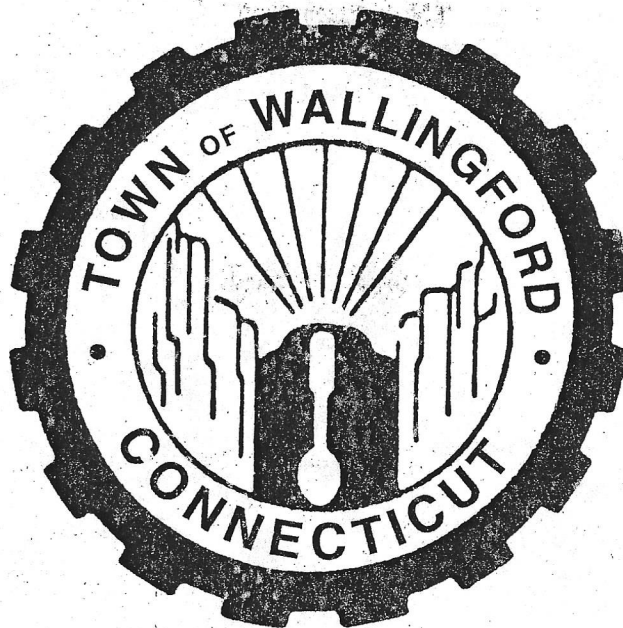


*Inland Wetlands
&
Watercourses Commission*

REGULATIONS



1669

**WALLINGFORD
CONNECTICUT**

RESOLVED, the Inland Wetlands and Watercourses Commission of the Town of Wallingford, Connecticut, pursuant to the authority vested in it by law, hereby ordains and enacts as follows:

THESE REGULATIONS governing and restricting the activities in and use of inland wetlands and watercourses as designated by the Wallingford Inland Wetlands and Watercourses Commission, providing for the administration and enforcement of provisions herein; all for the purpose of protecting inland wetlands and watercourses from random, unnecessary, or unregulated uses, disturbances, or destruction, as a matter of public interest which is essential to the preservation of Wallingford's natural resources and therefore to the health, safety, and welfare of the citizens of the Town of Wallingford.

HEREAFTER these regulations shall be known and may be cited by the title of the "Inland Wetlands and Watercourses Regulations of the Town of Wallingford, Connecticut".

ADOPTED:	22 June 1988
EFFECTIVE DATE:	1 July 1988
REVISED:	1 October 1990
REVISED:	7 January 2004
REVISED:	2 June 2010 (Sect. 1-6, 18, 19)
EFFECTIVE DATE:	11 June 2010
REVISED:	4 May 2016 (Sect. 4, 7-11, new 12, renumber through 20)
EFFECTIVE DATE:	8 May 2016

INLAND WETLANDS AND WATERCOURSES REGULATIONS
WALLINGFORD, CONNECTICUT

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
Section 1	TITLE AND AUTHORITY	1
1.1	Purposes	1
1.2	Regulations Named	2
1.3	Commission Established	2
1.4	Adopted Regulations May Be Amended.....	2
1.5	Enforcement	2
Section 2	DEFINITIONS	4
Section 3	INVENTORY OF REGULATED AREAS.....	15
3.1	Determination of Boundaries.....	15
3.2	Petition to Dispute Regulated Area Designation.....	15
3.3	Maintenance of Records	15
3.4	Map Amendments.....	15
Section 4	PERMITTED USES AS OF RIGHT AND NONREGULATED USES	16
4.1	Operations and Uses Permitted as of Right	16
4.2	Non-regulated Operations and Uses Permitted	17
4.3	Other Operations and Uses Require a Permit.....	18
4.4	Must Notify Commission	18
Section 5	ACTIVITIES REGULATED BY THE STATE	19
5.1	Activities Under State Jurisdiction.....	19
5.2	Tidal Wetlands under State Jurisdiction.....	19
5.3	State Jurisdiction Regarding Dams.....	19
5.4	State Jurisdiction Regarding Discharge of Fill or Dredged Material.....	19
Section 6	REGULATED ACTIVITIES TO BE PERMITTED	20
6.1	Obtaining a Permit for Regulated Activities	20
6.2	Conduct Subject to Enforcement	20
Section 7	APPLICATION REQUIREMENTS	21
7.1	Obtaining Application Forms	21
7.2	Applications Regarding Subdivisions or Re-subdivisions to PZC.....	21
7.3	Necessity of Information.....	21
7.4	Information Requested on Application	21
7.5	Additional Information for Significant Impact	23
7.6	Certification of Impacts on Other Municipalities.....	24
7.7	Thirteen (13) Copies Comprise Complete Application.....	24
7.8	Applications Regarding Renewal or Extension.....	24
7.9	Circumstances Regarding Permit Renewal.....	24
7.10	Applications With Conservation Restriction.....	25
Section 8	APPLICATION PROCEDURES.....	26
8.1	Filing Copies of Applications.....	26
8.2	Notification of Other Municipalities	26
8.3	Notification of Water Companies	26
8.4	Petition, Application, Request or Appeal Receipt Date.....	27
8.5	Additional Information May Be Required.....	27
8.6	Public Inspection.....	27
8.7	Denial of Incomplete Applications	27

