

TOWN OF EAST HAMPTON

INLAND WETLANDS

§

WATERCOURSES AGENCY

REGULATIONS

Approved:	<u>11/23/87</u>
Effective:	<u>12/31/87</u>
Revised:	<u>11/22/88</u>
Revised:	<u>10/15/90</u>
Revised:	<u>01/15/94</u>
Revised:	<u>06/15/97</u>
Revised:	<u>06/01/99</u>
Revised:	<u>05/15/02</u>
Revised:	<u>03/01/03</u>
Revised:	<u>08/04/03</u>
Revised:	<u>04/14/04</u>
Revised:	<u>02/15/05</u>
Revised:	<u>02/22/06</u>
Revised:	<u>08/28/09</u>
Revised:	<u>07/23/12</u>
Revised:	<u>09/01/17</u>
Revised:	<u>02/01/18</u>

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REGULATIONS
TOWN OF EAST HAMPTON
INLAND WETLANDS AND WATERCOURSES AGENCY

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 East Hampton.
- 1.3 The Inland Wetlands and Watercourses Agency of the Town of East Hampton was established in accordance with an ordinance adopted May 8, 1974 and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act (Sections 22a-36 through 22a-45a inclusive of the Connecticut General Statutes as amended) herein after referred to as the Act in the Town of East Hampton.
- 1.4 These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The Agency shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of East Hampton pursuant to sections 22a-36 to 22a-45s, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2 DEFINITIONS

2.1 As used in these Regulations:

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

Agency means the Inland Wetlands and Watercourses Agency of the Town of East Hampton, and includes its authorized agents.

Bogs are areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

Buffer means a zone whose length is identical to the wetlands and watercourses boundary and whose width is one hundred feet (100'). (see also **Regulated Activity**)

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

Commission Member means a member of the Inland Wetlands and Watercourses Agency of the Town of East Hampton.

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

Conservation Easement means a document recorded in the land records in which an owner of land voluntarily agrees with the town permanently to refrain from doing certain things in an environmentally sensitive area that the owner might have been able to do were it not for the agreement.

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.

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

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

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

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, alternating or obstructing water flow, or pollution.

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

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

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

General Statutes means the General Statutes of Connecticut.

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

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.

License means the whole or any part of any permit, certificate or approval or similar form of permission which may be required of any person by the provisions of these Regulations.

Made Land means an area where the surface soil and subsoil has been stripped away and where earth or trash is used as filler materials. It may also include areas where the soil profiles have been disturbed through leveling or other means.

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

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

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

Municipality means the Town of East Hampton, Middlesex County in the State of Connecticut.

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

Permit means the whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these Regulations and the Act or other municipal, state and federal laws.

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

Person means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

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

Prudent means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is

prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

Regulated Activity means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, or any operation within or of any land which may disturb the natural and indigenous character of a wetland or watercourse, but shall not include the specified activities in Section 4 of these regulations or Section 22a-40 of the Connecticut General Statutes.

Furthermore, any clearing, grubbing filling, grading, paving, excavating, construction, depositing or removing of material and discharging of storm water within the following upland review areas is a regulated activity: (1) within 100 feet measured horizontally from the boundary of any wetland or watercourse, (2) within 150 feet horizontally from the boundary of the Salmon River, (3) within 150 feet horizontally from the boundary of the Connecticut River, and (4) within 200 feet measured horizontally from the boundary of any wetland or watercourse within the Lake Pocotopaug Watershed Area. The Agency 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.

Regulated Area means any wetland or watercourse as defined herein.

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

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

Significant impact (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 watercourse system.
2. Any activity which substantially diminishes 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; or to prevent flooding; supply water; assimilate waste; facilitate drainage, provide recreation or open space; or to 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 a substantial diminution of flow of a natural watercourse or groundwater 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.
8. A significant decrease in the minimum low flow of a watercourse during a period of drought.
9. An actual or potential pollution of a watercourse.
10. A reduction of natural capacity of an inland wetland or watercourse to support desirable biological life and/or function effectively as a part of the total wetland or watercourse ecosystem including loss of productivity of an economic resource.
11. A loss of unique area and/or undisturbed area as valuable for scientific or educational purposes in wetlands or watercourses.
12. Recreation which may result in destruction of wildlife habitat, scenic values or historic features.
13. A conflict with the community Plan of Development or Open Space Plan, which may result from incompatible uses, loss of amenities as applicable.

