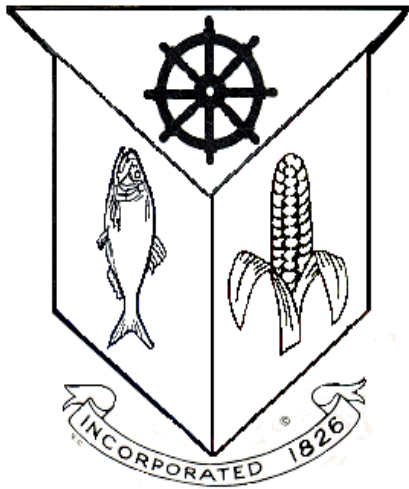


# Town of Madison



## Inland Wetlands Regulations

**Adopted January 17, 1974  
With revisions through April 4, 2011**

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

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## **SECTION 1**

### **TITLE AND AUTHORITY**

- 1.1** The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures or other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the State for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the State. It is, therefore, the purpose of these regulations to protect the citizens of the State by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the State's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the State and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the State, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- 1.2** These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Madison".
- 1.3** The Inland Wetlands and Watercourses Agency of the Town of Madison was established in accordance with an ordinance adopted January 17, 1974, and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of Madison.
- 1.4** These Regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5** The Agency shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all Regulated Activities affecting inland wetlands and watercourses in the Town of Madison pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## **SECTION 2**

### **DEFINITIONS**

**2.1** As used in these regulations:

- a. **"ACT"** means the Inland Wetland and Watercourses Act, Sections 22a-36 through 22a-45 inclusive of the General Statutes, as amended.
- b. **"AGENCY"** means the Inland Wetlands Agency of the Town of Madison.
- c. **"BOGS"** are land areas that are generally characterized by the presence of surface water, poor or very poor drainage, deposits of peat, and highly acidic conditions.
- d. **"BUILDING"** means a structure having a roof supported by walls and used or intended for the shelter of persons or animals.
- e. **"CLEAR-CUTTING"** means the harvest of timber products in a fashion which removes all species of trees down to a 2-inch diameter at breast height.
- f. **"COMMISSION MEMBER"** means a member or seated alternate of the Inland Wetlands and Watercourses Agency of the Town of Madison.
- g. **"COMMISSIONER OF ENVIRONMENTAL PROTECTION"** means the commissioner of the State of Connecticut Department of Environmental Protection.
- h. **"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.
- i. **"DEPOSIT"** includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.
- j. **"DESIGNATED AGENT"** means an individual(s) designated by the Madison Inland Wetlands Agency to carry out its functions and purposes.
- k. **"DISCHARGE"** means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.
- l. **"DISTURBING THE NATURAL AND INDIGENOUS CHARACTER OF THE WETLAND OR WATERCOURSE"** means causing a perceptible change in physical, biological, or chemical characteristics of a wetland or watercourse that may reduce or alter any of the desirable functions of the wetland or watercourse.
- m. **"DULY AUTHORIZED AGENT"** has the same meaning as "DESIGNATED AGENT".

- n. **"ESSENTIAL TO THE FARMING OPERATION"** means that the proposed activity is necessary and indispensable to sustain farming activities on an existing farm.
- o. **"FARMING"** shall be consistent with the definition as noted in Section 1-1(q) of the Connecticut General Statutes.
- p. **"FEASIBLE"** means able to be constructed or implemented consistent with sound engineering principles.
- q. **"GARDENING"** means the tilling of soil, planting, cultivating, and harvesting of vegetable matter.
- r. **"GRAZING"** means using any tract of land to feed or supply farm animals with grass or pasture, to tend farm animals, or feeding or growing silage and herbage.
- s. **"HARVESTING OF CROPS"** means gathering plants or animals or plant or animal products which have been grown to be harvested.
- t. **"HAMMONASSET WATERSHED"** is the area from the Hammonasset River to the highest ridge within the Town of Madison on either side of the River, which divides the area drained into the Hammonasset from the drainage into other river systems.
- u. **"MANAGEMENT PRACTICES"** means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sediment controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.
- v. **"MARSHEs"** are land areas with soils that exhibit aquatic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.
- w. **"MATERIAL"** means any substance, solid or liquid, organic or inorganic, including but not limited to: soil, sediment, aggregate, land, gravel, clay, bog, mud, peat, debris, sand, refuse, or waste.
- x. **"MUNICIPALITY"** means the Town of Madison, New Haven County, Connecticut.
- y. **"NURSERIES"** means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.

