

RESOLVED, the Inland Wetlands Agency of the City of Milford, 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 Milford Inland Wetlands Agency, 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 Milford's natural resources and therefore to the health, safety, and welfare of the citizens of the City of Milford.

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

ADOPTED: 17 April 1989

EFFECTIVE DATE: 1 May 1989

LAST REVISED: 6 June 2001

## SALE OF PUBLICATIONS

Copies of the current regulations and map may be purchased at the Inland Wetlands Office.

Copies of the regulations and/or maps may be mailed if a request for the publications is accompanied by a check to cover the full cost of the publication ordered including handling charges.

For quotations of current costs and handling charges the Inland Wetlands Office may be contacted at: (203) 783-3256.

**INLAND WETLANDS AND WATERCOURSES REGULATIONS OF THE  
CITY OF MILFORD, CONNECTICUT**

April, 1989

*Amended to June, 2001*

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# Table of Contents

Section	Page
<b>SECTION 1 TITLE AND AUTHORITY .....</b>	<b>1</b>
1.1 PURPOSE .....	1
1.2 REGULATIONS NAMED .....	2
1.3 AGENCY ESTABLISHED .....	2
1.4 ADOPTED REGULATIONS MAY BE AMENDED.....	2
1.5 ENFORCEMENT .....	2
<b>SECTION 2 DEFINITIONS.....</b>	<b>2</b>
<b>SECTION 3 INVENTORY OF REGULATED AREAS.....</b>	<b>8</b>
3.1 DETERMINATION OF BOUNDARIES .....	8
3.2 PETITION TO DISPUTE REGULATED AREA DESIGNATION.....	8
3.3 MAINTENANCE OF RECORDS; MAP AMENDMENTS .....	9
3.4 MAPS AS GUIDANCE.....	9
3.5 PUBLIC HEARING ON PETITIONS TO AMEND BOUNDARIES .....	9
3.6 TIMELINE FOR MAP AMENDMENT PUBLIC HEARING .....	9
3.7 EXPLANATION OF DECISIONS .....	10
<b>SECTION 4 PERMITTED USES AS OF RIGHT &amp; NONREGULATED USES .....</b>	<b>10</b>
4.1 OPERATIONS AND USES PERMITTED AS OF RIGHT .....	10
4.2 NONREGULATED USES PERMITTED AS OF RIGHT.....	11
4.3 OTHER OPERATIONS AND USES REQUIRE A PERMIT .....	12
4.4 MUST NOTIFY AGENCY.....	12
<b>SECTION 5 RESERVED.....</b>	<b>12</b>
<b>SECTION 6 REGULATED ACTIVITIES TO BE LICENSED .....</b>	<b>12</b>
6.1 OBTAINING A PERMIT FOR REGULATED ACTIVITIES .....	12
6.2 REGULATED ACTIVITIES.....	12
6.3 CONDUCT SUBJECT TO ENFORCEMENT PROCEEDINGS.....	12
6.4 APPEALS .....	13
<b>SECTION 7 APPLICATION REQUIREMENTS.....</b>	<b>13</b>
7.1 OBTAINING APPLICATION FORMS.....	13
7.2 SUBDIVISION OF LAND REQUIRES APPLICATION .....	13
7.3 NECESSITY OF INFORMATION .....	13
7.4 REQUEST FOR DETERMINATION.....	13
7.5 APPLICATION CONTENT .....	13
7.6 ADDITIONAL INFORMATION FOR SIGNIFICANT ACTIVITY .....	15
7.7 CERTIFICATION OF IMPACTS ON OTHER MUNICIPALITIES.....	18
7.8 NUMBER OF COPIES NECESSARY TO FILE AN APPLICATION .....	18
7.9 AMENDMENT, RENEWAL, OR EXTENSION .....	18
7.10 CONDITIONS OF RENEWAL.....	19
<b>SECTION 8 APPLICATION PROCEDURES.....</b>	<b>19</b>
8.1 FILING COPIES OF APPLICATION .....	19
8.2 FILING WITH ADJACENT MUNICIPALITIES .....	19
8.3 NOTIFICATION OF OTHER MUNICIPALITIES .....	19
8.4 NOTIFICATION OF WATER COMPANY .....	20
8.5 APPLICATION RECEIPT DATE.....	20
8.6 ADDITIONAL INFORMATION THAT MAY BE REQUIRED.....	20
8.7 PUBLIC INSPECTION.....	21
8.8 DENIAL OF INCOMPLETE APPLICATIONS.....	21
<b>SECTION 9 PUBLIC HEARINGS .....</b>	<b>21</b>

