

TOWN OF CANTON

Regulations of the Inland Wetlands and Watercourses Agency Canton, Connecticut

Effective September 1, 2011

As amended through August 11, 2011

Adopted June 6, 1989

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Section 1

Title and Authority

- 1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- 1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Canton."
- 1.3 The Inland Wetlands and Watercourses Agency of the Town of Canton was established in accordance with Ordinance No. 106 and modified by Ordinance 106A and 106B. The Inland Wetlands and Watercourses Agency shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act (Sections 22a-36 through 22a-45a of the Connecticut General Statutes) in the Town of Canton.

- 1.4 These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The Agency shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Canton pursuant to Section 22a-36 to 22a-45a, inclusive, of the Connecticut General Statutes.

Section 2 Definitions

2.1 As used in these regulations:

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

"Agency" means the Inland Wetlands and Watercourses Agency of the Town of Canton.

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

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

"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.

"Duly Authorized Agent" means an individual so designated by the Inland Wetlands and Watercourses Agency to carry out its functions and purposes.

"Discharge" means emission of any water, substance, or material into waters of the state whether or not such substance causes pollution.

"Essential to the farming operation" means that the proposed activity 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 and shall be consistent with the definition as noted in section 1-1(q) of the Connecticut General Statutes. *See Appendix*

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

"License". *See "permit"*.

"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 watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.

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

"Municipality" means the Town of Canton.

"Nurseries" means places where plants are grown for sale, transplanting or experimentation.

"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 sections 22a-36 to 22a-45 , inclusive, of the Connecticut General Statutes.

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

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

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

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

"Regulated activity" means any operation or activity within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 4 of these regulations. Furthermore any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing, or removing of material and discharging of storm water on the land within one hundred (100') feet measured horizontally from the boundary of any

wetland or watercourse is a regulated activity. The Agency may rule that any other activity located within an Upland Review Area (see "Upland Review Area") or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

"Regulated area" means any wetland or watercourse as defined in 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:

1. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant, or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other wetland functions.
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of a wetland or watercourse.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

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

"Swamps" are watercourses that are distinguished by the dominance of wetland trees and shrubs.

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

"Town" means the Town of Canton, Connecticut.

"Upland Review Area" means that area located within one hundred (100') feet measured horizontally from the edge of a wetland soil or the center line of a watercourse. Within this area, the Agency shall regulate activities that are likely to impact or affect wetlands or watercourses. The Agency shall review these activities to insure that best management practices are utilized to prevent the pollution or alteration of the wetlands and watercourses.

"Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute any of the wetlands or watercourses of the Town.

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

"Wetlands" means land, including submerged land as defined in this Section, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soils types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

Section 3 Inventory of Regulated Areas

- 3.1 The map of regulated areas entitled "Inland Wetlands and Watercourses Map, Town of Canton, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Agency. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. The Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.
- 3.2 Any person may petition the Agency for an amendment to the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to, aerial photography, remote sensing imagery, resource mapping or other available information. The Agency may require such a petitioner to provide an accurate delineation of regulated areas in accordance with Section 15 of these regulations.
- 3.3 The Agency shall maintain a current inventory of regulated areas within the town. The Agency may amend its map as more accurate information becomes available.
- 3.4 All map amendments are subject to the public hearing process outlined in Section 15 of these regulations.

Section 4

Permitted Uses as of Right & Non-regulated Uses

- 4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
 - b. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Planning Commission as of the effective date of promulgation of these regulations pursuant to Subsection (b) of Section 22a-42a, or as of July 1, 1974, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987.
 - c. Boat anchorage or mooring.
 - d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse, or diversion or alteration of a watercourse.
 - e. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Section 22a-401 and 22a-403 of the Connecticut General Statutes.
 - f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a of the Connecticut General Statutes or July 1, 1974, which ever 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.
- 4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this Section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Section 6 of these regulations or for certain regulated activities located outside of wetlands or watercourses from the duly authorized Agent in accordance with Section 12 of these regulations.
- 4.4 To carry out the purposes of this Section, any person proposing a permitted operation and use, or a non-regulated operation and use shall, prior to commencement of such operation 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 duly authorized Agent shall rule that the proposed operation and use or portion of it is a permitted or a non-regulated operation and use, or that the proposed operation and use is a regulated activity and 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 Agency may authorize the duly authorized Agent for the Agency to make such rulings on behalf of the Agency at any time.