- z. "PERMIT"** means the whole or any part of any license, certificate of approval or similar form of permission which may be required of any person by the provisions of these Regulations under the authority of the Inland Wetlands Agency.
- aa. "PERMITTEE"** means the person to whom a permit has been issued.
- bb. "PERSON"** means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- cc. "POLLUTION"** means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the State by reason of erosion, or by any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.
- dd. "PRUDENT"** means economically and otherwise reasonable in the light of the social benefits to be derived from the proposed Regulated Activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.
- ee. "REGULATED ACTIVITY"** means any operation within or use affecting a wetland or watercourse by obstruction, construction, alteration, removal or deposition of material or by pollution of such wetlands, whether or not they appear on the Official Inland Wetlands and Watercourses Map of the Town of Madison, and shall not include the specified activities in Section 4 of these Regulations which will be subject to regulation as specified in Section 4.
- ff. "REGULATED AREA"** means any inland wetland or watercourse as defined in these Regulations, whether or not they appear on the Official Inland Wetlands and Watercourses Map of the Town of Madison, as well as land within 100 feet in a horizontal direction of any wetland or watercourse.
- gg. "REMOVE"** includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.
- hh. "RENDERING UNCLEAN OR IMPURE"** means any alteration of the physical, chemical or biological properties of any waters of the State, including, but not limited to, change in odor, color, turbidity or taste.
- ii. "SIGNIFICANT ACTIVITY"** means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on wetlands or watercourses:

  - 1. Any deposition or removal of material in or from a Regulated Area which will or may have a perceptible effect on the Regulated Area or on another part of the inland wetland or watercourses system, whether at or outside the area for which the activity is proposed.
  - 2. Any activity which perceptibly changes the natural channel or may inhibit the natural dynamics of a watercourse system.

3. Any activity which perceptibly diminishes the natural capacity of an inland wetland or watercourse to: support desirable fisheries, wildlife, or other biological life; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
4. Any activity which is likely to cause or has the potential to cause measurable turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which causes measurable diminution of flow of a natural watercourse or ground water levels of the Regulated Area.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

**jj. "SOIL SCIENTIST"** means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.

**kk. "STRUCTURE"** means anything constructed, erected or assembled that requires a location on or within the ground, or attachment to something having a location on or within the ground. The term "Structure" includes, but is not limited to, any building, manufactured home, paved area, storage tank, sign, wall (retaining or otherwise), swimming pool, fence, telecommunications equipment or facility, and any other man-made utility and infrastructure.

**ll. "SUBMERGED LANDS"** means those lands which are inundated by water on a seasonal or more frequent basis.

**mm. "SWAMP"** means land areas with soils that exhibit aquatic moisture regimes and are dominated by wetland trees and shrubs.

**nn. "TOWN"** means the Town of Madison, New Haven County in the State of Connecticut.

**oo. "VERNAL POOL"** means a seasonal, generally shallow body of water in a defined depression or basin that lacks a fish population (a self-sustaining number of native fish) and supports or is capable of supporting breeding and development of amphibian or invertebrate species recognized as obligate to such vernal pool.

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

**qq. "WATERCOURSES"** means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to Section 22a-28 through 22a-35 inclusive of the Connecticut General Statutes, as amended. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

- rr. "WETLANDS"** means land, including submerged land as defined in Section 2.1(l) of these Regulations, not regulated pursuant to Section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as very poorly drained, poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resource Conservation Service of the U. S. Department of Agriculture (USDA) mapped or unmapped per the Inland Wetlands and Watercourses Map of the Town of Madison. Such areas may include filled, graded, or excavated sites which possess an aquic soil moisture regime as defined by the USDA Cooperative Soil Survey.
- ss. "WETLAND REVIEW AREA"** means land area situated within and including up to 100 feet upslope from the inland wetlands boundary.

### **SECTION 3**

#### **INVENTORY OF REGULATED AREAS**

- 3.1** The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, Madison, Connecticut," delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Inland Wetlands Agency. In all cases, the precise location of the wetlands and watercourses shall be determined by the actual character of the land, the distribution of the wetland soil types, and locations of watercourses. Such determination shall be made by field inspection and testing conducted by a soil scientist certified where soil classifications are required, or where watercourse determinations are required, by other qualified individuals deemed acceptable to the Agency. However, areas designated as wetlands or watercourses on the Inland Wetlands and Watercourses Map shall be presumed to be wetlands and watercourses, respectively, unless the Agency makes a contrary finding based on evidence it receives.
- 3.2** The Inland Wetlands Agency or its designated agent(s) shall monitor and maintain general surveillance of all Regulated Areas. The Agency may amend its map as more accurate information becomes available. Any person may petition for an amendment to the map. Petitioners shall bear the burden of proof for all requested map amendments. Such map amendments are subject to the public hearing process outlined in Section 16 of these Regulations. However, whenever the Agency is considering an application for a permit for a Regulated Activity, nothing in these Regulations shall be deemed to preclude the Agency from making a decision based upon the actual character of the land, the distribution of the wetland soil types and locations of watercourses, where such factors have been demonstrated by competent evidence to be different from those shown on the official map.

## **SECTION 4**

### **PERMITTED USES AS OF RIGHT & NON-REGULATED USES**

Section 22a-40 of the Connecticut General Statutes contains a list of operations and uses that are either non-regulated or permitted in inland wetlands and watercourses as of right. For informational purposes, the operations and uses allowed by that Statute as of the date of enactment of these Regulations are set forth in Sections 4.1 and 4.2 below. It is the intention of the Agency that the uses described in Sections 4.1 and 4.2 shall be deemed to be coextensive with, and not any more or less inclusive than, those specified in that Statute, as it may be amended.