9.1	CONDITIONS .....	21
9.2	PUBLISHED NOTICES .....	21
9.3	NOTIFICATION OF OTHER PROPERTY OWNERS .....	21
9.4	NOTIFICATION OF OTHER MUNICIPALITIES .....	21
<b>SECTION 10 CONSIDERATIONS FOR DECISION .....</b>		<b>22</b>
10.1	EVIDENCE .....	22
10.2	STANDARDS AND CRITERIA FOR DECISION .....	22
10.3	EXISTENCE OF FEASIBLE AND PRUDENT ALTERNATIVE .....	23
10.4	ALTERNATIVES WITH LESS IMPACT .....	23
10.5	BASED ON INFORMATION IN THE RECORD .....	23
<b>SECTION 11 DECISION PROCESS AND PERMIT .....</b>		<b>24</b>
11.1	DECISION TYPES .....	24
11.2	TIMELINES .....	24
11.3	FORM AND DECISION STATEMENT .....	24
11.4	NOTICE OF DECISION .....	24
11.5	DECISION TO BE FILED WITH PLANNING AND ZONING BOARD .....	25
11.6	APPLICANT MAY PROPOSE MODIFICATIONS TO PERMIT .....	25
11.7	DURATION OF PERMIT .....	25
11.8	ASSIGNING OF PERMIT .....	25
11.9	BOND OR INSURANCE .....	25
11.10	GENERAL PROVISIONS .....	25
<b>SECTION 12 ACTION BY DULY AUTHORIZED AGENT .....</b>		<b>26</b>
12.1	DELEGATION OF AUTHORITY .....	26
12.2	APPLICANT MUST PUBLISH DECISION .....	26
<b>SECTION 13 BOND AND INSURANCE .....</b>		<b>27</b>
13.1	BOND OR SURETY MAY BE REQUIRED .....	27
13.2	CONDITIONED ON COMPLIANCE WITH REGULATIONS AND PERMIT .....	27
13.3	PUBLIC LIABILITY INSURANCE .....	27
<b>SECTION 14 ENFORCEMENT .....</b>		<b>27</b>
14.1	APPOINTMENT OF AGENT .....	27
14.2	REGULAR INSPECTIONS OF REGULATED ACTIVITIES .....	28
14.3	VIOLATIONS OF ACT OR REGULATIONS .....	28
<b>SECTION 15 AMENDMENTS .....</b>		<b>29</b>
15.1	REGULATIONS AND MAPS SUBJECT TO CHANGE .....	29
15.2	PERMIT NOT SUBJECT TO REGULATION CHANGE .....	29
15.3	PETITIONS REQUESTING CHANGES .....	29
<b>SECTION 16 CONFLICT AND SEVERANCE .....</b>		<b>30</b>
16.1	MOST STRINGENT STANDARDS APPLY .....	30
16.2	ACT SUPERCEDES REGULATIONS .....	30
<b>SECTION 17 OTHER PERMITS .....</b>		<b>30</b>
17.1	RESPONSIBILITY FOR ANY OTHER PERMITS .....	30
<b>SECTION 18 EFFECTIVE DATE OF REGULATIONS .....</b>		<b>31</b>
18.1	EFFECTIVE DATE FOLLOWS PUBLICATION OF NOTICE .....	31

## **SECTION 1 TITLE AND AUTHORITY**

### **1.1 Purpose**

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 and the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the State for its citizens now and forevermore. 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 and criteria 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.

These regulations hereby provide 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 Regulations Named**

These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the City of Milford."

## **1.3 Agency Established**

The Inland Wetlands Agency of the City of Milford was established in accordance with an ordinance adopted April 28, 1988 and shall implement the purposes and provisions of the CT Inland Wetlands and Watercourses Act in the City of Milford.

## **1.4 Adopted Regulations May Be Amended**

These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the CT Inland Wetlands and Watercourses Act and these regulations.

## **1.5 Enforcement**

The Agency shall enforce all provisions of the CT Inland Wetlands and Watercourses Act and shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and watercourses and their associated upland review areas in the City of Milford, pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## **SECTION 2 DEFINITIONS**

**"Act"** means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45 of the Connecticut General Statutes (herein after referred to as the Connecticut General Statutes), as amended.

**"Agency"** means the Inland Wetlands Agency for the City of Milford.

**"Bog"** means a poorly drained area containing an accumulation of peat and related organic material and characterized by highly acidic conditions and an association of plants recognized as bog species. Typical examples of bog species are listed in the booklet Inland Wetland Plants of Connecticut, 1973, Bulletin #19, W. A. Niering and R. H. Goodwin, The Connecticut Arboretum, Connecticut College, New London, Connecticut. A copy of Bulletin #19 is available for reference in the office of the Milford Inland Wetlands Agency.

**"Boundary Marker"** means a 4" diameter, 0.40" thick aluminum disk having a baked on white coating (front and rear) imprinted with the words "MILFORD

INLAND WETLANDS BOUNDARY" around the perimeter with a number stamped in the center of a height of 0.25", to be assigned by the Agency. The words "MILFORD INLAND WETLANDS BOUNDARY" and the number shall be red and the entire disk shall then be sandwiched in a clear mylar coating. The "Boundary Marker" shall have 2 attachment holes, of a diameter not to exceed 0.187" punched in the disk, on a vertical centerline on 2" centers. Attachment of the boundary marker shall be by the use of stainless steel nails of a type specified by the Agency. Boundary Markers may be purchased from the Milford Inland Wetlands Agency or from another supplier provided said markers meet the above-described specifications.