Section 9	PUBLIC HEARING.....	28
9.1	Conditions For Holding a Hearing	28
9.2	Published Notices	28
9.3	Notification of Other Property Owners	28
Section 10	CONSIDERATIONS FOR DECISION	29
10.1	Information, Reports, Comments, Evidence	29
10.2	Criteria	29
10.3	Significant Impacts and Existence of Feasible and Prudent Alternative.....	30
10.4	Where There Is a Finding of Feasible and Prudent Alternative.....	31
10.5	Likely Impact To Physical Characteristics.....	31
10.6	Evidence in the Record.....	31
10.7	Permit Approval Where there is a Restriction.....	31
10.8	Permit Approval For Portion of Land Not Under Conservation Restriction.....	31
Section 11	DECISION PROCESS AND PERMIT.....	32
11.1	Permit Conditions, Limitations, Modifications, Mitigations.....	32
11.2	Hearing Timelines	32
11.3	Reasons and Basis For Decision Statement	32
11.4	Notice of Decision	33
11.5	Decision to be Filed with Planning and Zoning Commission.....	33
11.6	Term of Permit Applicant	33
11.6.1	Permit Issued Prior to July 1, 2011.....	33
11.7	Permit Transfer.....	33
11.8	Withholding Issuance of Permit For Bond	33
11.9	General Provisions.....	33
Section 12	ACTION BY DULY AUTHORIZED AGENT.....	35
12.1	Delegate To Duly Authorized Agent.....	35
12.2	Applicant Publishes Notice of Approval.....	35
Section 13	BOND AND INSURANCE.....	36
13.1	Bond or Surety May Be Required.....	36
12.1	Release of Bond Conditioned on Compliance with Regulations and Permit	36
12.2	Public Liability Insurance	36
Section 14	ENFORCEMENT	
14.1	Appointment of Agent.....	37
14.2	Regular Inspections of Regulated Activities.....	37
14.3	Violations of Act or Regulations.....	37
Section 15	AMENDMENTS	39
15.1	Regulations and Maps Subject to Change	39
15.2	Manner for Amendments	39
15.3	Petitions Requesting Map Changes.....	39
15.4	Request for Soils Information.....	40
15.5	Watercourse Delineation.....	40
15.6	Public Hearing on Petitions to Amend.....	40
15.7	Hearing Timeframe Requirements.....	40
15.8	Decision in Writing.....	41
Section 16	APPEALS.....	42
16.1	Appeal on Actions of the Commission.....	42
16.2	Notice of Appeal.....	42
Section 17	CONFLICT AND SEVERANCE	43
17.1	Most Stringent Standards Apply	43

Section 18	OTHER PERMITS.....	44
18.1	Responsibility for Any Other Permits.....	44
Section 19	APPLICATION FEES	
19.1	Fees.....	45
19.2	Fee Schedule.....	45
19.3	Exemptions.....	46
Section 20	EFFECTIVE DATE OF REGULATIONS	48
20.1	Effective Date Follows Publication of Notice	48

SECTION 1

TITLE AND AUTHORITY

1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable, fragile and irreplaceable 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 for 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 significantly 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 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, and from disturbances 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 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 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 of generations yet unborn. The area surrounding wetlands or watercourses functions in a number of ways to protect these resources. The jurisdictional area surrounding or upgradient of any wetland or watercourse is known as the upland review area. The likelihood of an activity in an upland review area having a substantive physical impact on wetlands or watercourses will depend on a number of factors including the nature of the wetland or watercourse, the proposed activity, the types of soils, and the slope of the land. The upland review area provision emphasizes the importance of minimizing soil disturbance and maintaining vegetative coverage in an environmentally sensitive area so that natural drainage patterns can be retained and so that natural filtration, structural protection, and infiltration capacity of vegetative buffers can be retained to preserve water quality.

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

1.3 The Inland Wetlands and Watercourses Commission of the Town of Wallingford was established in accordance with an ordinance adopted February 23, 1988, and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Wallingford.

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 all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications, and deny permits, for all regulated activities per, CGS Section 22a-42a(d), grant a permit for an application as filed grant with other terms, conditions, limitations or modifications of the regulated activity, or deny a permit for all regulated activities

on inland wetlands and watercourses in the Town of Wallingford pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2
DEFINITIONS

2.1. As used in these regulations:

- a.** "Act" means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- b.** "Bogs" are watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
- c.** "Clear-cutting" means the harvest of timber in a fashion which removes all trees down to a two-inch diameter or less at breast height.
- d.** "Commission" means the Inland Wetlands and Watercourses Commission of the Town of Wallingford.
- e.** "Commissioner" means a member of the Inland Wetlands and Watercourses Commission of the Town of Wallingford.
- f.** "Commissioner of Environmental Protection" means the Commissioner of the State of Connecticut Department of Environmental Protection.
- g.** "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.
- h.** "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge, or emit.
- i.** "Designated agent" means an individual designated by the Commission to carry out its functions and purposes.
- j.** "Discharge" means emission of any water, substance, or material into waters of the state whether or not such substance causes pollution.
- k.** "Disturbing the natural and indigenous character of the land" means that the activity will significantly alter the inland wetlands and watercourses by reason of removal or deposition of

material, clear cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

- l.** "Essential to the farming operation" means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.
- m.** "Farming" shall be consistent with the definition as noted in Section 1-1(q) of the Connecticut General Statutes. (See Appendix A included at the end of this Section.)
- n.** "Farm pond" means a body of water, created by a dam or excavation, used principally for the watering of livestock, crop irrigation, fish production, fire protection, wildlife management, or other uses commonly associated with farming.
- o.** "Feasible" means able to be constructed or implemented consistent with sound engineering principles.
- p.** "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 specific to the protection of wetlands and watercourses; 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.
- q.** "Marshes" are 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.
- r.** "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.