14. The creation of conditions which may adversely affect the health, welfare and safety of individual or the community, which may be incurred when unsuitable development occurs

in swamps, marshes, along watercourses, in areas subject to flooding or in any other wetlands.

Soil Scientist means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.

Swamps are areas with soils that exhibit aquic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.

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

Town means the Town of East Hampton, Middlesex County in the State of Connecticut.

Upland Review Area (Wetbelt) for the purpose of these regulations: that area which is located 100' from the edge of a wetland or watercourse as designated by a certified soil scientist.

Upland Review Area Disturbance construction activities within 100' of a wetland or watercourse which shall include but not be limited to deposition and erosion of material, pollution of or alteration of the quality of any wetland or watercourse rendering it impure – in the Salmon River Protection Area, construction activities within 150' of a wetland or watercourse shall constitute an upland review area.

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.

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. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: A(A) Evidence of scour or deposits of recent alluvium of 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.

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 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). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA cooperative Soil Survey.

Wetlands Enforcement Officer (WEO) means the person so designated by the Town Manager, and the Inland Wetlands and Watercourses Agency.

SECTION 3
INVENTORY OF REGULATED AREAS

- 3.1 The map of regulated areas entitled "Inland Wetlands and Watercourses Map, Town of East Hampton, Connecticut" delineates the general location of 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 regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and location of watercourses. Such determinations shall be made by field inspection and testing conducted by a certified soil scientist where soil classifications are required by any other qualified individual(s).
- 3.2 Any property owner who disputes the designation of any of his or her land as a regulated area on the Inland Wetland and Watercourses Map, may petition the Agency to change the designation in accordance with Section 15 of these Regulations. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inapplicable. The Agency may require such property owner to provide an accurate delineation of regulated areas in accordance with Section 15 of these Regulations.
- 3.3 To prove himself/herself exempt from these Regulations, the Agency may require the applicant to present documentation by a soil scientist that the land in question, or a portion of it, does not have a soil survey type classified by the National Cooperative Soils Survey as poorly drained, very poorly drained, alluvial or flood plain. Further, the Agency may require the applicant to present documentation by a botanist that the land in question, or a portion of it, does not contain vegetation associated with swamps, bogs or marshes as listed in the U.S. EPA New England Wetlands Plant Identification and Protection Laws, as amended.
- 3.4 Documentation, by a certified soil scientist, and satisfactory to the Agency, includes a map of the land in question, or that portion of it on which the designation of regulated soils is disputed, on a A-2 transit survey level of accuracy, on which the flag location defining the boundaries of the regulated soil types are depicted, along with their appropriate numerical designations, to which the certified soil scientist's signature and licensed surveyor's signature and seal are affixed.
- 3.5 The Agency and/or its designated agent(s) shall monitor and maintain general surveillance of all regulated areas to ensure that no unauthorized regulated activities occur.
- 3.6 The Agency and/or its designated agent(s) shall inventory and maintain current records of all regulated areas to ensure that no unauthorized regulated activities occur.
- 3.7 The Agency or its designated agent(s) shall inventory and maintain current records of all regulated areas within the Town. The Agency may amend the map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the Town. Such map amendments are subject to the public hearing process outlined in Section 15 of these Regulations. Any person may petition for an amendment to the map. Petitioners shall bear the burden of proof for all requested map amendments. Such proof may include, but not be limited to, aerial photography, remote sensing imagery, resource mapping or other available information. Such map amendments are subject to the public hearing process outlined in Section 15 of these Regulations.

SECTION 4 PERMITTED 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 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:
 - i. Road construction or the erection of buildings not directly related to farming operation; or
 - ii. Relocation of watercourses with continual flow; or
 - iii. Filling or reclamation of wetlands or watercourses with continual flow; or
 - iv. Clear-cutting of timber except for the expansion of agricultural cropland; or
 - v. Mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for purposes of sale.
 - b. a residential home (i) for which a building permit has been issued 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 the effective date of promulgation of the municipal regulations pursuant to subsection (b) of Section 22a-42a, or as of July 1, 1974, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987. 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;

Such individual shall not be relieved of the obligation to take measures reasonably required by the Agency to minimize damage to such wetlands.
 - 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 size 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 site 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 deposit 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 through 22a-410 of the Connecticut General Statutes.
 - f. maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a of the Connecticut General

Statutes, or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this section, "maintenance" means the removal of accumulated leaves, soil, and other debris, whether by hand or machine, while the pipe remains in place.