**"City"** means the City of Milford, New Haven County in the State of Connecticut.

**"Clear-cutting"** means the harvest of timber in a fashion which removes all trees down to a 2" diameter at breast height.

**"Commission member"** means a member of the Inland Wetlands Agency of the City of Milford.

**"Commissioner of Environmental Protection"** means the Commissioner of the State of Connecticut Department of Environmental Protection.

**"Continual flow"** means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

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

**"Designated agent"** means an individual designated by the Agency to carry out its functions and purposes.

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

**"Disturbing the natural and indigenous character of the wetland or watercourse"** means that the activity will significantly alter the inland wetland and watercourses by reason of removal or deposition of material, clearing the land, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

**"Dumpster"** shall be used to describe any container used to temporarily hold garbage, trash, or debris generated by a commercial, industrial operation or a private residence, having a capacity of more than 1/8 of a cubic yard, until the garbage, trash or debris is removed or emptied for final disposal.

**"Essential to the Farming Operation"** means that the activity proposed is necessary and indispensable to sustain farming activities on the farm.



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

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

**"Field inspection"** shall mean that the Designated Agent shall determine if the site has any vegetation indicators of a wetland or watercourse as described in "Inland Wetland Plants of Connecticut" 1973, Bulletin #19, W. A. Niering and R. H. Goodwin, The Connecticut Arboretum, Connecticut College, New London, Connecticut.

**"License"** means the whole or any part of any permit, 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.

**"Management practice"** means a practice, procedure, activity, structure, or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

**"Marshes"** are areas with soils that exhibit aquatic moisture regimes, and in which the water table is at or above the surface of the ground throughout the year and subject to seasonal fluctuations whereby areas of open water six inches or more in depth are common. Marshes are distinguished by a lack of trees and shrubs and are dominated by soft-stemmed herbaceous vegetation. Examples of typical marsh species are listed in Inland Wetland Plants of Connecticut, 1973, Bulletin #19, W. A. Niering and R. H. Goodwin, The Connecticut Arboretum, Connecticut College, New London, Connecticut. A reference copy is available at the office of the Milford Inland Wetlands Agency.

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

**"Mitigation"** is defined as:

- The avoidance of an impact altogether by not taking an action or part of an action and
- The minimizing of an impact by limiting the degree or magnitude of the action and

- The rectifying of the impact by repairing, rehabilitating, or restoring the affected environment to a condition as close as possible to the original; such condition to be determined by the Agency and
- The reducing or eliminating of the impact over time by preservation and best management practices during the life of the action.
- *In the following order of priority: restore, enhance and create productive wetland or watercourse resources.*

**"Municipality"** means the City of Milford, New Haven County, Connecticut.

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

**"On Site Dumpster"** is defined as any dumpster that shall be located at a site, used for the normal containment of garbage, trash or debris generated by a residence or business.

**"Open space"** shall mean open space district as specified in Milford Planning and Zoning regulations section 3.19 OPEN SPACE DISTRICT.

**"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 and the Act or other Municipal, State and Federal law.

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

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

**"Pollution"** means any harmful thermal, chemical, biological or physical effect upon, 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 into contact with any wetlands or watercourses. This includes, but is not limited to erosion or sedimentation resulting from any filling, regrading, excavation, land clearing, or other earth disturbing activity.

**"Portable Toilets"** shall mean any device or structure, used for the temporary containment of holding tank waste for which no permanent plumbing exists.

**"Prudent"** means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

**"Regulated Activity"** means any operation within, or use of, a wetland or watercourse involving the storage, removal, or deposition of material; or any

obstruction, construction, alteration or pollution of such wetland or watercourse, *and any earth moving, filling, construction, or clear-cutting of trees, or discharging of waters*, but shall not include the specified activities in section 4 of these regulations. In addition:

- The occurrence of any of the above activities within a radius of *one hundred (100)* feet from each point on the boundary of a wetland or watercourse, which may have potential adverse impact or major effect upon that wetland or watercourse shall also be a regulated activity;
- Furthermore, the occurrence of any of the above activities within a radius of 150 feet from each point on the boundary of a wetland or watercourse which falls within Open Space District as defined by Milford Zoning Regulations, section 3.19, shall also be a regulated activity;
- And furthermore, the occurrence of any of the above activities within a radius of 150 feet from the boundary of all wetlands and watercourses within the Wepawaug River watershed;
- And furthermore, the occurrence of any of the above activities within a radius of 150 feet from each point on the boundary of a wetland or watercourse which lies within the watershed of Beaver Brook above the reservoir dam.

Within the aforementioned *100* and *150-* foot *upland review* areas the intent is to review the proposed activity and to apply only such restrictions as are needed to avoid adverse impacts in the inland wetlands and watercourses and are not intended to be exclusionary setbacks.

*The Agency may rule that any activity in any non-wetland or non-watercourse area impacts or has the potential to impact or affect wetlands or watercourses and therefore is a regulated activity.*

**"Regulated Area"** means any inland wetlands and watercourses *and upland review area* as defined in section 2 of these regulations

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

**"Rendering unclean or impure"** means any alteration of the physical, chemical or biological properties of any waters of the State, including, but not limited to: change in odor, color, turbidity or taste.