- s.** "Municipality" means the Town of Wallingford, Connecticut.
- t.** "Nurseries" means places where plants are grown for sale, transplanting, or experimentation.
- u.** "Permit" means the whole or any part of any license, certificate, or approval or similar from of permission which may be required of any person by the provisions of the regulations under the authority of the Commission.
- v.** "Permittee" means the person to whom such permit has been issued.
- w.** "Person" means any person, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- x.** "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.
- y.** "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.
- z.** "Regulated activity" means any operation or use of a wetland or watercourse involving the removal or deposition of material; or any obstruction, construction, alteration or pollution, of such wetlands or watercourse, but shall not include the specified activities in Section 4 of the regulations. In addition, the following are regulated activities:
 - 1.** The construction of any portion of any subsurface sewage disposal system within 200 feet of the mean water line of the Muddy River, Spring Brook or any of the impoundments or watercourses, inclusive of intermittent watercourses, which are tributary to MacKenzie Reservoir, Spring Brook, Ulbrich Reservoir, Pistapaug Pond, Lake Whitney, or Broad Brook Reservoir, or within 150 feet of all other watercourses or within

50 feet of a wetland. Measurements shall be taken horizontally from the boundary of any wetland or watercourse.

2. The creation of any surfaced area (which is any impervious or semi-impervious area as defined in Section 2.1.hh.) which totals 20,000 square feet as a single or aggregate area on any property, likely to impact or affect wetlands or watercourses; or, the expansion of any surfaced area currently at, or over, 20,000 square feet by a new surfaced area which totals 10,000 square feet or more as a single or aggregate area on any property, likely to impact or affect wetlands or watercourses. This provision shall be calculated cumulatively. Surface area treatments (as defined in Section 2.1.ii.) including, but not limited to, concrete, bituminous, gravel, processed stone, asphalt, chip seal, permeable pavers and pavements, or any other impervious or semi-impervious surfaces, are considered surfaced areas.
3. Activities within 50 feet of a wetland or watercourse, likely to impact or affect wetlands and watercourses, including, but not limited to, any clearing, grubbing, filling, grading, paving, excavating, constructing, erecting of a structure, depositing or removing of material or any indigenous vegetation, the planting of lawns or landscaping, the expansion of existing lawns or landscaping, or the discharging of storm water. Measurements shall be taken horizontally from the boundary of any wetland or watercourse. See "Figure 1", illustrations A and B, for schematic 50-foot distance from wetland or watercourse.
4. If a portion of the land within 50 feet (measured horizontally) from the boundary of the wetland or watercourse has an average slope of 50% or greater, then the upland review area in that specific location shall extend 50 feet from the top of said slope away from the wetland or watercourse. The maximum upland review area distance, in any case, shall be no more than 100 feet from the edge of the wetland or watercourse. For purposes of this section,
 - (i) the average slope shall be measured over a minimum horizontal distance of 20

feet;

- (ii)** measurements shall be taken horizontally from the boundary of any wetland or from the mean water's edge of the watercourse in the absence of streamside wetlands; and,
- (iii)** the slope calculation may be made using the Town of Wallingford's most current topographic mapping.

In situations where there is evidence of existing or probable erosion or the Commission reasonably believes that the average slope may be 50%, or greater, the Commission may require a topographic survey of the slope area certified by a land surveyor licensed in the State of Connecticut. See "Figure 1", illustrations C and D, for schematic examples, and "Figure 2", "Visual Guide - Percent Slope & Slope Ratio", (on the following pages).