- 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 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, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purpose of sale.
  - b.** A residential home (i) for which a building permit has been issued, and/or (ii) on a subdivision lot provided the permit has been issued or the subdivision has been approved by the Planning and Zoning Commission as of July 1, 1974, and further provided that no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987, and has not expired. Any person claiming a use of wetlands permitted as a right under this subdivision shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his or her right hereunder.
  - c.** Boat anchorage or mooring, not to include dredging or dock construction.
  - d.** Uses incidental to the enjoyment or maintenance of residential property. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of more than 10 cubic yards of material from or into a wetland or watercourse, or diversion or alteration of a watercourse without specific approval of the Madison Inland Wetlands Agency or its designated agent.
  - e.** Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 through 22a-410 of the Connecticut General Statutes.

- 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 subdivision, “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 may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
  - b.** Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell-fishing and cross-country skiing where otherwise legally permitted and regulated.
  - c.** Removal or management of non-native invasive species as detailed in an approved written plan developed by a qualified environmental professional (including but not limited to a landscape architect, environmental engineer, soil scientist or wetlands ecologist).
- 4.3** Movement of equipment in or through wetlands or watercourses is subject to approval by the Inland Wetlands Enforcement Officer.
- 4.4** All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, clearing, and grading or any other alteration or use of a wetland or watercourse not specifically permitted by this Section and otherwise defined as a Regulated Activity by these Regulations shall require a permit from the Agency in accordance with Section 6 of these Regulations.
- 4.5** To carry out the purposes of this Section, any person proposing to carry out a permitted or non-regulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a non-regulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated agent may make such ruling on behalf of the Agency at any time. Initiation of the permitted use or operation shall be within one year, and any ruling pursuant to this Section shall expire within one year, from date of approval unless otherwise extended by the Agency or its designated agent.

## **SECTION 5**

### **ACTIVITIES REGULATED BY THE STATE**

State law delegates to the Commissioner of Environmental Protection the exclusive authority to regulate certain types of activities that may affect inland wetlands or watercourses. For informational purposes, Sections 5.1 through 5.4 describe certain categories of activities for which the Agency understands that such a delegation has been made to the Commissioner. It is the intention of the Agency that the categories of activities described in Sections 5.1 through 5.4 shall be deemed to be coextensive with, and not any more or less inclusive than, the activities for which State law, as it may be amended, has actually delegated such authority to the Commissioner.

In addition to any permit or approval required by the Agency, the Commissioner of Environmental Protection shall regulate;

- 5.1** 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** Tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.3** 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 the Agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.

## **SECTION 6**

### **REGULATED ACTIVITIES SUBJECT TO PERMIT**

- 6.1** No person shall conduct or maintain a Regulated Activity without first obtaining a permit for such activity from the Inland Wetlands Agency of the Town of Madison.
- 6.2** 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 15 of these Regulations and any other remedies as provided by law.
- 6.3** 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.
- 6.4** The Agency shall regulate the location, placement, and construction of a subsurface sewage disposal system within 100 feet of a wetland and/or watercourse boundary.
- 6.5** The Agency shall regulate the placement of any structure or addition thereto within 100 feet of an inland wetland or watercourse and/or any ground disturbance within 100 feet of an inland wetland or watercourse other than as permitted under Section 4 of these Regulations as an as-of-right or non-regulated use.

## **SECTION 7**

### **APPLICATION REQUIREMENTS FOR REGULATED ACTIVITIES**

- 7.1** Any person intending to undertake a Regulated Activity shall apply for a permit on a form entitled "Application for Regulated Activity Permit". An application shall include an application form and such information as prescribed by Section 7.5 and, in the case of a Significant Activity, by Section 7.6 of these Regulations. Application forms may be obtained in the office of the Madison Inland Wetlands Agency.
- 7.2** If an application to the Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-26 of the Connecticut General Statutes, submit an application for a permit to the Agency in accordance with this Section, no later than the day the application is filed with the Planning and Zoning Commission.
- 7.3** No application shall be deemed complete unless it shall be in such form and contain such information as the Agency deems necessary for a fair and informed determination of the issues. The Agency shall inform the applicant of such necessary information.
- 7.4** A prospective applicant may request the Agency to determine whether or not a proposed activity would constitute a Significant Activity, as defined in these Regulations.
- 7.5** All applications shall include the following information in writing or on maps or drawings:
- Completed application form entitled "Application for Regulated Activity Permit" to include:
    - a.** The name, home and business mailing addresses, and telephone numbers of (i) the owners of record; (ii) the applicants (if different from the owners); and (iii) an individual person who will be the principal contact for the Agency with respect to the conduct and completion of any Regulated Activities for which a permit is issued. In the event of any change in the identity of the owners of record or of the contact person, the current owners must file with the Agency a written statement identifying the new owners and/or contact person, with the home and business mailing addresses and telephone numbers of all such persons. The failure of the current owners to file such a notice shall operate to suspend the permit, and no further Regulated Activities may be conducted until such notice is filed with the Agency.
    - b.** If the owner is not the applicant, the signature of the owner or the owner's agent or other legal representative, signifying knowledge of and consent to the application.
    - c.** If the applicants are not the owners of record of the property, the nature of the interest the applicants have in the property (e.g., lease or option or contract to purchase).
    - 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 watercourses to be disturbed, soil type(s), and wetland vegetation;
    - e.** 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;
- f.** Alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen. The Agency may require such alternatives to be diagramed on a site plan or drawing;
  - g.** A site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed Regulated Activity which are made inevitable by the proposed Regulated Activity and which may have an impact on wetlands or watercourses, drawn at an appropriate scale, and 11"x17" reduced copies of all plans;
  - h.** Names and mailing addresses of adjacent land owners;
  - 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.** 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;
  - k.** Any other information the Agency deems necessary to the understanding of what the applicant is proposing; and
  - l.** Submission of the appropriate filing fee based on the Fee Schedule in Section 21 of these Regulations.