**"Significant Impact Activity"** means any activity including, but not limited to, the following activities which may have a major effect on the wetland or watercourse in an area for which an application has been filed or on another part of the inland wetland or watercourse system:

- Any activity involving a deposition or removal of material which will or may have a major effect on the regulated area or on another part of the inland wetland or watercourse system, or
- Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system, or

- Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space, or
- Any activity which causes, or has the potential to cause, substantial turbidity, siltation, or sedimentation in a wetland or a watercourse, or
- Any activity which causes, or has the potential to cause, a substantial diminution of flow of a natural watercourse, or groundwater levels of the regulated area, or
- Any activity which causes or has the potential to cause pollution of a wetland or watercourse, or
- Any activity which damages or destroys important scientific or educational value in unique wetland or watercourse areas.

**"Site monitor"** shall mean a person or persons, approved by the Agency or its designated agent, who shall be responsible for all on-site compliance with these Regulations and any or all of the permit conditions as specified by the Agency or its designated agent. Said person shall also be responsible for complete written reports to the designated agent as may be required by the Agency or its designated Agent.

When and where required, by the Agency or its designated agent, the applicant may be required to retain an Environmental Consultant as a site monitor.

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

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

**"Swamp"** means a wetland area with a water table at or near the surface of the ground throughout most of the year and containing vegetation characterized by an association of trees and/or shrubs recognized as swamp species. Typical examples of swamp species are listed in Inland Wetland Plants of Connecticut, 1973, Bulletin #19, W. A. Niering and R. H. Goodwin, The Connecticut Arboretum, Connecticut College, New London, Connecticut. Bulletin #19 is available for reference at the office of the Milford Inland Wetlands Agency.

**"Temporary Dumpster"** is defined as any dumpster used for the removal of demolition, construction, or clean up of site debris. Any dumpster that will not remain on site after the completion of work being carried out.

**"Upland Review Area"** Any area adjacent to a wetland or watercourse where regulated activity may impact or affect a wetland or watercourse.

**"Waste"** means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the City.

**"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 City or any portion thereof not regulated pursuant to section 22a-28 through 22a-35 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.

**"Wetlands"** are defined as lands composed of soil types that are poorly drained, very poorly drained, alluvial or flood plain, as designated by the National Cooperative Soils Survey, Natural Resources Conservation Service, USDA. Wetlands may include areas inundated by surface or groundwater sufficient to support vegetative and aquatic life forms requiring saturated soil conditions for growth and reproduction, as well as submerged land, as defined in section 2.1 of these regulations, not regulated by sections 22a-28 through 22a-35 inclusive, of the Connecticut General Statutes. Such areas may include filled, graded, or excavated sites, which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

## **SECTION 3 INVENTORY OF REGULATED AREAS**

### **3.1 Determination of Boundaries**

The map of regulated areas, entitled "Inland Wetlands and Watercourses Map, Milford Connecticut," delineates the general location and boundaries of inland wetlands and watercourses within the City of Milford. Copies of this map are available for inspection in the offices of the City Clerk and Inland Wetlands Agency.

The precise location of regulated areas as defined in these regulations shall be determined by one or more of the following methods

- a. field inspection pursuant to section 2.5 of these regulations;
- b. tests conducted by a soil scientist where soil classifications are necessary to delineate wetland soils pursuant to section 2.1-32 of these regulations;
- c. visual observation of watercourses as defined in section 2.1-31.
- d. Aerial photography, remote sensing imagery, resource mapping, or soils maps.

### **3.2 Petition to Dispute Regulated Area Designation**

Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map, may petition the agency to change the

designation. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inappropriate. Documentation in accordance with section 14 of these regulations may be required of the property owner when the agency requires an accurate delineation of regulated areas.

### **3.3 Maintenance of Records; Map Amendments**

The Inland Wetlands Agency or its designated agent(s) shall inventory and maintain current records of all regulated areas within the City. The Agency may amend its maps from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the City. Any person may petition the Agency to amend its maps. Petitioners shall bear the burden of proof for all requested map amendments. Such proof may include, but not be limited to, soil mapping, aerial photography, remote sensing imagery, resource mapping or other available information. Watercourses shall be delineated by a soil scientist, geologist, ecologist, or other qualified individual. Such map amendments are subject to the public hearing process outlined in section 3 of these regulations.

### **3.4 Maps as Guidance**

Until such time as the Commission establishes the boundaries of wetlands and water courses as regulations the Commission shall rely solely and specifically upon the definitions contained in section 2 of these regulations in determining whether or not an applicant's property is subject to these regulations as a regulated area. Until that time, the maps shall only be used as guidance documents.

### **3.5 Public Hearing on Petitions to Amend Boundaries**

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 two days, the first not more than fifteen days nor less than ten days, and the last not less than two days, before such hearing. A copy of such proposed boundary change shall be filed in the office of the town clerk for public inspection at least ten days before such hearing.-

### **3.6 Timeline for Map Amendment Public Hearing**

Within ninety (90) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the petition. The Agency shall act upon the changes requested in such petition within sixty (60) days after the close of the hearing. The petitioner may consent to one or

more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such petition. The failure of the Inland Wetlands Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

### **3.7 Explanation of Decisions**

The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made or not made.