Figure 1

Schematic Guide for Upland Review Area

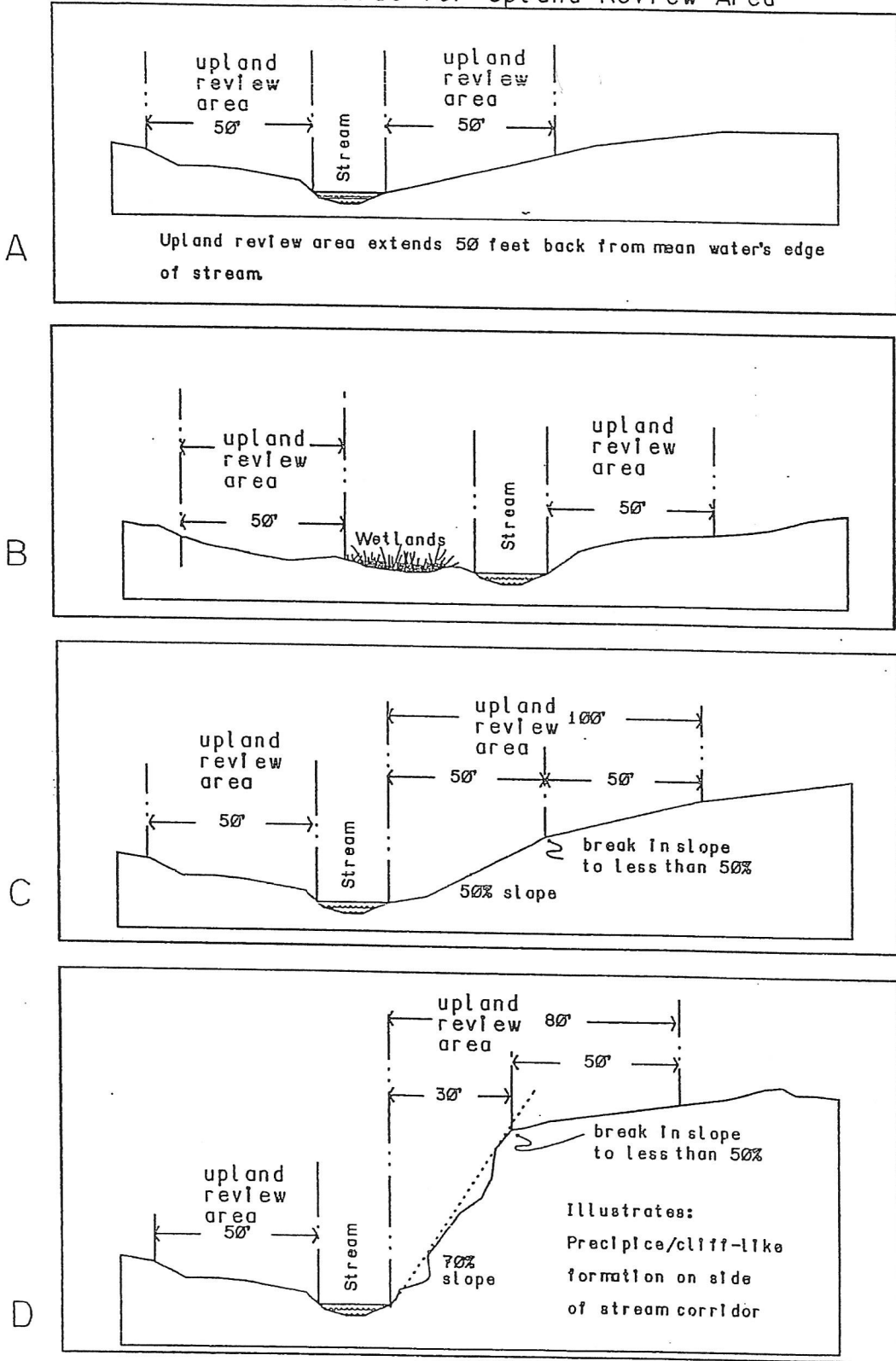
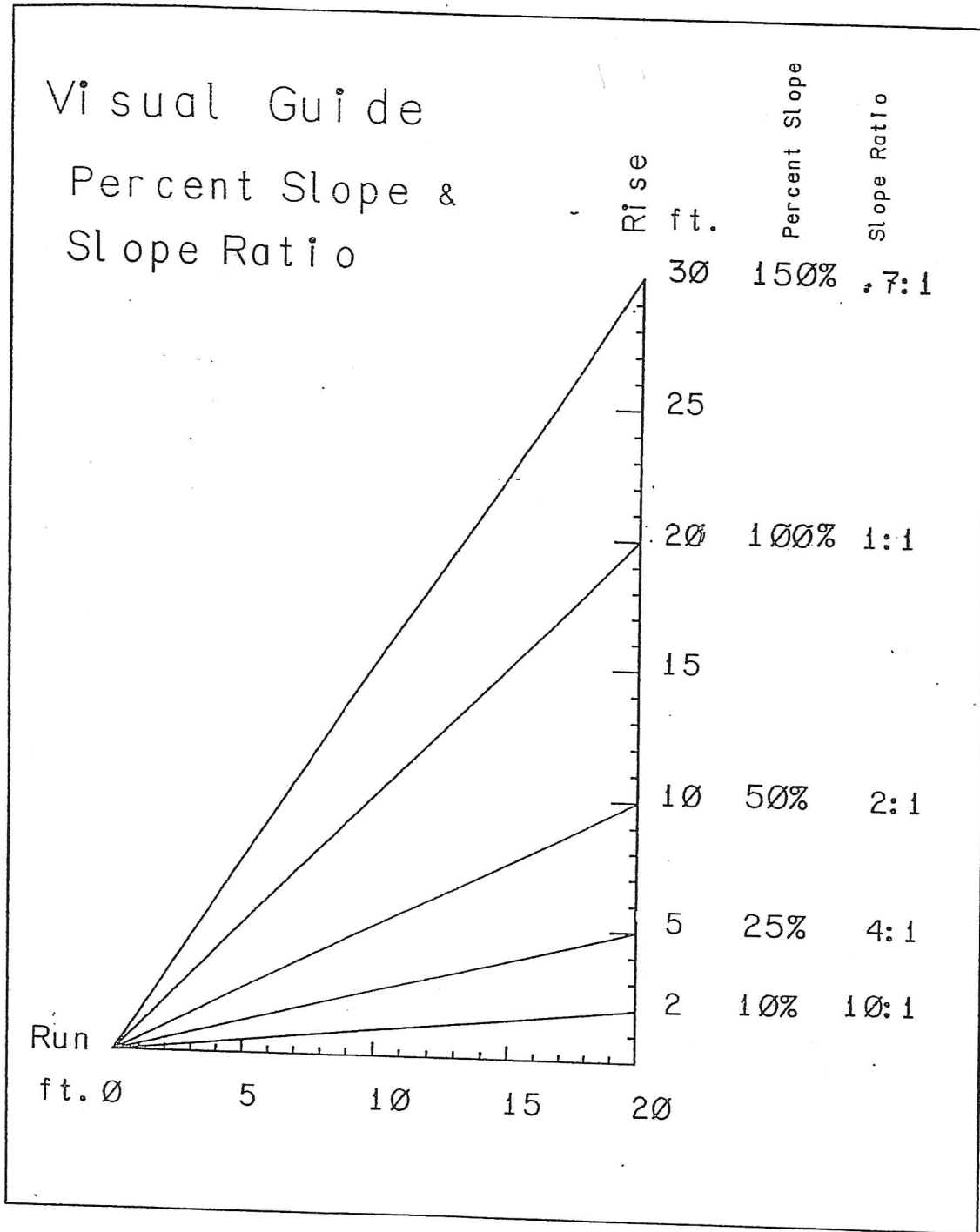