Section 5
Activities Regulated Exclusively by the
Commissioner of Energy and Environmental Protection

- 5.1 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses undertaken by any Department, Agency or instrumentality of the State of Connecticut, except any local or regional Board of Education, pursuant to Sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Energy and Environmental Protection under Section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Energy and Environmental Protection under 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.
- 5.3 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the State pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act. In addition to any permit or approval required by the Agency, the Commissioner of Energy and Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction.
- a. Construction or modification of any dam pursuant to Section 22a-401 through 22a-411 of the Connecticut General Statutes, as amended.
 - b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Section 22a-342 through 22a-349a of the Connecticut General Statutes, as amended.
 - c. Diversion of water, including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day or any piping, culverting, channelization, relocation, damming or other alteration of the location of flow of any surface waters of the State where the tributary watershed area above the point of such alteration is one hundred (100) acres or larger, pursuant to Sections 22a-365 through 22a-378a of the Connecticut General Statutes, as amended.
 - d. Discharges into the waters of the State pursuant to Section 22a-430 of the Connecticut General Statutes, as amended.
 - e. Discharge of fill or dredged materials into the wetlands and watercourses of the State pursuant to Section 401 of the Federal Clean Water Act, as

amended, for activities regulated by the US Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

- f. Any dredging or any erection, placement, retention or maintenance of any structure, fill, obstruction or encroachment, State agency, which activity is regulated under Sections 22a-28 to 22a-35, inclusive, as amended, or Sections 22a-359b to 22a 363f, inclusive, as amended shall not require any permit or approval under Sections 22a-36 to 22a-45, inclusive, as amended of the Connecticut General Statutes.
- 5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Energy and Environmental Protection under Section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Energy and Environmental Protection under Section 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or dam 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 to be Permitted

- 6.1 A prospective applicant may request the Agency to determine whether or not a proposed activity involves a Significant Impact Activity.
- 6.2 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands and Watercourses Agency of the Town of Canton.
- 6.3 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.

Section 7

Application Requirements

- 7.1 Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Canton Land Use Office. The application shall contain the information described in this Section and any other information the Agency may reasonably require unless waived by the Agency as provided in Section 7.11 for good cause shown. Application forms may be obtained from the Canton Land Use Office.
- 7.2 If an application to the Town of Canton Planning Commission for subdivision or re-subdivision 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 the Planning Commission.
- 7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the Agency and shall be accompanied by the appropriate fee per Section 19.
- 7.4 All applications shall include the following information in writing or on maps or drawings: unless waived by the Agency per Section 7.11 or by its duly authorized Agent per Section 12.1, in writing or on maps or drawings:
- a. The applicant's name, home and business mailing addresses and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation, the managing member's or responsible corporate officer's name, address and telephone number;
 - b. The owner's name, home or business mailing addresses and telephone, voice and fax numbers and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed;
 - c. The applicant's interest in the land;
 - d. The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, wetland soil type(s), wetland vegetation, and area(s) in square feet or acres of upland review area to be disturbed;
 - 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; all such alternatives shall be diagramed on a site plan or drawing;
 - g. A site plan at a scale of at least one (1) inch equal to forty (40) feet of a drawing size acceptable for filing with the Town Clerk, 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;
 - h. Names and mailing addresses of land owners of record within 100 feet of the boundary of the subject property;
 - i. Statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
 - j. Authorization for the members and Agents of the Agency to inspect the subject land, at reasonable times, during the pendency of the application and for the life of the permit;
 - k. A completed DEEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Energy and Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
 - l. A storm water management plan;
 - m. Any other information the Agency deems necessary to the understanding of what the applicant is proposing;
 - n. Submission of the appropriate filing fee based on the fee schedule established in Section 19 of these regulations.
 - o. Location and boundaries of any Conservation Restriction or encumbrance; and
 - p. Photographic images of existing conditions.
- 7.5 If the proposed activity involves a significant impact activity as determined by the Agency, additional information, unless waived by the Agency in accordance with Section 7.11, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:
- a. Site plans, at a scale of at least one (1) inch equal to forty (40) feet of a drawing size acceptable for filing with the Town Clerk for the proposed activity and the land which will be affected thereby which show existing and

proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by and under the live signature and seal of a professional engineer, land surveyor, architect licensed by the state, or by such other qualified person as approved by the Agency;