## **SECTION 4 PERMITTED USES AS OF RIGHT & NONREGULATED USES**

### **4.1 Operations and Uses Permitted as of Right**

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 section 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 purposes of sale;
- b. A residential home for which (i) a building permit has been issued or (ii) is on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to C.G.S. 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. The individual claiming a use of wetlands permitted as a right under this subsection 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, the wetland boundaries, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement. The individual claiming the use of wetlands permitted

as of right must show to the satisfaction of the Agency that there will be no unnecessary disturbance to the wetlands;

- c. Boat anchorage or mooring, not to include dredging or dock construction;
- d. Uses incidental to the enjoyment or maintenance of residential property. Such incidental use shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of substantial amounts of material from or onto a wetland or watercourse, or a diversion or alteration of a watercourse. For the purposes of this section, residential property is defined as such property, containing a residence, that is equal to or smaller than the largest minimum residential lot site permitted in the City of Milford;
- 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-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 or July 1, 1974, which ever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For the 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.

#### **4.2 Nonregulated Uses Permitted as of Right**

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



### **4.3 Other Operations and Uses Require a Permit**

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 by this section or otherwise defined as a regulated activity by these Regulations shall require a permit from the Agency in accordance with section 6 of these regulations.

### **4.4 Must Notify Agency**

To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse, which may disturb the natural and indigenous character of the wetland or watercourse, shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time.

## **SECTION 5 RESERVED**

## **SECTION 6 REGULATED ACTIVITIES TO BE LICENSED**

### **6.1 Obtaining a Permit for Regulated Activities**

No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Agency of the City of Milford.

### **6.2 Regulated Activities**

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 nonregulated pursuant to section 4 of these regulations.

### **6.3 Conduct Subject to Enforcement Proceedings**

Any person found to be conducting or maintaining a regulated activity without the prior authorization of the City of Milford Inland Wetlands

Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 13 of these regulations and any other remedies as provided by law.

#### **6.4 Appeals**

Appeal from any actions of the Agency shall be made in accordance with the provisions of section 22a- 43 of the Connecticut General Statutes, as amended.

### **SECTION 7 APPLICATION REQUIREMENTS**

#### **7.1 Obtaining Application Forms**

Any person wishing to undertake a regulated activity, to renew or amend a permit to conduct such activity, or amend the Inland Wetlands and Watercourses Map, shall apply for a permit on a form provided by the Agency. The application shall contain information described in this section and any other information the Agency may reasonably require. Application forms may be obtained in the offices of the Milford Town/City Clerk or the Inland Wetlands Agency.

#### **7.2 Subdivision of Land Requires Application**

If an application to the City of Milford Planning and Zoning Board for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Agency in accordance with this section, no later than the day the application is filed with such Planning and Zoning Board.

#### **7.3 Necessity of information**

All applications shall contain such information that is necessary for a fair and informed determination of the issues.

#### **7.4 Request for Determination**

Prior to submitting a formal application a prospective applicant may request the Agency to determine whether a contemplated project involves a significant impact activity.

#### **7.5 Application Content**

All applications shall include the following information in writing or on maps or drawings:

- a. The applicant's name, home, and business addresses and telephone numbers;
- 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. Applicant's interest in the land;
- d. The geographical location of the property which is to be affected by the proposed activity, and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, a computation of the area(s) (in acres or square feet) of wetland or watercourse disturbance, soil type(s) and 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 considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen. The applicant shall submit documents including but not limited to maps, surveys, and technical reports which identify or depict all alternatives considered by the applicant;
- g. A site plan showing 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;
- h. Names and addresses of adjacent property owners;
- i. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- j. Authorization for the commissioners and agents of the Agency to inspect the property, at reasonable times, both before and after a final decision has been issued;
- k. Any other information the Agency deems necessary to the understanding of what the applicant is proposing;
- l. Submission of the appropriate filing fee based on the fee schedule established by the Inland Wetlands Agency;
- m. 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;

## **7.6 Additional Information for Significant Activity**

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

- a. A site plan or map, drawn to a scale determined by the Agency, contingent upon the size of the area under consideration, and deemed appropriate to provide detail necessary for accurate consideration. Map scale shall usually range from one-inch equal's 20 feet to one-inch equal's 100 feet. Such site plan or map shall be prepared by a surveyor, architect, or engineer and sealed by a surveyor all of whom are licensed by the State of Connecticut. The horizontal control of such site plan shall be based upon a monumented class A-2 survey and shall be referenced to the Connecticut coordinate system; the vertical control for elevations and soundings shall be based upon U. S. Geological Survey data. Sheet size of site plan shall be 24" X 36", and shall be the same site plan or map submitted to the Milford Planning and Zoning Board. This site plan or map shall include the date, a compass rose indicating true North, and graphic written scales.
- b. The site plan shall also include, on additional sheets (24" x 36") where applicable:
  1. A site locus map of scale one-inch equals 400' or one inch equals 800', in sufficient detail to allow identification of the property on the designated Inland Wetlands and Watercourses Map for the City of Milford. The North arrow orientation of the locus map shall match the North arrow orientation of the site plan.
  2. Topography maps of existing elevations and proposed grading elevations showing contour intervals of two (2) feet or as specified by the Agency.
  3. Property boundary lines of the real property to be affected, the owner(s) of record of this property and of adjoining properties, and the structures existing on the affected property. For the purpose of adequately locating and identifying the area for which a permit is requested, this sheet shall also include all distances with angles or bearings, and merestones or pins.
  4. All proposed construction: buildings, structures, parking areas, streets, paved areas, loading areas, fuel oil storage, trash/refuse dumpster areas, and outside storage area locations, including the nature of the material to be stored on site. Grades and elevations or cross section details shall be included where appropriate.
  5. Locations, dimensions, areas and purpose of all existing and proposed rights-of-way, easements, reservations, and open