Figure 2



Percent Slope - $\text{rise/run} \times 100$

Slope Ratio - run : rise

- aa.** "Remove" includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, bulldoze, dragline, or blast.
- bb.** "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.
- cc.** "Significant impact" (formerly "Significant activity") means any activity, including, but not limited to, the following activities which may have a major effect.
- 1.** Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
 - 2.** Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
 - 3.** Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
 - 4.** Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation, or sedimentation in a wetland or watercourse.
 - 5.** Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
 - 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.
- dd.** "Soil scientist" means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

- ee.** "Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.
- ff.** "Subsurface sewage disposal system" means a system consisting of a house sewer; septic tank followed by a leaching system, any necessary pumps and siphons, and any ground water control system on which the operation of the leaching field is dependent.
- hh.** "Surfaced area" means an impervious or semi-impervious surface - including a parking area, interior drive aisle, driveway, access way, loading area, storage area, sidewalk, dumpster area - constructed of surface area treatments, and building footprint or roof area. Overhangs, canopies, balconies and other building projections, not overlaying any surfaced area listed above, shall also be considered surfaced areas.
- ii.** "Surfaced area treatments" includes, but is not limited to concrete, bituminous, gravel, processed stone, asphalt, chip seal, permeable pavers and pavements, or any other impervious or semi-impervious altered surfaces.
- jj.** "Swamps" are watercourses that are distinguished by the dominance of wetland trees and shrubs.
- kk.** "Town" means the Town of Wallingford, in the State of Connecticut.
- ll.** "Upland review area" means that jurisdictional area surrounding or upgradient of any wetland or watercourse. See "Regulated activity", above, for further definition of upland review area.
- mm.** "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands and watercourses of the Town.
- nn.** "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, as amended. Intermittent 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.

- oo. "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 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.

APPENDIX A

Connecticut General Statute section 1-1(q)

Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoopouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

SECTION 3

INVENTORY OF INLAND WETLANDS AND WATERCOURSES

- 3.1** The map of wetlands and watercourses entitled "*Inland Wetlands and Watercourses Map, Wallingford, 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 and at the Environmental Planning Office. In all cases, the precise location of wetlands 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 Commission 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 Commission 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 wetlands and watercourses within the town. The Commission may amend its map as information becomes available.
- 3.4** All map amendments are subject to the public hearing process outlined in Section 15 of these regulations.

SECTION 4

PERMITTED USES AS OF RIGHT AND NONREGULATED USES

- 4.1** The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- a.** grazing, farming, nurseries, gardening and harvesting of crops, and farm ponds of three acres or less essential to the farming operation, 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 subsection shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the 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 subsection unless the building permit was obtained on or before July 1, 1987.
 - c.** boat anchorage or mooring;
 - d.** uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include expansion of lawns, removal or

deposition of significant amounts of material from or onto 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 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 subsection, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place;
- g. Maintenance of stormwater drainage facilities, approved under a prior permit, relative to the conveyance, treatment, retention, detention, or discharge of stormwater, including but not limited to, drainage pipes, channels and outlets, culverts, sedimentation basins, and level spreaders, and
- h. Withdrawals of water for fire emergency purposes.

4.2 The following operations and uses shall be permitted, as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the 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;
- 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 shellfishing 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 alternate 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, excavation, dredging, clear cutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted in this Section 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 the regulations.