- b. Engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
 - c. Mapping of soil types consistent with the categories established by the National Cooperative Soils Survey of the US Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be located on the site plans to scale;
 - d. A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
 - e. A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;
 - f. Analysis of chemical or physical characteristics of any fill material; and
 - g. Management practices and other measures designed to mitigate the impact of the proposed activity.
- 7.6 The applicant shall certify whether:
- a. Any portion of the property on which the regulated activity is proposed is located within five hundred (500) feet of the boundary of an adjoining municipality;
 - b. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
 - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.7 Nine (9) copies of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed, in writing, by the Agency.
- 7.8 Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend

such an existing permit shall contain the information required under Section 7 of these regulations provided:

- a. The application may incorporate the documentation and record of the prior application;
- b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
- c. The application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
- d. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
- e. The Agency may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity;

7.9 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 issued during the time period from July 1, 2006 to July 1, 2009, inclusive, shall be valid for more than eleven (11) years; and
- no permit issued prior to July 1, 2006 or after July 1, 2009 may be valid for more than ten years.

7.10 For any permit application involving property subject to a Conservation Restriction or Preservation Restriction, the following shall apply:

- a. For purposes of this Section, "Conservation Restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will, or other instrument executed by or on behalf of the owner of the land described therein, including but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to retain land or water areas predominantly in their natural , scenic or open condition or in agricultural , farming, 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, relating to property that is subject to a Conservation Restriction or 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 not later than sixty (60) days prior to the filing of the permit application.

- d. In lieu of such notice pursuant to Subsection 7.10c, 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.

7.11 The Agency shall consider waiver requests upon receipt of the application and may determine acceptance of the waivers at that or a later meeting prior to a decision on the application.

- a. Waiver of any application requirement is by majority vote of the members and/or the alternate members present and voting;
- b. A request for waivers must be in writing and on a form prescribed by the Agency;
- c. An applicant may request waiver of all or part of the following requirements:
 - Section 7.5d.(only with respect to wetland soil type and wetland vegetation);
 - Section 7.5e.(iii);
 - Section 7.5f;
 - Section 7.4g;
 - Section 7.4h.(unless determined to be a significant impact activity or a public hearing is held);
 - Section 7.4m.

Section 8 Application Procedures

- 8.1 All applications shall be submitted on forms prescribed and provided by the Agency, to the Inland Wetlands and Watercourses Agency of the Town of Canton at the: Canton Town Hall, Land Use Office, 4 Market Street, Collinsville, CT 06022-0168.

A complete application must be submitted a minimum of ten (10) days before a regular meeting in order to be considered by the Agency at that meeting. Each application shall be reviewed by the Land Use Office to determine whether the application is substantially complete for the purpose of adding the item to the next agenda.

- 8.2 The Agency shall, in accordance with Connecticut General Statutes Section 8-7d (f), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request, or plan concerning any project on any site in which:
- a. any portion of the property affected by a decision of the agency is within five hundred (500) feet of the boundary of an adjoining municipality;
 - b. 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. significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
 - d. water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of receipt of the application, petition, appeal, request, or plan.

- 8.3 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 25-32a of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner provided such water company or commissioner has filed a map showing the boundaries of the watershed on the land records of the Town of Canton and with the Inland Wetlands and Watercourses Agency of the Town of Canton. Such notice shall be made by certified mail, return receipt requested and shall be mailed not later than seven (7) days after the date of the application. The water company, and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application.

- 8.4 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency or its Agent of such petition, application, request or appeal or thirty-five (35) days after such submission, whichever is sooner.
- 8.5 At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in Section 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection during normal business hours.
- 8.7 An incomplete application or an application submitted without the requisite fee shall be denied.