- space areas, dedicated to or offered for public use, or otherwise set aside, both within and adjoining the site.
6. Drainage plan including all existing and proposed drainage structures such as catch basins, detention basins, footing drains, storm drainage, rip-rap channel culverts, proposed diversions, sanitary sewage disposal, indicating drainage direction. Grades, elevations, or cross section details shall be included where appropriate.
  7. Utilities plan which includes lighting plan, and above-and below-grade utilities. This sheet should show location of outside heating/ventilation and air conditioning units, as well as freestanding utility meters.
  8. Soils map, indicating areas of poorly drained, very poorly drained, alluvial or flood plain soil types, will be prepared by a qualified soil scientist whose qualifications shall be submitted with the map. Such maps shall indicate locations of all wetlands and watercourses on site, and locations of all soil borings necessary to assess accurately the delineation of the wetland soil types and inland wetland boundaries. All wetland flags on site shall be of the color blue and they shall be sequentially numbered. The flags shall be shown on the site plan with their corresponding numbers. An appropriately shaded area indicating the 50' or 150' regulated area adjoining the wetland boundary should be included. The accompanying soil report shall contain the following:
    - (i) Property location.
    - (ii) Dates of site inspection or inspections.
    - (iii) Method used to locate boundaries of wetlands, e.g., flagging, contour map, U.S.G.S. data, aerial photography.
    - (iv) Method used to map wetland soil types, e.g., Natural Resource Conservation Service field sheets, field inspection, etc.
    - (v) Soil type designation and description; field notes.
    - (vi) Any climatic conditions at the time of inspection that might influence findings, e.g., freezing, drought, etc.
  9. Soil Erosion and Sedimentation Control Plan to stabilize site during and after the regulated activity, including details. This sheet shall also indicate areas where material is to be deposited, removed, or displaced. An analysis of chemical or physical characteristics of any fill shall be included in an accompanying report. Name of person responsible for implementation of sediment and erosion control shall be included on the sheet.
  10. Habitat Map of entire site, showing locations of all wetland types (e.g., swamp, marsh, bog, wet meadow, open water, etc.). The map shall include significant vegetation having one or more of the following functions: erosion control, historical, recreational or educational significance, terrestrial,

and aquatic wildlife habitat. The accompanying report shall include:

- (i) A biological evaluation of each wetland type, including dominant, rare, and characteristic botanical species, and the height, and age classes and density of this vegetation.
  - (ii) Qualitative (non-numerical) habitat value for each wetland type for all indigenous and/or migratory wildlife species as determined by using DEP Bulletin #9 for guidance.
  - (iii) Depth of water table below surface or level of water if inundated.
  - (iv) Date of field determination of these data.
  - (v) The changes, diminution, or enhancement, in (i) through (iii) above as a result of the proposed activity. An overlay may be required to denote the physical changes on its site.
11. Landscaping/planting plan, including trees, shrubs, lawn, other landscape features, and natural terrain not to be disturbed.
  12. If the proposed activity may affect a watercourse lying within, partly within or flowing through, or adjacent to, the affected property, the applicant may be required to submit further information relative to the present character of, and the projected impact of the proposed activity upon, the watercourse. Such information may include, but not be limited to:
    - (i) Location of the regulatory flood protection elevation, boundaries of flood-prone areas; location and design of all hydraulic modifications, as well as existing and proposed flood protection and erosion control measures.
    - (ii) pH.
    - (iii) Turbidity or solids in parts per million.
    - (iv) Bacteria count in coliforms per milliliter.
    - (v) Extent of drainage areas to be affected.
    - (vi) Alteration of flow characteristics.
- c. Where the applicant proposes to develop in stages, an overall site and staging plan indicating ultimate development shall be presented in accordance with 7.5 a and b above.
  - d. 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 functions;
  - e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and with each alternative, a description of why each alternative considered was deemed neither feasible nor prudent;

- f. Analysis of chemical and physical characteristics of any fill material;
- g. Measures which mitigate the impact of the proposed activity as defined in section 2: Documentation which shows that the applicant has attempted to sequentially comply with steps 1- 4 as defined in section 2.