4.4 To carry out the purposes of this Section, any person proposing an activity or use which occurs within a wetland, watercourse, or upland review area that is not covered under an existing permit or under Sections 4.1.b., 4.1.d., 4.1.f., or 4.1.g., shall, prior to commencement of such activity or use, notify the Commission on a "Request For Determination" form provided by it with sufficient information relative to the activity proposed and its relation to present uses on the property to enable it to properly determine if the proposed use or operation is a permitted or nonregulated use. The Commission shall determine whether the proposed activity or use requires a permit under these regulations. The designated agent for the Commission may make such a determination on behalf of the Commission.

SECTION 5

ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION

- 5.1** The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2** 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, as amended.
- 5.3** The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Environmental Protection under sections 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 agency 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 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 PERMITTED

- 6.1** No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands and Watercourses Commission of the Town of Wallingford.
- 6.2** 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.

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 Commission. The application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained in the Wallingford Environmental Planning Office.
- 7.2**
- a.** If an application to the Town of Wallingford 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 Commission in accordance with this section, no later than the day the application is filed with the Planning and Zoning Commission.
 - b.** A prospective applicant, under section 7.2.a, may request the Commission to determine whether or not a proposed activity constitutes a regulated activity. For such purposes, the applicant may submit the plan they intend to submit to the Planning and Zoning Commission for such determination together with additional information deemed necessary by the Commission.
- 7.3** The application shall contain the information described in this section and any other information the Commission may reasonably require.
- 7.4** All applications shall include the following information in writing or on maps or drawings:
- a.** The applicant's name, home or business mailing address (no P.O. Box) and telephone numbers; 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.** the owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application;

- c. the applicant's interest in the land;
- d. the geographical location of the property which is the subject of the proposed activity, including but not limited to, 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 watercourses to be disturbed or impacted, soil type(s), and wetland vegetation;
- e. the purpose and a description of the proposed activity; 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;
- f. alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application;
- g. a site plan showing existing and proposed conditions in relation to wetlands and watercourses;
- h. in order to comply with Section 9.3, a list of names and addresses of abutting property owners, based upon Assessor's records, and, if required, those within 100 feet of the property shall be provided within ten (10) days of determination that a public hearing will be required;
- i. 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;
- j. authorization for the members and agents of the Commission to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;

- k.** a completed DEEP reporting form; the Commission 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;
- l.** any other information the Commission deems necessary to the understanding of what the applicant is proposing; and
- m.** submission of the appropriate filing fee based on the fee schedule established in Section 19 of these Regulations.

7.5 At the discretion of the Commission or its agent, or when the proposed activity involves a significant impact, as defined in Section 2.1.cc. 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 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 licensed surveyor, professional engineer, 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 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 soils 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 of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and why it is the best alternative 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.

7.6 The applicant shall certify whether:

- a.** any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- b.** traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c.** sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
- d.** water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

7.7 Thirteen copies of all application materials shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Commission.

7.8 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. Any application to renew or amend such an existing permit shall contain the information required under Section 7 of these Regulations provided that:

- a.** The application may incorporate the documentation and record of the prior application;

- b.** The applicant shall describe the extent of the 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 the property for which the permit was issued;
- e.** The Commission 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.

7.9 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 unless an enforcement action has been undertaken with regard to the regulated activity for which the permit extension is requested, 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.

7.10 For any permit application involving property subject to a conservation restriction or preservation restriction, the Applicant must comply with Connecticut General Statutes §47-42d.

SECTION 8

APPLICATION PROCEDURES

- 8.1** All petitions, applications, requests, or appeals shall be filed with the Inland Wetlands and Watercourses Commission of the Town of Wallingford in the Environmental Planning Office, Town Hall.
- 8.2** The Commission shall, in accordance with Connecticut General Statutes section 8-7d(f), notify the clerk of any adjoining municipality (Meriden, Durham, North Branford, Middlefield, Hamden, Cheshire, or North Haven) 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 Commission is within 500 feet of the boundary of an adjoining municipality;
 - b.** a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c.** a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the sewerage 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.

Such notice 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 16-1 of the Connecticut General Statutes, or a municipal water supply system as defined in Section 7-234 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company or municipal water supply system provider provided such water company or municipal water supply system has filed a map

showing the boundaries of the watershed on the land records of the Town of Wallingford and with the Wallingford Inland Wetlands and Watercourses Commission. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of the application. Documentation of such notice shall be provided to the Commission. The water company or municipal water supply system provider, through a representative, may appear and be heard at any hearing on the application.

- 8.4** The date of receipt of a petition, application, 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 Commission may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or wetlands or watercourses affected by the regulated activity.
- 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 and watercourses, a petition signed by at least twenty five (25) persons who are eighteen (18) 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 (14) 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. Such hearing shall be held no later than sixty-five (65) 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 or persons may appear and be heard.
- 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 (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** Notice of the public hearing shall be mailed to at least one owner of record of abutting land no less than fifteen (15) days prior to the day of the hearing, except in the case of a significant impact activity when notice shall be mailed to at least one owner of all properties 100 feet or less distant therefrom. Evidence of such mailing, in the form of United States Certificates of Mailing, shall be submitted to the Environmental Planning Office not less than five (5) calendar days prior to the hearing date. Failure to comply with any of the procedures required herein may be a basis for denial of the application. However, strict compliance with the five (5) day deadline may be waived by the Commission.