Section 9 Public Hearings

- 9.1 The Agency shall not hold a public hearing on an application unless:
- a. Agency determines that the proposed activity may have a significant impact on wetlands or watercourses; or
 - b. A petition signed by at least twenty-five (25) persons who are 18 years of age or older and who reside in the Town of Canton, requesting a hearing is filed with the Agency not later than 14 days after the date of receipt of such application; or
 - c. 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 on or before the fourteenth (14th) day after the date of receipt of the application. Such hearing shall be held no later than sixty-five (65) days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection during normal business hours. Any person may appear and be heard at any public hearing.

- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 Notice of the public hearing shall be mailed by the applicant. Such notice shall be made by certified mail, return receipt requested to the owner(s) of record of land within 100 feet of the boundary of the subject property, no less than fifteen (15) days prior to the day of the hearing.
- 9.4 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(ies) has received notice of the pendency of the application by the Agency. Such notice shall be made by certified mail, return receipt requested
- 9.5 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 25-32a 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 in the form of Postal Service Form 3800, Receipt for Certified Mail, and Postal Service Form 3811, Domestic Return Receipt, as may

be amended by the postal service, and shall be mailed within seven (7) 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.

9.6 In the event of a public hearing:

- a. A sign must be posted on the subject site in a location visible from a public street. If the site is large, it is recommended that several signs be posted along the street frontage.
- b. The sign is available from the Land Use Office. A deposit of \$75 will be collected and refunded to the applicant upon return of the sign in good condition.
- c. The sign must be posted for at least seven (7) consecutive days prior to the hearing.
- d. An affidavit stating that the sign has been properly posted shall be provided for the Inland Wetlands and Watercourses Agency files.
- e. If such sign has not been posted prior to the public hearing, the hearing shall not be opened by the Agency.

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. Information gained at site walks.
 - c. Public comments, evidence and testimony obtained during a public hearing.
 - d. Reports from other agencies and commissions including but not limited to the Town of Canton's:
 - (a) Conservation Commission
 - (b) Planning Commission
 - (c) Zoning Commission
 - (d) Zoning Board of Appeals
 - (e) Building Official
 - (f) Health Officer
 - (g) Town Planner
 - (h) Fire Chief
 - (i) Police Chief
 - (j) Director of Public Works
 - (k) Other Town Official, Board, Commission, or Public Agency
 - e. The Agency may also consider information contained in or on reports, books, manuals, papers, maps, drawings, and other forms of media both physical and electronic that bear upon the application, including the Plan of Conservation and Development.
 - f. The Agency may also consider comments on any application from the Department of Energy and Environmental Protection, the US Fish and Wildlife Service, the US Environmental Protection Agency, the Hartford County Soil and Water Conservation District, the Capitol Region Council of Governments, or other local, state, federal, or regional organizations which may be affected by or hold an interest in the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
 - g. Non-receipt of comments from agencies and commissions listed in Section 10.1d within the prescribed time shall neither delay nor prejudice the decision of the Agency.
 - h. The Agency is not precluded from incorporating information known to Agency members by their own observations and familiarity with the area.
- 10.2 For purposes of this Section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands and watercourses and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.

- 10.3 Criteria for Decision: In carrying out the purposes and policies of Section 22a-36 to 22a-45a, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:
- a. The environmental impact of the proposed regulated activity on wetlands or watercourses;
 - b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses;
 - c. The relationship between the short term and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
 - d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
 - e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
 - f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.
- 10.4 In the case of an application where the applicant has provided written notice pursuant to Subsection 7.10c of these regulations, the holder of the restriction may provide proof to the Inland Wetlands and Watercourses 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 Agency shall not grant the permit approval
- 10.5 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 Section 10.2 of this section. The finding and the reasons therefore shall be stated on the record in writing.

- 10.6 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record in writing the types of alternatives which the applicant may investigate provided this section shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.7 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.
- 10.8 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and (Section 22a-36 to 22a-45a, inclusive, of the Connecticut General Statutes) the Act.
- 10.9 In the case of an application where the applicant fails to comply with the provisions of Subsections 7.10c or 7.10d of these regulations, the party holding the Conservation or Preservation Restriction may, not later than fifteen (15) days after receipt of actual notice of permit approval, file an appeal with the Agency, subject to the rules and regulations of the Agency relating to appeals. The Agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction.