- 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 shall 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 trails, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing, and cross country skiing where otherwise legally permitted and regulated.
 - c. The installation and maintenance 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:
 - i. is readily accessible to fire department apparatus from a proximate public road,
 - ii. provides for the withdrawal of water by suction to such fire department apparatus, and
 - iii. is permanently installed into an existing lake, pond or stream that is a dependable source of water.
- 4.3 All activities in wetlands and watercourses involving filling, excavation, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this Section shall require a permit from the Agency in accordance with Section 6 of these Regulations.
- 4.4 To carry out the purposes of this Section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse which may disturb the natural and indigenous character of the 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 nonregulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time.

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 Sections 22a-401 through 22a-410 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-349 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 Section 22a-359 through 22a-363 or in designated tidal wetlands pursuant to Section 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 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 such alteration is 100 acres or larger, pursuant to sections 22a-365 through 22a-378 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 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities and other 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; (1) after an advisory decision on such license or permit has been rendered to the Commissioner by the wetland agency or the municipality within which such wetland is located or (2) thirty-five (35) days after receipt by the Commissioner of such application, whichever occurs first.
- 5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes.
- 5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized 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 TO BE LICENSED

- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the East Hampton Inland Wetlands and Watercourses Agency.
- 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 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, 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.

SECTION 7
APPLICATION REQUIREMENTS

- 7.1. Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Agency. The application shall contain the information described in this section and any other information the Agency may reasonably require. Application forms may be obtained in the offices of the Inland Wetlands and Watercourses Agency.
- 7.2. If an application to the Town of East Hampton Planning, Zoning, or 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 such planning, zoning, or planning and zoning commission.
- 7.3. All applications shall be filed for receipt with the Clerk of the Agency. The application fee shall be paid at the time of filing. A schedule of fees shall be available at the Offices of the Agency and the Town Clerk. All applications shall contain such information that is necessary for a fair and informed determination of the case.
- 7.4. The application shall contain such information as is necessary for affair and informed determination thereon by the Agency.
- 7.5. A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- 7.6. All applications shall include the following information in writing or on maps or drawings:
- a. the applicant's name, home and business mailing addresses and telephone numbers;
 - b. 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;
 - c. applicant's interest in the land;
 - d. 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 or watercourse to be disturbed, soil type(s) and wetland vegetation;
 - e. a location map of a scale no smaller than 1:1000' scale, showing neighboring roads;
 - f. 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;
 - g. alternatives considered and subsequently rejected by the applicant and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan or drawing;
 - h. a site plan of A-2 level accuracy or other survey type showing existing and proposed conditions in relation to wetlands and watercourses on the property 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 may be required;

- i. names and addresses of adjacent property owners;
- j. 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;
- k. authorization for the members and agents of the Agency to inspect the subject land, at reasonable times, both before and after a final decision has been issued;
- l. a completed DEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
- m. submission of the appropriate filing fee based on the fee schedule established in Section 19 of these regulations.
- n. alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen;
- o. application must be made by the property owner of record or the duly authorized agent of such owner, such authorization to be in writing and to accompany the application. The application is to be submitted in six (6) copies. The non-owner applicant must specify his/her interest in the property referred to in the application and attach documentary proof.
- p. an evaluation of the significance of the wetlands on the property, specifically noting any vernal pools or other environmentally sensitive areas.

7.7 If the proposed activity involves a significant activity as determined by the Agency, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:

- 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 function of the wetlands or watercourses involved with the application and the effects of the proposed activity on the communities and wetland functions;
- 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 provided 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.
- 7.8 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 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.
- 7.9 10 copies of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed, in writing, by the Agency.
- 7.10 Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. 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;
- 7.11 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.
- 7.12 The Agency and the applicant may hold a pre-application meeting to determine whether or not the proposed application involves a significant activity. Whenever possible the determination relative to significant activities should be made at the pre-application meeting.