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.** Reports from other agencies and commissions, including but not limited to the Town of Wallingford:
 - 1.** Conservation Commission
 - 2.** Planning and Zoning Commission
 - 3.** Town Engineer
 - 4.** Health Officer
 - c.** The Commission may also consider comments on any application from the Southwest Conservation District, the South Central Connecticut Regional Planning Agency or other regional organizations; agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
 - d.** Non-receipt of comments from agencies and commissions listed in 10.1.c above within the prescribed time shall neither delay nor prejudice the decision of the Commission.
 - e.** All evidence presented to the Commission as part of the record.
- 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 and watercourses;

- b.** the applicant's purposes 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 and watercourses and the maintenance and enhancement of long-term productivity of such wetlands and 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;
- f.** 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
- g.** impacts of the proposed activity on wetlands and 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 and watercourses.

10.3 In the case of any 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. This finding and the reasons therefore shall be stated on the record in writing.

- 10.4** In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetland 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 of proof from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5** (a) In considering an application, the 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.
- (b) For the purposes of this section 10.5, (1) "wetlands and watercourses" includes aquatic plant and animal life and habitats in wetlands and watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6** 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.
- 10.7** In the case of an application where the applicant has provided written notice pursuant to subsection 7.11.c. of these regulations, the holder of the restriction may provide proof to the Commission 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 the restriction, the Commission shall not grant the permit approval.
- 10.8** Nothing in subsection 7.11 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 the 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 be restricted to the time of year in which a regulated activity may be conducted, provided the Commission, 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) days 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 may be denied by the Commission unless withdrawn by the applicant.
- 11.3** The Commission shall state upon its record the reasons and bases for its decision.

- 11.4** The Commission shall notify the applicant and any persons 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 (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 an 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 Commission shall file a copy of the decision and report on the application with the Town of Wallingford Planning and Zoning Commission within fifteen (15) 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 Commission for any activity for which an approval is not required under chapter 124, 124b, 126 or 126b shall be valid for not less than two years and not more than five years.
- 11.6.1** Notwithstanding the provisions of Section 11.6 of these regulations, any permit issued by the Commission prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.
- 11.7** No permit issued by the Commission shall be assigned or transferred without the written permission of the Commission.
- 11.8** 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.
- 11.9** 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 Wallingford 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(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.** 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 a permit 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. Requests for such approval, termed "administrative approval", shall be made on a form provided by the Commission and shall contain the information 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.
- 12.2** Any person receiving such approval from such agent shall, within ten (10) 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 where the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission with fifteen (15) days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting providing such meeting is no earlier than three (3) business days after receipt by such Commission or its agent of such 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 bond may be in the form of a certified check payable to the Town, a savings passbook with a signed withdrawal slip for a joint account in the name of the Town and applicant, an irrevocable letter of credit from a bank, or an insurance company performance bond written by a company authorized to write bonds in the State of Connecticut.
- 13.2** The release of 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 to be determined by the Commission commensurate with the regulated activity.

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.
- 14.2** As a condition of a permit, the Commission, any Commission member, 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 Commission or its duly authorized agent finds that any person is conducting or maintaining any activity, facility, or condition which is in violations 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 conditions 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 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 agency affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to Section 22a-44(b) of the General Statutes, as amended;
 - b.** Suspend or revoke a permit if it finds that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as

set forth in the application including application plans. Prior to revoking any permit, the 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. Within ten (10) calendar days of the issuance of such notice, the agency shall hold a hearing. At the public hearing the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by personal service or certified mail within fifteen (15) days of the date of its decision;

- c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The 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 filing a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subsection (a) of this section or other enforcement proceedings as provided by law.

SECTION 15

AMENDMENTS

- 15.1** These regulations and the Inland Wetlands and Watercourses Map for the Town of Wallingford may be amended, from time to time, by the Commission 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. An application filed with an inland wetlands commission which is in conformance with the applicable inland wetlands regulations as of the date of the decision of such commission with respect to such application shall not be required thereafter to comply with any change in inland wetlands regulations, (or boundaries), including changes to setbacks and buffers, taking effect on or after the date of such decision. The provisions of this subsection shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses, or (2) to any change on regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statues as of the date of such decision.
- 15.2** These regulations and the Town of Wallingford 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 Commission of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except determinations of boundaries, at least thirty-five (35) days before the public hearing on their adoption. Application forms shall be considered as part of the Commission regulations.
- 15.3** Petitions requesting changes or amendments to the map, "*Designated Inland Wetlands and Watercourses, Town of Wallingford, New Haven County, 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 back in the application;
 - c.** Applicant's interest in the land;
 - d.** The geographic location of the property involved in the petition including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas;
 - e.** The reasons for the requested action;
 - f.** The names and addresses of adjacent property owners;
 - g.** A map showing proposed development of the property.
- 15.4** The Inland Wetlands and Watercourses Commission may require the property owner to present documentation by a soil scientist that the land in question does not have a soil type classified by the National Cooperative 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.
- 15.5** Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 15.6** A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having substantial circulation in the municipality at least twice at intervals of not less than (2) days, the first not more than twenty-five (25) days nor less than fifteen (15) days, and the last not less than two (2) days before such hearing. A copy of such proposed boundary change shall be filed in the Office of the Town Clerk, for public inspection at least ten (10) days before such hearing.
- 15.7** Within sixty-five (65) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Commission shall commence a public hearing to consider the petition. The hearing shall be completed within thirty-five (35) days of its commencement and action shall be taken on petitions within sixty-five (65) days after completion of the public hearing. The petitioner may consent to one or more extensions of the periods specified in this

subsection for the holding of the hearing and for action on such petition, provided the total of all extensions together cannot exceed sixty-five (65) days. The failure of the Inland Wetlands and Watercourses 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.