Notwithstanding the foregoing provisions, the Agency may excuse compliance with any of the specific requirements of this Section 7.5 (other than subsection l) if it does not find that the information is necessary to enable the Agency to determine whether the proposed activities would cause or create the risk of detrimental impacts to wetlands or watercourses.

- 7.6** If the proposed activity involves a Significant Activity as defined in Section 2.1ii of these Regulations, additional information, based on the nature and anticipated effects of the activity, including, but not limited to, the following is required. The Agency may excuse compliance with any of the specific requirements of this Section 7.6 if it does not find the information is necessary to enable the Agency to determine whether the proposed activities would cause or create the risk of detrimental impacts to wetlands or watercourses.
- a.** Site plans for the proposed activity and the land which will be affected.
  - b.** Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to wetlands and watercourses.
  - c.** Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed Regulated Activities on these communities and wetland and watercourse functions.
  - d.** A biological evaluation of any wetlands or watercourses pertinent to the proposed activity including:
    - 1.** Dominant botanical species, rare species and forest age classes of flora;
    - 2.** Habitat value of the affected property for all wildlife species;



whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space use.

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

## **SECTION 8**

### **APPLICATION PROCEDURES**

- 8.1** All applications shall be filed with the Inland Wetlands Agency of the Town of Madison.
- 8.2** When an application to conduct or cause to be conducted a Regulated Activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within five hundred feet of the boundary of another municipality, the applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the Inland Wetlands Agency of such other municipality. The applicant shall furnish a copy of the return receipt to the Inland Wetlands Agency of the Town of Madison.
- 8.3** If a public hearing is to be held on any application for a permit, notice of the public hearing shall be mailed by the applicant by certified mail to the owner(s) of record, as determined by the current Assessor's files, of abutting land and all parties of record no less than fifteen (15) days prior to the day of the hearing with proof of mailing submitted to the Inland Wetlands office.
- 8.4** The Agency shall, in accordance with Section 8-7d(f) of the Connecticut General Statutes, notify the clerk of any adjoining municipality of the pendency of any application to conduct a Regulated Activity when:
- a.** Any portion of the property on which the Regulated Activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
  - b.** A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - c.** A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or
  - d.** Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

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

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

- 8.7** At any time during the review period, the Agency may require the applicant to provide additional information about the regulated area or Regulated Activity, which is the subject of the application, or wetlands or watercourses affected by the Regulated Activity. Requests for such additional information shall not stay the time limitations as set forth in Section 9 of these Regulations.
- 8.8** If a public hearing is to be held on any application for a permit, all documentary evidence in support of the application shall be filed with the Agency and available for public inspection no less than fifteen (15) days prior to the day of the hearing or any reconvening thereof. All other persons wishing to present documentary evidence in the proceeding should file such evidence on or before the date on which the public hearing is commenced. Nothing in this Section 8.8 shall prohibit the Agency, in the exercise of its discretion, from receiving evidence from any person at a later time. However, the Agency may refuse to consider any information and documentary evidence, including but not limited to any proposed modifications to the applicant's site plans or Regulated Activities, that are submitted after the aforesaid dates if it determines that the Agency's members, staff or consultants would not have sufficient time to review such information or evidence properly or thoroughly before the public hearing is closed.
- 8.9** All applications shall be open for public inspection.
- 8.10** Incomplete applications may be denied.

## **SECTION 9**

### **PUBLIC HEARINGS ON REGULATED ACTIVITY PERMITS**

- 9.1** No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application, in accordance with Section 9.2. 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 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.
- 9.2** 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, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the Town of Madison, requesting a hearing is filed with the Inland Wetlands 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 Inland Wetlands Agency may issue a permit without a public hearing provided no petition provided for in this Section is filed with the Agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard.
- 9.3** Notice of the public hearing shall be published by the Agency at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland or watercourse is located.
- 9.4** Notice of the public hearing shall be mailed by the applicant by certified mail to the owner(s) of record, as determined by the current Assessor's files, of abutting land and all parties of record no less than fifteen (15) days prior to the day of the hearing with proof of mailing to the Inland Wetlands office.
- 9.5** In the case of any application which is subject to the notification provisions of Section 8.2 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(s) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