- 7.13 If the proposed activity involves a significant activity as determined by the Agency and defined in Section 2 of these Regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:
- a. Site plan for the proposed use or operation and the property which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses and other pertinent features of the development prepared by a licensed surveyor, professional engineer or landscape architect registered in the State of Connecticut or by such other qualified person;
 - b. Engineering reports and analyses and additional submissions to fully describe the proposed project and 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. Soil Conservation Service (the Agency shall require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated into the site plans);
 - d. Description of the ecological communities and function of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on the communities and wetland functions;
 - e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and with each alternative a description of why each alternative provided was deemed neither feasible nor prudent;
 - f. Analysis of chemical or physical characteristics of any material;
 - g. Measures which 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.

SECTION 8
APPLICATION PROCEDURES

- 8.1 All applications shall be submitted to the East Hampton Inland Wetlands and Watercourses Agency.
- 8.2 Any person wishing to undertake a regulated activity within a regulated area shall apply for a permit to the Agency. (See Appendix for an information checklist)
- 8.3 The Agency shall, in accordance with Connecticut General Statutes Sections 8-7b and 22a-42b, notify the clerk of any adjoining municipality of the pendency of 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 (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 drainage or sewerage 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.
- 8.4 The Agency shall, in accordance with Connecticut General Statutes Section 22a-42b, 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 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 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 The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency, provided such meeting is no earlier than three (3) business days after receipt, or thirty-five (35) days after such submission, whichever is sooner.
- 8.6 The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency, or thirty-five (35) days after such submission, whichever is sooner (effective 2/06).
- 8.7 At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.8 All applications shall be open for public inspection.
- 8.9 Incomplete applications may be denied.

SECTION 9
PUBLIC HEARINGS

- 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 wetlands or watercourses or a petition signed by at least twenty-five persons who are eighteen years of age or older and are residents of the Town of East Hampton requesting a hearing is filed with the Agency not later than fourteen 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 not later than fifteen (15) days (on or before the fourteenth day) after the date of receipt of the 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 (effective 2/06).
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 The applicant shall provide notice of the application to each owner of property abutting the land which is the subject of the hearing, as their names and addresses appear in the most recent Grand List of the Town Assessor, said notice to be by United States First Class mail, evidenced by a Certificate of mailing issued by the United States Postal Service. Said notice shall be mailed no less than ten (10) days prior to the initial public hearing, and the Applicant shall submit to Town Staff, at least five (5) days prior to such hearing, evidence of such mailing. The Applicant need not provide similar notice of any continuation of the initial public hearing. (Effective 07/23/2012)
- 9.4 A sign or signs shall be placed on the subject property, at least fifteen (15) days prior to the meeting at which the proposal shall be heard. The sign(s), which shall be no less than ten (10) square feet in area, shall state the following: THIS PROPERTY IS SUBJECT TO ACTION BY THE INLAND / WETLANDS WATERCOURSES AGENCY, the date, the time and place of the meeting. Such sign(s) shall be of durable material(s), have black lettering two (2) inches (minimum), white background, shall be located so as to be clearly visible from the public street nearest the front of the property. Signs posted shall be no further apart along public streets than five hundred (500) feet. All signs shall be placed at the applicant's expense and shall be removed immediately after the appeal period (fifteen (15) days) has expired.
- 9.5 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 municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

SECTION 10
CONSIDERATION 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.
 - c. Reports from other agencies and commissions including but not limited to the Town of East Hampton;
 1. Conservation Commission
 2. Planning, Zoning, or Planning and Zoning Commissions
 3. Building Official
 4. Health Officer
 - d. The Agency may also consider comments on any application from the Middlesex County Soil and Water Conservation District, the Midstate Regional Planning Agency 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 Sections 10.1.c and d above within the prescribed 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 regulated activity on wetlands or watercourses;
 - b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses;
 - c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
 - d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to:
 - (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, 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 an application which received a public hearing finding by the Inland Wetlands Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Agency shall consider the facts and circumstances set forth in Section 10.2 of these Regulations. This finding and the reasons therefore shall be stated in 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 section shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5 For purposes of this section, (1) "wetlands or 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.
- 10.6 A municipal Inland Wetlands Agency shall not deny or condition an application for regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his 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 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 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. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on application 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 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 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. 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 person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.
- 11.5 If an activity authorized by the inland wetland permit also involves an activity or project which requires a zoning or subdivision approval, special zoning permit or variance or special exception, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Agency shall file a copy of the decision and report on the application with the Town of East Hampton Planning and Zoning Commission within fifteen (15) days of the date of the decision thereon.
- 11.6 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 (5) 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 (2) years and not more than five (5) years. Any such permit shall be renewed upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten (10) years.
- 11.7 No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.

