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7.5 of these regulations and any other information the Commission 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. The agent shall report at the next meeting any action taken.
- 12.2** Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein

the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within fifteen days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission 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 13- BOND AND INSURANCE

- 13.1** Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to file a bond with such surety in such amount and in a form approved by the Commission. The Commission may require, as a permit condition, the filing of a bond with such surety in such amount and in the form approved by the Commission.
- 13.2** 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.
- 13.3** The Commission may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount commensurate with the regulated activity.
- 13.4** The commission may require bonding to ensure any activity being undertaken in a nonregulated area, if that activity may potentially disturb the natural and indigenous character of any regulated area.
- 13.5** The amount of the performance bond shall be released to the permittee upon receipt by the Agency of evidence that the proposed activity or activities have been substantially completed in a satisfactory manner. The Agency may, in its own discretion release a portion of the bond amount if it is of the opinion that the permitted activity or activities have been substantially completed and only a minor portion of the activity or activities remains to be completed.

SECTION 14- ENFORCEMENT

- 14.1** The Commission 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. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria decision under section of these regulations.
- 14.2** The Commission or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations with the consent of the property owner or the duly authorized agent of the owner during the life of the permit.
- 14.3** In the case which a permit has not been issued or a permit has expired, the Commission or its agents may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4** If the Commission or its designated 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 Commission or its duly authorized agent may:
- a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission 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 Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission 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 Commission 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 Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting

work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subdivision 14.4(a) or other enforcement proceedings as provided by law.

- 14.5** The commission may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action.

The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

SECTION 15- AMENDMENTS

- 15.1** These regulations and the Inland Wetlands and Watercourses Map for the Town of Andover may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2** An application filed with the Commission 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 Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in

regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

- 15.3** These regulations and the Town of Andover Inland Wetlands and Watercourses Map shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Energy and 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. Fee schedules shall be adopted as Commission regulations.
- 15.4** Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Andover, Connecticut," shall contain at least the following information:
- a. The petitioner's name, mailing address and telephone number;
 - b. The address, or location, of the land affected by the petition;
 - c. The petitioner's interest in the land affected by the petition;
 - d. Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations;
 - e. The reasons for the requested action;
 - f. The names and addresses of adjacent property owners; and
 - g. A map showing proposed development of the property.
- 15.5** Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Andover, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Commission. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include:
- a. The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
 - b. The names and mailing addresses of the owners of abutting land;

- c. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
 - d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6** Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 15.7** A public hearing shall be held on petitions to amend the regulations and the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last not less than two days, before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.
- 15.8** The Commission shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty-five (65) days after receipt of such. The hearing shall be completed within thirty-five (35) days after commencement. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days or may withdraw such petition. Failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.9** The Commission shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

SECTION 16- APPEALS

- 16.1** Appeal on actions of the Commission shall be made in accordance with the provisions of section 22a-43 of the Connecticut General Statutes, as amended.
- 16.2** Notice of such appeal shall be served upon the Commission and the Commissioner of Energy and Environmental Protection.

SECTION 17- CONFLICT AND SEVERANCE

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

SECTION 18- OTHER PERMITS

- 18.1** Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Andover, the State of Connecticut or the Government of the United States including any approval required by the Connecticut Department of Energy and Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

SECTION 19- APPLICATION FEES

- 19.1** Method of Payment. All fees required by these regulations shall be submitted to the Commission by check or money order payable to the Town of Andover at the time the application is filed with the Commission. Fees are set to cover the reasonable cost of reviewing and acting on applications, petitions, and monitoring compliance with any permit or Commission order. An additional application fee may be required at the discretion of the Commission when it finds that the nature of the application requires an unusual degree of monitoring and inspection. Upon the discovery of permit violations, the Commission may also require an additional application fee to cover monitoring inspections.
- 19.2** No application shall be approved or permit granted by the Commission unless the correct application fee is paid in full or unless a waiver has been granted by the Commission pursuant to subsection 19.7 of these regulations.
- 19.3** The application fee is not refundable.

19.4 Definitions. As used in this section:

- a. **"Residential Uses"** means activities carried out on property developed for permanent housing, or being developed to be occupied by permanent housing.
- b. **"Commercial uses"** means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit,
- c. **"Other uses"** means activities other than residential uses or commercial uses.