#### **7.7 Certification of Impacts on Other Municipalities**

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 and/or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
- d. Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

#### **7.8 Number of Copies Necessary to File an Application**

Twelve (12) copies of the major items of application materials shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Inland Wetlands Agency. The applicant may, at the discretion of the Designated Agent of the Agency, submit two (2) copies of the plans/maps for the application on 24" X 36" map sheets and the remaining Ten (10) copies of the plans/maps can be submitted to the Agency as reduced sets no less than 11" X 17" in size. A graphic scale must be shown on all sheets of reduced plans

#### **7.9 Amendment, Renewal, or Extension**

Any application to renew or amend an existing permit shall be filed with the Agency at least sixty-five (65) days prior to the expiration date for the permit in accordance with section 8 of these Regulations. Any application to renew or amend such an existing permit shall contain the information required under section 7 of these Regulations provided:

- a. the application may incorporate by reference the documentation and record of the original application;
- b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
- c. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the use of the property for which the permit was issued;

- d. The Agency may accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgement, 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.
- e. The Agency shall evaluate the application pursuant to section 10 of these Regulations and grant the application as filed, grant it with any terms or limitations, or deny it.

### **7.10 Conditions of Renewal**

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. No permit shall be renewed to extend beyond ten years from its original issuance date.

## **SECTION 8 APPLICATION PROCEDURES**

### **8.1 Filing Copies of Application**

Twelve (12) copies of the completed application shall be filed with the Inland Wetlands Agency.

### **8.2 Filing with Adjacent Municipalities**

In the case of any application where any portion of the wetland or watercourse in which the regulated activity is proposed is located within 500 feet of the boundary of Orange, West Haven, Stratford, or Shelton, the applicant shall give written notice, in accordance with Connecticut General Statutes section 22a- 42c of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetlands agency on the same day of filing an inland wetland permit application with the Milford Inland Wetlands Agency. Documentation of such notice shall be provided to the Milford Inland Wetlands Agency in accordance with section 22a- 42c of the Connecticut General Statutes

### **8.3 Notification of Other Municipalities**

The Agency shall, in accordance with Connecticut General Statutes section 22a-42b notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:



- a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- b. A significant portion of 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 and/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 runoff 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 registered mail and shall be mailed within seven (7) days of the date of receipt of the application.

#### **8.4 Notification of Water Company**

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 municipality in which the application is made and with the Inland Wetlands Agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed 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 Milford Inland Wetlands Agency.

#### **8.5 Application Receipt Date**

The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency, provided that meeting is no earlier than three business days after submission, or thirty-five days after such submission, whichever is sooner.

#### **8.6 Additional Information that May Be Required**

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 additional information shall not stay the time limitations set forth in section 11.2 of these regulations.

### **8.7 Public Inspection**

All applications shall be open for public inspection.

### **8.8 Denial of Incomplete Applications**

Incomplete applications may be denied or withdrawn.

## **SECTION 9 PUBLIC HEARINGS**

### **9.1 Conditions**

The Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses or a petition signed by at least twenty-five persons requesting a hearing is filed with the Agency not later than fourteen days after the receipt of such application or the Agency finds that a public hearing regarding such application would be in the public interest. The Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the Agency. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.

### **9.2 Published Notices**

Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.

### **9.3 Notification of Other Property Owners**

Notice of the public hearing shall be mailed by the applicant to the owner(s) of record of adjoining land no less than fifteen days prior to the day of the hearing. Postal documentation of such notification shall be entered into the hearing record.

### **9.4 Notification of Other Municipalities**

In the case of any application which is subject to the notification provisions of section 8.3 of these Regulations, a public hearing shall not be conducted until the clerk(s) of the adjoining municipality(ies)

has received notice of the pendency of the application. Proof of notification shall be entered into the hearing record.

## **SECTION 10 CONSIDERATIONS FOR DECISION**

### **10.1 Evidence**

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

- a. The application and its supporting documentation, including the applicant's comments and testimony,
- b. Public comments, evidence and testimony,
- c. Reports from other agencies and commissions including but not limited to the City of Milford.
- d. The Agency may also consider comments on any application from the New Haven County Soil and Water Conservation District, the South Central Connecticut Regional Planning Agency or other regional organizations (e.g. Council of Elected Officials); agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
- e. Nonreceipt of comments from agencies and commissions shall neither delay nor prejudice the decision of the Agency.

### **10.2 Standards and Criteria for Decision**

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

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses.
- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.
- c. The relationship between the short term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing

environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.

- e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity.
- 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 Existence of Feasible and Prudent Alternative**

In the case of an 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 therefor shall be stated on the record in writing.

### **10.4 Alternatives with Less Impact**

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 Based on Information in the Record**

In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. However, the Agency is not precluded from seeking advice from its own experts on information already in the record of the public hearing. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

## **SECTION 11 DECISION PROCESS AND PERMIT**

### **11.1 Decision Types**

The Agency or its duly authorized agent acting pursuant to section 12 of these Regulations may grant the application as filed; grant it upon such terms, conditions, limitations or modifications necessary to carry out the purposes of the Act; or deny it.