- 11.8 In granting, denying or limiting any permit for a regulated activity the Agency shall state upon the record the reason for its decision. Evidence not in the hearing record shall not be considered by the Agency in its decision.
- 11.9 In granting a permit the Agency may grant the application as filed or grant it upon such terms, conditions, limitations or modifications of the regulated activity designed to carry out the policy of Sections 22a-36 to 22a-45a, inclusive of the Connecticut General Statutes, as amended.
- 11.10 Any application to amend an existing permit shall be filed with the Agency in accordance with Section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to amend such an existing permit shall contain the information required under Section 7 of these regulations provided:
- a. The application may incorporated the documentation and record of 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 in 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.
- 11.11 General provisions in the issuance of all permits:
- a. The Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the 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 East Hampton, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.
 - c. If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance, or special exception under section 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 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 Agency.

SECTION 12
ACTION BY DULY AUTHORIZED AGENT

12.1 Action by agent:

- a. 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 on a form provided by the Agency and shall contain the information listed under Section 7.6 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing application prescribed in Section 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time.
- b. Any persons 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. 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.

12.2 Fines for violation:

- a. As provided and allowed under the provision of Section 22a-42g of the General Statutes of Connecticut, as amended, the Town of East Hampton hereby establishes a fine of up to \$1,000.00 for any person who violates the provisions of the wetlands regulations of the Town of East Hampton.
- b. Any police officer or other person authorized by the Town Council (ie: Town Manager) of the Town of East Hampton may issue a citation to any person who commits such a violation. The Town of East Hampton has adopted the hearing procedure set forth under the provisions of Section 7-152c of the General Statutes of Connecticut with reference to the issuance of any such citation. The Town Council of the Town of East Hampton has authorized appropriate rules of procedure pursuant to the implementation of the hearing procedure set forth in said section.
- c. Any fine collected by a municipality pursuant to this regulation shall be deposited into a special fund designated by the Town of East Hampton to receive said fine. Any monies deposited in said fund shall thereafter be available to be used by the Town of East Hampton for the purpose of furthering and implementing the policies of the State of Connecticut inland wetlands laws, and the inland wetland regulations of the Town of East Hampton. Permitted expenditures shall included, but not be limited to, wetland delineation, protection, enhancement, and creation. It shall also include administration costs, including professional consulting fee and fees incurred by the Agency for review of applications before the Agency, and for determination of violations and enforcement of the inland wetland regulations.

(for Fining Guidelines see Appendix A)

SECTION 13
BOND AND INSURANCE

- 13.1 The applicant, upon approval of the application and prior to issuance of a permit may, at the discretion of the Agency, be required to file a bond with such surety in such amount and in a form approved by the Agency.
- 13.2 The bond shall be conditioned on compliance with all provisions of these terms, regulations, conditions, and limitations imposed on the permit.
- 13.3 When a performance bond is required by the Agency, a non-refundable amount representing three percent (3%) of the bond amount shall be paid to the Town upon approval of the permit for regulated activities in a regulated area. This amount is to be utilized for engineering and inspection services to insure that performance measures are designed and implemented in accordance with these Regulations. This bonding clause requirement may be assigned to other relative agencies as applicable.
- 13.5 The following methods of bonding for erosion control or regulated activities are acceptable; cash, check, savings passbook.

SECTION 14 ENFORCEMENT

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.
- 14.2 The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.
- 14.3 If the Agency or its designated agent(s) find 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 notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide 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 subsection 14.3.b of this section or other enforcement proceedings as provided by law.
- b. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn.