15.8 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 General Statutes, as amended.
- 16.2** Notice of such appeal shall be served upon the Commission and the Commissioner of Environmental Protection.

SECTION 17

CONFLICT AND SEVERENCE

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

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 Wallingford, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

SECTION 19

APPLICATION FEES

19.1 Fees for applications and requests shall be based on the following schedule and shall be submitted in check form (no cash). In addition to the fees below, a State of Connecticut Department of Environmental Protection (DEP) Activity Fee, (\$60), shall be submitted for any permit application. Payments may be combined. All checks are to be made out to "Town of Wallingford". No fee is required for operations and uses that are permitted in wetlands and watercourses under Section 4 of the Regulations, "Permitted Uses and Non-Regulated Uses", however, the IWWC "Request For Determination" form is required to be submitted for staff review to determine permit need.

19.2 Fee Schedule:

\$ 50.00	RESIDENTIAL SINGLE LOT - BASE FEE
\$250.00	RESIDENTIAL SUBDIVISION / RESUBDIVISION - BASE FEE
\$200.00	OPEN SPACE PLANNED RESIDENTIAL DISTRICT DEVELOPMENT (OSPRD) - BASE FEE
\$200.00	CONGREGATE / ASSISTED LIVING OR SIMILAR RESIDENTIAL DEVELOPMENT - BASE FEE
\$ 50.00 per unit	RESIDENTIAL UNIT ASSOCIATED WITH OSPRD, CONGREGATE / ASSISTED LIVING OR SIMILAR RESIDENTIAL DEVELOPMENT
\$ 50.00 per lot	RESIDENTIAL SITE PLAN ASSOCIATED WITH SUBDIVISION / RESUBDIVISION APPROVAL (INCLUDING OPEN SPACE SUBDIVISION)
\$250.00	COMMERCIAL / INDUSTRIAL SITE - FIVE (5) ACRES OR LESS - BASE FEE
\$350.00	COMMERCIAL / INDUSTRIAL SITE - GREATER THAN FIVE (5) ACRES - BASE FEE
\$350.00	COMMERCIAL / INDUSTRIAL SUBDIVISION/RESUBDIVISION - BASE FEE
\$130.00 per lot	COMMERCIAL / INDUSTRIAL SITE PLAN ASSOCIATED WITH A SUBDIVISION OR RESUBDIVISION APPROVAL
\$100.00	INSTITUTIONAL USES - (RELIGIOUS INSTITUTION, PRIVATE EDUCATIONAL INSTITUTION, PRIVATE HEALTHCARE FACILITY, OTHER INSTITUTIONAL USES)
\$250.00	UTILITIES

\$ 50.00	OTHER REGULATED ACTIVITIES
\$375.00	SIGNIFICANT IMPACT (<i>Section 2.1.cc.</i>)
\$175.00	PUBLIC HEARING (NOT SIGNIFICANT IMPACT – (<i>Section 2.1.cc.</i>))
\$130.00	PERMIT MODIFICATION (NOT MINOR REVISIONS)
\$ 50.00	MINOR PLAN REVISIONS WITHIN THE SCOPE OF ORIGINAL PERMIT
\$ 50.00	MODIFICATION OF SPECIFIC TERMS OR CONDITIONS IMPOSED AS PART OF ORIGINAL PERMIT
\$ 50.00	ADMINISTRATIVE APPROVAL
\$375.00	PETITION FOR AMENDMENT TO THE INLAND WETLANDS AND WATERCOURSES MAP
\$ 50.00	PERMIT EXTENSION
\$ 50.00	TRANSFER OF PERMIT
\$ double fee	"AFTER-THE-FACT" - (APPLICABLE TO ANY ACTIVITY CONDUCTED PRIOR TO A PERMIT BEING ISSUED)
\$100.00	PETITION FOR AMENDMENT TO THE REGULATIONS
(no fee)	PERMITTED USES AS OF RIGHT (Section 4.1) - IWWC and/or staff determination required
(no fee)	NON-REGULATED USES (Section 4.2) - IWWC and/or staff determination required

19.3 Exemption. Boards, Commissions, Councils, and Departments of the Town of Wallingford are exempt from all fee requirements.

19.4 Waiver. The applicant may petition the Commission to waive, reduce or allow delayed payment of the fee due the Town required by these Regulations. 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 the application involves minor activities and requires minimal review.

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 including the Inland Wetlands and Watercourses Map, application forms, and amendments thereto, shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Wallingford.