### **11.2 Timelines**

No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. The hearing shall be completed within forty-five (45) days of its commencement and action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such application. Failure of the Inland Wetlands 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.

### **11.3 Form and Decision Statement**

The Agency shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall as applicable and in accordance with section 10 of these Regulations, be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.

### **11.4 Notice of Decision**

The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any such case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within ten days thereafter.

### **11.5 Decision to be filed with Planning and Zoning Board**

If an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed with City of Milford Planning and Zoning Board within fifteen days of the date of the decision.

### **11.6 Applicant may Propose Modifications to Permit**

If the Agency denies the permit, or if it grants a permit with terms, conditions, limitations, or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The Agency shall determine whether the proposed modification requires filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for the purposes of appeal.

### **11.7 Duration of Permit**

Any permit issued by the Agency for the development of land for which an approval is required under section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years. All permits provided for herein are subject to the renewal provisions of section 7.10

### **11.8 Assigning of Permit**

All permits shall be conveyed with the property. The permittee shall notify the Agency upon transfer of ownership of the property, if the scope of work of the permit has not been completed.

### **11.9 Bond or Insurance**

If a bond or insurance is required in accordance with section 13 of these regulations, no permit shall be issued until such bond or insurance is provided.

### **11.10 General Provisions**

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 City of Milford, and convey no rights in real estate or material nor any exclusion 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 inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.
- d. The permittee shall take such necessary steps consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- e. Permits are not transferable without the prior written consent of the Agency.

## **SECTION 12 ACTION BY DULY AUTHORIZED AGENT**

### **12.1 Delegation of Authority**

The Agency's Agent is authorized to approve or grant extensions for activities that are not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval or extensions shall be made on a form provided by the Agency and shall contain the information listed under section 7.5 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time.

### **12.2 Applicant Must Publish Decision**

Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to

consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with section 7 of these regulations.

## **SECTION 13 BOND AND INSURANCE**

### **13.1 Bond or Surety May be Required**

Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Agency, be required to file a bond with such surety in such amount and in a form approved by the Agency.

- a. Compliance with permit condition number 15, may require the permit holder to submit to the Designated Agent, for approval, Boundary Markers whose specifications may be found in section 2 of these Regulations. The permit holder may purchase the boundary markers from the Milford Inland Wetlands Agency. Said amount total for Boundary Markers may be added to the amount of the required Bond, and posted with the Milford Inland Wetlands Agency. When the Agency determines that the work required under a permit has been completed, the Agency shall release the amount of the Bond to the permit holder less the amount included in the bond for the Boundary Markers.

### **13.2 Conditioned on Compliance with Regulations and Permit**

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 Public Liability Insurance**

The Agency 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 five (5) years of completion of such operations, in an amount commensurate with the regulated activity.

## **SECTION 14 ENFORCEMENT**

### **14.1 Appointment of Agent**

The Agency may appoint an agent or agents to act on 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 Regular Inspections of Regulated Activities**

The Agency or its agent(s) may make regular inspections at reasonable hours of all regulated activities for which permits have been issued under these regulations.

## **14.3 Violations of Act or Regulations**

If the Agency or its duly authorized agent(s) 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(s) may:

- a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition and to the property owner if different, to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises, or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to section 22a-44 (b) of the Connecticut General Statutes, as amended;
- b. Suspend or revoke a permit if it finds that the permittee has not complied with terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including applications plans. Prior to revoking or suspending any permit, the Agency shall issue notice in writing to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.
- c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition and to the property owner if different, stating the nature of the violation, the jurisdiction of the

Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide 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 subdivision 14.3.a. or other enforcement proceedings as provided by law.

## **SECTION 15 AMENDMENTS**

### **15.1 Regulations and Maps Subject to Change**

These regulations and the Inland Wetlands and Watercourses Map for the City of Milford may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

### **15.2 Permit not Subject to Regulation Change**

An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and upland review areas, taking effect on or after the date of such receipt and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

### **15.3 Petitions Requesting Changes**

Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Milford, 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 owner(s) agent or other representative and a written consent to the proposed action set forth in the application;
- c. Applicant's interest in the land;

- d. The geographic location of the property involved in the petition and the existing and proposed wetlands and watercourse boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations, 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 mailing addresses of adjoining property owners; and
- g. A map showing any proposed development of the land.
- h. 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.
- i. Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual for review by the Agency in making a determination.
- j. Within ninety (90) days after receipt of an 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 act upon the changes requested in such application within sixty (60) days after the close of the hearing. The public hearing shall be concluded within forty-five (45) days.

## **SECTION 16 CONFLICT AND SEVERANCE**

### **16.1 Most Stringent Standards Apply**

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.

### **16.2 Act Supercedes Regulations**

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 17 OTHER PERMITS**

### **17.1 Responsibility for Any Other Permits**

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 City of Milford, State of Connecticut and the

Government of the United States including, but not limited to 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 18 EFFECTIVE DATE OF REGULATIONS**

**18.1 Effective Date follows Publication of Notice**

These regulations are effective upon filing in the Office of the City Clerk and publication of a notice of such action in a newspaper having general circulation in the City of Milford.