The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the General Statutes, as amended.

- c. 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 Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a public 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 Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.
- 14.4 As-Built plans of any work done under a permit issued by the Agency may be required by the Agency.

SECTION 15
AMENDMENTS

- 15.1 These regulations and the official Inland Wetlands and Watercourses Map for the Town of East Hampton 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.
- 15.2 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 wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such 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) any change in regulations necessary to make such 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 East Hampton 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 (determinations of boundaries), at least thirty five (35) days before the public hearing on their adoption.
- (Note: Application fee schedules shall be adopted as Agency regulations or as otherwise provided by town ordinance.)
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, East Hampton, Connecticut" shall contain at least the following information:
- a. The applicant's name, address and telephone number;
 - b. The owner's name (if not the applicant), address, telephone number, and a written consent to the proposed action set forth in the application;
 - c. Applicant's interest in the land;
 - d. 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 and site location map.
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, East Hampton, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include;

- a. the name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
 - b. the names and mailing addresses of the owners of abutting land;
 - c. documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
 - d. map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6 The Agency may require the petitioner to present documentation by a 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 soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted.
- 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 general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.
- 15.8 The Agency shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and watercourses Map within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Agency shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days or may withdraw such petition. Failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.9 Within ninety (90) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the petition. The Agency shall act upon the changes requested in such petition within sixty (60) days after the close of the hearing. The petitioner may consent to one or more extensions of the period specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such petition. *The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.*
- 15.10 The Agency 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 Appeals on actions of the Agency shall be made in accordance with the provisions of section 22a-43 of the General Statutes, as amended.
- 16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

SECTION 17
CONFLICT AND SEVERANCE

- 17.1 Where there is a conflict between the provisions of these regulations and those of and other applicable statute, ordinance or regulation, the provision of that statute, ordinance or regulation which imposes the greatest restrictions on the uses of wetlands and watercourses shall govern. The invalidity of any work, clause, sentence, section, part, subsection or provision of these Regulations shall not affect the validity of any other part which can be given effect without such valid 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 East Hampton, the State of Connecticut or the Government or 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 19
APPLICATION FEES

19.5 Fee Schedule. Application fees will be based on the following schedule:

**\$60.00 DEEP fee required by C.G.S. 22a-27j will be added to the base fee.

19.5.1	Application Fee** plus fee from Schedule A	
19.5.1.1	Residential Uses.	\$75.00 Plus
	*\$50.00/lot	
	*Each additional lot with regulated activities.	
19.5.1.2	Commercial/Industrial/Other Uses.	\$400.00
19.5.2	Approval by Authorized Agent	
19.5.2.1	Residential	\$60.00
19.5.2.2	Commercial/Industrial	\$75.00
19.5.3	Public Hearing Fee	
19.5.3.1	Single Residential	\$150.00
19.5.3.2	Subdivision	\$400.00
19.5.3.2	Commercial, Industrial, Other	\$400.00
19.5.4	Complex Application Fee	Actual Cost
	The Inland Wetland Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not be limited to, the cost of retaining experts, to advise, review, and report on issues requiring such experts. The Agency shall estimate the complex application fee, which shall be paid pursuant to section 19 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.	
19.5.5	Permitted and Nonregulated Uses:	
19.5.5.1	Permitted Uses as of Right	\$25.00
19.5.5.2	Nonregulated	\$0.00
19.5.6	Regulation Amendment Petitions	\$150.00
	(Does not include Notices or Regulation Advisories from DEP.)	
19.5.6.1	Map Amendment Petitions	\$50.00
	Plus fee from Schedule B	
19.5.7	Modification of Previous Approval	
19.5.7.1	Residential	\$25.00
19.5.7.2	Subdivision	\$50.00
19.5.7.3	Commercial/Industrial/Other	\$75.00
19.5.8	Renewal of Previous Approval	\$50.00

19.5.8.1 SCHEDULE A. For the purposes of calculating the permit application fee, the area in schedule A is the total area of wetlands and watercourses and upland review area upon which a regulated activity is proposed.