## **SECTION 10**

### **CONSIDERATIONS FOR DECISION**

- 10.1** The Agency may consider the following in making its decision on an application:
- a. The application and its supporting documentation;
  - b. Public comments, evidence and testimony from a public hearing;
  - c. Reports from other agencies and commissions and organizations including but not limited to: Conservation Commissions, Planning and Zoning Commissions, Building Officials, Health Officers and Conservation Organizations;
  - d. The Agency may also consider comments on any application from the Natural Resource Conservation District, 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 conservation organizations which may undertake additional studies or investigations;
  - e. Non-receipt of comments from agencies and commissions listed above within the proscribed time shall neither delay nor prejudice the decision of the Agency.
  - f. Advice from Agency staff or Agency consultants regarding evidence or testimony received before the close of the public hearing. Such advice should not, however, include the submission of additional factual information.
- 10.2** **Criteria for Decision.** In carrying out the purposes and policies of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:
- a. The environmental impact of the proposed action on wetlands and watercourses, including the effects on the capacity of the inland wetlands and watercourses to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.
  - b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed Regulated Activity which alternatives would cause less or no environmental impact to wetlands or watercourses. This consideration should include, but is not limited to, the alternative of taking no action, or postponing action pending further study, and the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
  - c. The relationship between the short-term and long-term impacts of the proposed Regulated Activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
  - d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed Regulated Activity including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to: (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority; restore, enhance and create productive wetland or watercourse resources
  - e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed

Regulated Activity. This includes recognition of potential damage from erosion, turbidity, or siltation, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community; and

- f. Impacts of the proposed Regulated Activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed Regulated Activity, which are made inevitable by the proposed Regulated Activity and which may have an impact on wetlands or watercourses.

- 10.3** In the case of any application, which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in subsection 10.2 of this Section. The finding and the reasons therefore shall be stated on the record in writing.
- 10.4** In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed Regulated Activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed Regulated Activity.
- 10.5** For purposes of this Section 10, (1) “wetlands and watercourses” includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) “habitats” means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6** The Agency shall not deny or condition an application for a Regulated Activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7** A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that the application is consistent with the purposes and policies of these Regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- 10.8** In the case of an application where the applicant has provided written notice pursuant to subsection 7.11c of these regulations, the holder of the restriction may provide proof to the inland wetlands agency that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the inland wetlands agency shall not grant the permit approval.
- 10.9** In the case of an application where the applicant fails to comply with the provisions of subsections 7.11c or 7.11d of these regulations, the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency

that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.

- 10.10** Nothing in subsections 7.11c or 7.11d of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

## **SECTION 11**

### **DECISION PROCESS AND PERMIT**

- 11.1** The Agency, or its duly authorized agent acting pursuant to Section 13 of these Regulations, may, in accordance with Section 10 of these Regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the Regulated Activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the Regulated Activity and which would: (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2** The Agency shall state upon its record the reasons and basis 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.
- 11.3** The Agency shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail and the Agency shall cause notice of its order in the issuance or denial of the permit to be published in a newspaper having general circulation in the Town of Madison.
- 11.4** If an activity authorized by the inland wetland permit also involves an activity which requires zoning or subdivision approval, a special zoning permit or special exception, a copy of the decision and report on the application shall be filed by the Inland Wetlands Enforcement Officer with the Town of Madison Planning and Zoning Commission within fifteen days of the date of decision.
- 11.5** If the Agency denies the permit as incomplete or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. If the modifications relate to an application that was granted, as aforesaid, the Agency shall determine whether the proposed modification requires the filing of new application.
- 11.6** Any permit issued by the Agency for the development of land for which an approval is required under Sections 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any Regulated Activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years. If the Agency does not specify a duration for the permit, the duration shall be deemed to be five years. Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the Regulated Activity for which the permit was issued provided no permit may be valid for more than ten years. A permittee may apply for one or more extensions of a permit as provided under Section 12 of these Regulations; however the combined total of all extensions granted may not exceed ten years from the issuance date of the original permit. Any Regulated Activity approved by the Agency shall be completed within one year from the time such activity is commenced provided

the Agency may establish a specific time period within which any Regulated Activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the Agency may extend: (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this Section. All permits expire upon the completion of the acts specified thereon. All activities specified on a permit must be completed by the expiration of the permit or the permittee will be in violation of the Madison Inland Wetlands Regulations and may be subject to penalties as specified in the Connecticut General Statutes.

**11.7** If a bond or insurance is required in accordance with Section 14 of these Regulations, no Regulated Activities can begin until the bond is posted according to the requirements in Section 14.1.

**11.8 General provisions in the issuance of all permits:**

- a. In evaluating applications in which the Agency relied in whole or in part on information provided by the applicant, if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
- b. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Madison, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity.
- c. If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under Title 8 of the Connecticut General Statutes no work pursuant to the wetland permit may begin until such approval is obtained.
- d. The permittee shall employ construction management practices consistent with the terms and conditions of the permit, utilizing Connecticut DEP regulations, standards, policies or guidelines to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- e. All permits issued which have not been completed in five years from original date of approval, or within any period of extension granted by the Agency pursuant to Sections 11.6 and 12, will be subject to formal review by the Agency and will require a new application.

**11.9 Schedule of Construction of Regulated Activity:**

Within fifteen (15) days of receiving approval of a Regulated Activity the applicant will forward to the Madison Inland Wetlands office a schedule for commencing and completing the Regulated Activity. The Applicant shall confirm or revise the schedule fifteen calendar days prior to commencement of construction. No Regulated Activities may begin until the sixteenth day after the schedule is submitted.

**11.10 Construction of a Regulated Activity:**

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

- a. The construction of a Regulated Activity shall be under the supervision of a Professional Engineer registered as such in and by the State of Connecticut.