19.5 Filing, Application and Permit Fees

Fee Schedules:

- a. **Basic Filing Fees-** due at the time an application is formally received by the Commission for Regulated Activities. (Section 6)
 - (1) **Basic Residential Filing Fee- \$150.00**
 - Plus, fee from section 19.5J
 - (2) **Basic Residential Subdivision Filing Fee- \$150.00**
 - Plus \$150.00 per parcel or lot that contains a "Regulated Activity,"
 - Plus, fee from section 19.5J
 - (3) **Basic Commercial Filing Fee- \$300.00**
 - Plus, fee from section 19.5J
 - (4) **Basic Other Uses Filing Fee- \$100.00**
 - Plus, fee from section 19.5J
 - (5) **Basic Fee for Agent Approval or Extension of Activity Pursuant to Section 12- \$65.00**
 - (6) **Residential Uses with Minimal Impact- \$100.00**
 - Plus, fee from section 19.5J

The above fees cover the cost of processing the application, preliminary review of application and plans, initial inspection(s) of the site and meeting with the applicant or the applicant's agent. If an application requires additional review time and or monitoring by staff or consultants and these costs are in excess of the basic filing fee Section 19.5d and or

Section 19.5e will be applied as part of the application fee. This will allow the Town to transfer the actual costs of review and or monitoring directly to the applicant. An estimate of these costs will be provided to the applicant within 10 days of receipt of the application, any portion of the application fee in excess of the actual cost will be refunded to the applicant.

- b. **Application fee for regulated activity started without a permit- Double Regular Fee**
 - Plus, fee from section 19.5J
- c. **Inspection for Non-compliance- \$50.00** per site inspection or per 1/2hr.
- d. **Complex Application Fee.** The Inland Wetlands Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not be limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts. The Agency or the duly authorized agent shall estimate the complex application fee which shall be paid pursuant to section 19.1 of these regulations within 10 days of the applicant's receipt or notice of such estimate. Any portion of the complex application fee in excess of the actual cost shall be refunded to the applicant no later than 30 days after publication of the agency's decision
- e. **Additional Monitoring and Inspection Fees:**
 - **Wetlands Agent- \$35.00** per inspection or per ½ hour.
 - **Engineer- \$85.00** per inspection or per ½ hour.
 - **Environmental Consultant- \$85.00** per inspection or billed per hour at \$150 per hour.

These fees along with approximate number and type of inspections will be determined at the time of filing, and/or assessed per inspection required to monitor the site after the permit is issued.

- f. **Fee for road construction (private or public) involving wetland or watercourses- \$1000.00** for the first 1000 feet and \$1.00 per foot thereafter.
- g. **Significant Activity Fee (Subsection 7.6)- \$250.00**
- h. **Map Amendment Petitions (Subsection 15.5)- \$250.00** plus \$20.00 per 1000 linear feet of total length of wetlands and watercourses boundary subject to the proposed boundary change.

- i. **Modification of previously approved permit- \$70.00**
(to include, but not limited to, extension(s) of time
in which to initiate and/or complete the activity.)
- j. **Area of Wetland and Watercourse Impacted.** A fee for the area
measured in square feet of wetlands to be affected by the proposed
regulated activity including, but not limited to, any excavation, filling,
alteration, or pollution of such wetland or watercourse and per linear foot
of watercourse disturbed.
 - **Fee per 1000 square feet of affected wetlands- \$100.00**
 - **Fee per linear foot of watercourse disturbed- \$2.00**
- k. **State Fee- \$60.00**
 - The applicant will be responsible for this fee and any
increases in the State Fee.
- l. **Legal Notice-** The applicant is responsible for the cost of publishing the
legal notice of the commission's decision. The approximate amount of
publishing this notice will be assessed at the time of filing.

19.6 Exemption- Boards, commissions, councils and departments of the Town of Andover are exempt from all fee requirements.

19.7 Waiver- The applicant may petition the Commission to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Commission should consider in its determination under this subsection. The Commission may waive all or part of the application fee if the Commission 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 of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application. The Commission shall state upon its record the basis for all actions under this subsection.

SECTION 20- EFFECTIVE DATE OF REGULATIONS

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

Public Act 96-157 uses the word "submission" which should be understood to mean "day of receipt".