SQUARE FEET OF AREA

19.5.9.1	Less than 1,000	\$0.00
19.5.9.2	1,000 to 5,000	\$200.00
19.5.9.3	More than 5,000	\$400.00

19.5.10 SCHEDULE B. For the purposed of calculating the map amendment petition fee, the linear feet in schedule B is the total length of wetlands and watercourses boundary subject to the proposed boundary change.

LINEAR FEET

19.5.10.1	Less than 500	\$0.00
19.5.10.2	500 to 1,000	\$100.00
19.5.10.3	More than 1,000	\$200.00

SECTION 20
RECORDS RETENTION AND DISPOSITION

- 20.1 The Agency and the Town Clerk for the Town of East Hampton shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/ disposition schedules set for in subsection 20.2.
- 20.2 The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands Agencies effective April 24, 1989;

<u>RECORD TITLE</u>	<u>MINIMUM RETENTION</u>	<u>TOWN CLERK</u>
Applications (inc. supporting materials)	10 years	-
Decision Letters	10 years	Permanent
Approved Site Plans	10 years	-
Legal Notices	10 years	Permanent
Staff and Public Written Testimony (hearing records)	10 years	-
Minutes of Meetings & Public Hearings	15 years	Permanent
Tapes, Audio-Inland Wetland Matter	4 years	-
Notices of Violation & Orders	10 years	-
Text of Changes Adopted In Regulations	Continuous Update/ Permanent	-
General Correspondence Issued or Reviewed	5 years	-

SECTION 21
EFFECTIVE DATE OF REGULATIONS

- 21.1 These Regulations including boundaries of inland wetlands and watercourses shall not become effective or be established until after a public hearing in relation thereto is held by the Agency, that which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing in a newspaper having a substantial circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing, and a copy of such proposed regulation or boundary shall be filed in the office of the Town of East Hampton for public inspection at least ten (10) days before such hearing.

These regulations shall become effective upon filing in the office of the Town Clerk of East Hampton, Connecticut, and publication of legal notice in promulgation in a newspaper having general circulation in the Town.

SECTION 22
PROPERTY REVALUATION

- 22.1 Connecticut General Statutes, Section 22a-45a provides for the right of a property owner denied a wetlands permit for a revaluation of the property.

APPENDIX A
SITE PLAN AND ENVIRONMENTAL INFORMATION

The applicant shall submit a map or maps and such information concerning the proposed regulated activity(ies) as the Agency indicates below:

1. Sheet sizes

Maps and charts shall meet the requirements of Section 7.31 of the General Statutes of Connecticut, as amended, as to size and materials used.

2. Graphic scale for site plan information:

	<u>Scale Required</u>
A. Regulated area	1" = 40' minimum
B. Area directly involved in regulated activity	1" = 40' minimum
C. Property boundaries	1" = 200' minimum
D. Additional area	1" = 200' minimum
E. Location map (required for any site plan part of a wetlands activity application)	1" = 1,000' minimum

3. North arrow – identified as being true, grid or magnetic north (with date of last reading).

4. Title block in lower right corner of sheet showing:

- A. Name of project.
- B. Name of owner and applicant per Sec. 6.1.d.
- C. Date and subsequent date of revisions.
- D. Legible signature and professional seal of person responsible for drawing plan.
- E. Professionals certifying plan shall be appropriate to nature of activities proposed. Such site information about proposed uses or effects in the regulated area must be certified by a licensed land surveyor, professional engineer, professional architect, or professional landscape architect, any of which must be registered in the State of Connecticut. Further, certified soils scientists, where their signature is required shall provide their certification number with such signature on documents such as inland wetland soils boundary delineation.

5. Location of any watercourses or inland wetlands covered by the site plan as defined in Sections 2 of these Regulations, and determined per Sections 3.1 and 3.4 (to include the boundaries and symbols of soil mapping units).

6. Site areas of permit and designation of each activity.

7. Existing and proposed buildings or other structures.

- A. Location
- B. Floor elevation

8. Location, size and composition of sidewalks, off-street parking and loading, including driveway entrances and exits, parking and loading spaces, traffic islands and barriers and all other proposed and existing site work.
 - A. Percent of regulated area to be covered with impermeable surfaces.
9. Location of tree stands, shrubs and other significant vegetation, both existing and planned.
10. Source of water supply.
11. Proposed method of sewage disposal.
 - A. Proposed design and specifications of on-site sewage disposal certified by a sanitary engineer.
12. Design of existing storm drainage system including elevations at contours referenced in Section 5.6.D.i-v inclusive, East Hampton Subdivision Regulations.