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

## **SECTION 12**

### **EXTENSION, TRANSFER AND MODIFICATION OF REGULATED ACTIVITY PERMITS**

- 12.1** Any application to modify or to extend the expiration date of a previously approved permit shall be filed with the Agency not later than sixty-five (65) days prior to the expiration date for the permit in accordance with Section 8. Any extensions or modifications of applications granted under previous regulations shall comply with the current regulations in effect at the time such extensions or transfers are granted. Any application for extension, transfer, or modification shall be made in accordance with this Section provided: If the application is for an extension of time,
- a.** The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
  - b.** 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;
  - c.** The Agency may accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit.
- 12.2** The Agency shall evaluate any application for modification pursuant to Section 10 of these Regulations and grant the application as filed, grant it with any terms or limitations, or deny it without prejudice with respect to the filing of a subsequent permit application.
- 12.3** Applications for renewals of expired permits shall comply with Section 11.6 of these Regulations.
- 12.4** In the event any change is made in the identity of the owners of record or of the contact person designated on the application form under which the permit was issued, and the current owners have not filed with the Agency a written statement identifying the new owners and/or contact person pursuant to Section 7.5a of these Regulations, the permit shall be automatically suspended, and no further Regulated Activities may be conducted until such notice is filed with the Agency.

## **SECTION 13**

### **ACTION BY DULY AUTHORIZED AGENT**

- 13.1** The Agency delegates 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 water-courses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made in accordance with Section 7 on the "Application for Regulated Activity Permit", a form provided by the Agency, and shall contain the information specified in Section 7.5 of these Regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed elsewhere in these Regulations, such Agent may approve or extend such an activity at any time. Notwithstanding the foregoing provisions, the Agency may, by written notice to its agent, temporarily rescind or suspend the delegation of authority to issue permits.
- 13.2** Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the Town of Madison. Any person may appeal such decision of such Agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its Agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its Agent or require an application for a permit in accordance with Section 7 of these Regulations.

## **SECTION 14**

### **BOND AND INSURANCE**

- 14.1** The Agency may require as a permit condition the filing of a bond with such surety in such amount and in a form approved by the Agency.
- 14.2** The bond or surety shall be conditioned on compliance with all provisions of these Regulations and the terms, conditions and limitations established in the permit.
- 14.3** For the purpose of this Section, a bond shall mean one of the following:
- a.** A surety bond issued by a company licensed to do business in the State of Connecticut, accompanied by the Power of Attorney of the person executing the bond for the company. Said company shall have offices in New Haven County and must submit certification from its home office that the local office in New Haven County has authority to pay out the full value of the bond.
  - b.** A bond secured by an assigned passbook savings account or a certificate of deposit representing funds deposited in a financial institution which is on the list of those approved for deposit of Town funds.
  - c.** Cash or certified check in the required amount deposited with the Treasurer of the Town of Madison.
  - d.** An irrevocable letter of credit (original document).
- 14.4** Bonds shall be executed in accordance with the sample forms supplied by the Agency, with proper reference made to all maps and plans describing the Regulated Activity covered by the bond, and shall be satisfactory to the Agency or its agent(s) and to Town Counsel as to form, sufficiency and manner of execution.
- a.** Bonds secured by a passbook savings account or certificate of deposit shall be accompanied by the savings passbook(s) or certificate of deposit passbook(s) which shall remain in the possession of the Town until final release of the bond
  - b.** When the bond is secured by a passbook savings account or a certificate of deposit, the total amount in any single account or certificate may not exceed the maximum amount per account guaranteed by the Federal Deposit Insurance Corporation. Where the total amount of the bond required exceeds FDIC coverage for a single account, additional accounts shall be established to ensure that all deposited funds are FDIC insured.
- 14.5** Where a bond has been posted and work covered by said bond has not been completed within the terms of such bond, the Town may declare the bond to be in default and require that all work be completed regardless of the extent of development at the time the bond is declared to be in default.
- 14.6** Upon written request from the permittee, the bond shall be released after approval of the completed Regulated Activity by the Agency or its Agent(s). Upon written request from the permittee and a determination by the Agency or its Agent(s) that a substantial portion of the work guaranteed by the bond has been completed, the commission or its Agent may approve partial release(s) of the surety.
- 14.7** A separate bond of \$200 will be posted by each applicant to guarantee the removal of temporary siltation controls. Once all disturbed areas within the project area are stabilized, the applicant will remove all siltation controls at the completion of the project.

## **SECTION 15**

### **ENFORCEMENT**

- 15.1** The Agency may appoint an Agent or Agents to act in its behalf with the authority to 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.
- 15.2** When a permit has been issued to conduct Regulated Activities, the Agency or its authorized Agent, upon receiving the consent of the owner, or authorized Agent of the owner, of the affected property, may make regular inspections of such activities at reasonable hours. Nothing herein shall be deemed to prevent the Agency from requiring, as a condition of approval of any permit, the opportunity to inspect and monitor any permitted Regulated Activities.
- 15.3** When a permit to conduct Regulated Activities has expired, or Regulated Activities have been conducted without a permit, the Agency or its authorized Agent, upon receiving the consent of the owner, or authorized Agent of the owner, of the affected property, or to the extent otherwise allowed by law, may inspect such activities at reasonable hours. Nothing herein shall be deemed to prevent the Agency or its Agent from conducting inspections of such activities without the owner's consent, to the extent such inspections may otherwise be allowed by law.
- 15.4** If the Agency or its Duly Authorized Agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these Regulations, the Agency or its duly authorized Agent may:
- a.** Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) 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 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 Town of Madison. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended.
  - b.** Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may direct that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity and or provide a written reply to the notice, or file a proper application for the necessary permit. A notice of violation shall not be deemed to be an order of, or an official finding of facts by, the Agency and shall not be binding on the Agency or on the person

receiving the notice. Failure to carry out the action(s) directed in a notice of violation may result in the issuance of the order provided in Subsection "a" of this Section or other enforcement proceedings as provided by law.