Contour lines. Requirements for topographic details are as follows:

- i. Two foot (2') contours for the entire piece when such information is requested by the Agency
- ii. For proposed roads: two foot (2') contours taken in the field.
- iii. For areas required by the Agency for health, welfare and safety reasons: two foot (2') contours taken in the field.
- iv. For stream gradients as required by the Agency: two foot (2') contours taken in the field.
- v. For existing and proposed drainage ways, utilities below proposed homes, leaching fields, and reserve areas: Two foot (2') contours to be taken in the field.
- vi. All other areas may be plotted using ten foot (10') contours as shown on the applicable quadrangle maps prepared by the United States Geological Survey at a scale of 1:24,000.

Additional details may be required by the Agency referencing:

- Town of East Hampton Street Standards. Section 06-01 through 06-13
 - East Hampton Subdivision Regulations. Section VIII, "Stormwater Runoff Control"
 - East Hampton Zoning Regulations. Sections 25.3.A.
13. Proposed grading by not less than two foot (2') contours of any material to be moved. Additional details may be required.
 14. Location of all percolation pits, test pits and observation holes.
 15. Physical Data – Material to be deposited and/or excavated:
 - A. Area
 - B. Volume
 - C. Physical composition (texture, components) of material to be deposited.
 - D. Chemical composition of all toxic materials, whether such materials are enclosed in containers or deposited openly.

- E. Potential chemical reactions of deposited materials yielding toxic products or concentrations of products.
- F. Final height of filled area above seasonal high water table.
- G. Texture and composition of soil left after excavation.
- H. Slope of excavation/filled material.
- I. Depth to water table or water level if inundated after excavation.

Water Course Data

- A. Open water characteristics
 - 1. Size of ponds or lakes.
 - 2. Maximum depth and estimated volume of water.
- B. Stream characteristics
 - 1. Intermittent or permanent
 - 2. Stream gradient
 - 3. Velocity
 - 4. Discharge units
 - 5. Average width in project area of stream
- C. Known flood levels to be indicated on map as shown on Flood Insurance Rate Map (FIRM), Town of East Hampton, Connecticut, Middlesex County, Panels 5 and 10 of 15, Community Panel numbers:
 - 090064 005 B
 - 090064 0010 B
- D. Discharges, if any, including:
 - 1. Type
 - 2. Frequency, volume and velocity
 - 3. Chemical composition

17. Biological data

Trees
 Shrubs
 Grasses, weeds, etc.
 Aquatic fish, wildlife, vegetation
 Pasture – livestock
 Cultivated area – crops
 Soil types

Percent of
Regulated Areas

All Dominant
Species

18. Probable effects of changes on:
 - A. Vegetation
 - B. Wildlife
 - C. Topography
19. Measures to protect regulated area from:
 - A. Erosion and sedimentation
 - B. Leaching and pollutants
 - C. Direct discharge or pollutants
 - D. Increased flooding and surface runoff hazards
 - E. Diminution of aesthetic qualities of site and immediate adjacent areas.
20. Narrative describing the purpose and the proposal.
21. Erosion and sedimentation control as per Section 27, East Hampton Zoning Regulations and Connecticut Guidelines for Soil Erosion & Sediment Control 2002 as may be amended.
22. Adjacent property owners and/or municipalities.
 - A. Noted on the plan in respective locations.
 - B. Advised by certified mail, return receipt requested, if a public hearing is required by the Agency.
23. Bond estimates as required by Section 10 of these Regulations:
 - A. Soil erosion and sedimentation control bond.
 - B. Performance bond.
 - C. Engineering fee (equal to three percent (3%) of the total required performance bonding).
24. Other information as the Agency deems necessary to meet the objective of these Regulations and Public Act 87-533 to include, but not limited to:
 - Connecticut DEP reports and documents
 - Soil Conservation Service reports and comments
 - Reports/comments of any other official Town body or enforcement officer
25. Compliance with Zoning and Subdivision Regulation requirements where applicable.