- c. Suspend or revoke a permit if it finds that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. At the hearing the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit.

**15.5** The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by personal service or by certified mail within fifteen (15) days of the date of its decision.

**15.6** The applicant shall mark the limits of the Wetland Review Area (100-foot setback from the Inland Wetlands Boundary) with markers placed at 50-foot intervals along the 100-foot setback line, facing the upland area. The Town of Madison shall supply the Wetland Review Area markers to permittee and collect a fee for such markers under the Fee Schedule established in Section 21.5 f.

## SECTION 16

### AMENDMENTS

- 16.1** These Regulations and the Inland Wetlands and Watercourses Map of the Town of Madison may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 16.2** An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of the Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this subsection shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 16.3** These Regulations and the Inland Wetlands and Watercourses Map of the Town of Madison shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.
- 16.4** Applications requesting changes or amendments to the Inland Wetlands and Watercourses Map of the Town of Madison shall contain at least the following information:
- a. A completed application form entitled "Application for Inland Wetland Boundary/Inland Wetland Regulation Amendment"
  - b. A map prepared to the following standards:
    1. The size of the map shall be 18"x24" or 24" x 36".
    2. The map shall be prepared at an appropriate scale.
    3. The map shall be prepared by a Land Surveyor licensed in the State of Connecticut in accordance with the Regulations of Connecticut State Agencies Sections 20-300b-1 through 20-300b-20 and the "Standards for Surveys and Maps in the State of Connecticut", as adopted by the Connecticut Association of Land Surveyors, Inc. on September 26, 1996.
  - c. The map shall contain the following:
    1. Inland wetlands and watercourses boundaries and designation of type of wetlands and watercourses as defined in Sections 2.1(qq) and 2.1(rr) and provided by a Soil Scientist.
    2. A locus map showing the geographical location of property.
    3. Property boundary lines of the subject land parcel.
    4. Owners of record of that property and adjoining properties.
    5. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey.
    6. The inland wetlands boundaries and watercourses as shown on the Inland Wetlands and Watercourses Map of the Town of Madison.
  - d. A soils report prepared and certified by a soil scientist.

- e. A list of the coordinates of each inland wetland boundary point shown on the map and the coordinates of at least three points located on the property boundary of the subject land parcel.
- 16.5** Any person who submits a petition to amend the Inland Wetlands and Watercourses Map of the Town of Madison 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 16.4, 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.
- 16.6** Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 16.7** A public hearing shall be held on applications to amend the Inland Wetlands and Watercourses Map of the Town of Madison. Notice of the hearing shall be published in a newspaper having substantial circulation in the Town of Madison at least twice at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last not less than two days, before such hearing. A copy of such proposed boundary change shall be filed in the office of the Madison Town Clerk, for public inspection at least ten days before such hearing.
- 16.8** Within sixty-five (65) days after actual date of receipt of a complete application for a change in the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the application. The Agency shall complete the public hearing within thirty-five (35) days after the hearing commences. The Agency shall act upon the change requested in such application within sixty-five (65) days after the hearing. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total of all extensions for all separate parts of the process does not exceed sixty-five (65) days, or may withdraw such application. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.
- 16.9** The Agency shall make its decision and state in writing the reasons why the change in the Inland Wetlands and Watercourses Map of the Town of Madison was made.
- 16.10** Within ninety (90) days following approval of a boundary change a mylar signed by the Chairman of the Inland Wetlands Agency showing the final map shall be filed by the applicant at its expense in the office of the Madison Town Clerk. Any map not so filed within the prescribed ninety (90) days shall become null and void. However, the filing date of the final map may be extended by mutual consent of the applicant and the Agency.

## **SECTION 17**

### **APPEALS**

- 17.1** Appeal on actions of the Agency shall be made in accordance with the provisions of Section 22a-43 of the Connecticut General Statutes, as amended.
- 17.2** Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

## **SECTION 18**

### **CONFLICT AND SEVERANCE**

- 18.1** If there is a conflict between or among the provisions of these Regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any part of these Regulations shall not affect the validity of any other part which can be given effect without such invalid part.
- 18.2** If there is a conflict between the provisions of these Regulations and the provisions of the Act, the provisions of the Act shall govern.

## **SECTION 19**

### **OTHER PERMITS**

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

## **SECTION 20**

### **EFFECTIVE DATE OF REGULATIONS**

- 20.1** These Regulations are effective upon filing in the Office of the Madison Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Madison.

## SECTION 21

### APPLICATION FEES

**21.1** The Agency shall collect fees to help defray the costs of processing and publishing in accordance with the following fee schedule approved by the Board of Selectmen and established by ordinance. Ordinance approved by the Board of Selectmen on April 26, 1999.

**21.2** No application shall be granted or approved by the Agency unless the correct application fee is paid in full.

**21.3** The application fee is not refundable.

**21.4** Definitions as used in this Section:

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

**21.5 Fee Schedule.** Application fees shall be based on the following schedule:

- a. **PERMITTED AND NON-REGULATED USES** - Section 4 of these Regulations.

|   |                 |
|---|-----------------|
| <b>PERMITTED USES AS OF RIGHT</b> (Section 4.1) | <b>\$ 50.00</b> |
| <b>NON-REGULATED USES</b> (Section 4.2)         | <b>\$ 50.00</b> |

- b. **REGULATED USES** - Section 6 of these Regulations.

|  |                 |
|--|-----------------|
| <b>RESIDENTIAL USES</b>  | <b>\$ 75.00</b> |
| plus: \$25.00/lot or \$45.00/acre wetlands, rounded to the nearest tenth of an acre, on the property whichever is more |                 |
| <b>COMMERCIAL USES</b>   | <b>\$ 75.00</b> |
| plus: Fee from Schedule A of this Section.   |                 |
| <b>ALL OTHER USES</b>  | <b>\$ 75.00</b> |

- c. **SIGNIFICANT ACTIVITY APPLICATION FEE** - Section 7.6 of these Regulations.

**\$175.00**

- d. **MAP AMENDMENT APPLICATIONS** - Section 16.4 of these Regulations.

**\$175.00**

plus: Fee from Schedule B of this Section.

- e. **MODIFICATION, EXTENSION OR TRANSFER OF PREVIOUS APPROVAL** - Section 12 of these Regulations. **\$ 50.00**

*(There shall be no fee for correcting typographical or other errors)*

- f. **WETLAND REVIEW AREA MARKERS** **\$ 2.00/marker**

*(One marker placed every 50 feet along 100 foot setback line from Inland Wetlands Boundary)*

**SCHEDULE A**

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

| <b><u>Sq. Ft. Regulated Area</u></b>    | <b><u>Fee/1,000 Sq. Ft. of Regulated Area</u></b> |
|---|---|
| Less than and including the first 2,500 | \$18.00   |
| From 2,501 to 50,000                    | \$12.00   |
| For any additional amount over 50,000   | \$ 6.00   |

**SCHEDULE B**

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

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

**SAMPLE APPLICATION FEE CALCULATIONS:**

- a. Ten lot residential subdivision of eleven acres that include two acres of wetlands and watercourses:  
 Fee is the greater of:  
 1.) \$75 plus 2 X \$45 = \$165.00  
 2.) \$75 plus 10 X \$25 = \$325.00  
 Fee would be \$325.00.

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

- b. Residential development of a single 2.8 acre building lot that includes 1.3 acres of wetlands and watercourses:  
 Fee is the greater of:  
 1.) \$75 plus 1.3 X \$45 = \$133.50  
 2.) \$75 plus 1 X \$25 = \$100.00  
 Fee would be \$133.50.

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

**c.** Commercial development of a retail complex involving alteration and/or filling of 37,000 square feet of wetlands and watercourses. The proposed activity is a "Significant Activity". The application fee is:  
     \$75 plus 2.5 X \$18 or **\$45** (first 2,500 sq. ft.) plus 34.5 X \$12 or **\$414** (remaining 34,500 sq. ft.), plus "Significant Activity" fee of **\$175** = a total application fee of **\$709.00**.

**d.** Application for a map amendment involving 3,450 linear feet of wetland or watercourse boundary. The filing fee is:  
     \$175 plus 5 X \$20 or \$100 (first 500 ft.) plus 5 X \$15, or \$75 (next 500 ft.) plus 24.5 X \$8 or \$196 (last 2450 ft.) for a total application fee of \$546.

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

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

**21.8 Bond requirements.**

|                                      |   |
|--------------------------------------|---|
| <b>a. Per crossing of wetlands</b>   | \$15,000 or construction cost of crossing, whichever is greater   |
| <b>b. Sanitary systems</b>           | <ul style="list-style-type: none"> <li>▪ Under 2,000 gallons - \$5,000</li> <li>▪ 2,000 to 5,000 gallons- \$10,000</li> <li>▪ over 5,000 gallons - \$25,000 or the construction cost of the system, whichever is greater</li> </ul> |
| <b>c. Siltation controls removal</b> | A separate bond of \$200 will be posted by each applicant to guarantee the removal of temporary siltation controls once the area is stabilized at the completion of the project.  |
| <b>d. Other Regulated Activities</b> | Construction cost of system or activity as certified by a professional engineer accompanied by a detailed cost estimate, showing labor and materials.   |

**21.9 Method of Payment.** All fees required by these Regulations shall be submitted to the Agency by certified check or money order payable to the Town of Madison at the time the application is filed with the Agency.

**21.10** No application shall be granted or approved by the Agency unless the correct application fee is paid in full.

**21.11** The application fee is not refundable by the Inland Wetland Agency. A separate request to the Board of Selectmen must be made for a refund of fees.