Section 11

Decision Process and Permit

- 11.1 The Agency, or its duly authorized Agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and 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 General provisions in the issuance of all permits:
- a. The Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
 - b. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Canton, 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 pertinent to the subject land or activity.
 - c. If the activity authorized by the Agency's permit also involves an activity which requires Zoning or Subdivision approval, special permit, variance or special exception under Section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
 - d. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
 - e. Permits are not transferable without the prior written consent of the Agency.
- 11.3 Any permit issued by the Agency prior to July 1, 2006 or after July 1, 2009 for the development of property for which an approval is required by the Planning or the Zoning Commissions under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five (5) years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two (2) years and not more than five (5) years. The permit may be renewed in conformance with Section 7.10 of these Regulations. Any permit issued by the Agency during the time period from July 1, 2006 to July 1, 2009, inclusive, shall expire not less than six (6) years after the date of such approval.

- 11.3 No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on 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 such application. The failure of the Agency to act within any time period specified in this Subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.
- 11.4 The Agency shall state upon its record the reasons and bases for its decision.
- 11.5 The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested and the Agency shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen day period, the applicant may provide for the publication of such notice within ten days thereafter.
- 11.6 If an activity authorized by an inland wetland permit also involves an activity which requires a Zoning or Subdivision approval, or variance or special exception, under Sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Agency shall file a copy of the decision and report on the application with the Planning Commission, Zoning Commission, or Zoning Board of Appeals as may be applicable within fifteen (15) days of the date of the decision thereon.
- 11.7 If a bond or insurance is required in accordance with Section 13 of these regulations, the Agency may withhold issuing the permit until such bond or insurance is provided.
- 11.8 No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.
- 11.9 Prior to the commencement of the activity for which a permit has been granted, the permittee shall post a notice of the permit in a prominent location on the property visible from the street. The permit shall remain posted in its location for the duration of the activity. The posted permit shall be brightly colored and shall either be laminated or placed in a weather-proof, transparent, plastic bag.
- 11.10 Subject to the discretion of the Agency, the applicant may be required to submit dated photographic evidence of the completed project.

Section 12

Action by Duly Authorized Agent

- 12 .1 The Agency may delegate to its duly authorized Agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such Agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such Agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the 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 Section 8, 9 and 11 of these regulations, such Agent may approve or extend such an activity at any time.
- 12.2 After the duly authorized Agent grants such approval, the Land Use Office shall, within ten (10) days of the date of such approval, publish 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 (15) 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 and 8 of these regulations.
- 12.3 The Agent shall inform the Agency of permits issued by the Agent at the next Regular Meeting after such action(s).

Section 13

Bond and Insurance

- 13.1 The Agency may require, as a permit condition, the filing of a bond with such surety, and in such amount and in a form approved by the Agency. Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Agency, be required to post security for the faithful performance of the work approved by the Agency. The Agency may also require insurance in such amounts and types as it may deem necessary to protect the public interest. The form of such security and insurance shall be approved by the Agency in consultation with the Town's insurance agent and attorney.

- 13.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

Section 14 Enforcement

- 14.1 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.
- 14.2 The Agency or its Agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued with the consent of the property owner or the authorized agent of the property owner during the life of the permit.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Agency or its Agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 If the 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 (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this Subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the 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 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 file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Section 14.4.a or other enforcement proceedings as provided by law.

- 14.5 The Agency may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.
- 14.6 The Agency may impose and enforce such fines authorized by law.

Section 15

Amendments to Regulations and Map

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Canton may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this Section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3 These regulations and the Town of Canton Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Energy and Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five (35) days before the public hearing.
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Town of Canton, Connecticut", shall contain at least the following information:
 - a. The petitioner's name, mailing address and telephone number;
 - b. The address, or location, of the land affected by the petition;
 - c. The petitioner's interest in the land affected by the petition
 - d. Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
 - e. The reasons for the requested action.
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Town of Canton, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such

an owner, developer or purchaser, in addition to the information required in Section 15.4, the petition shall include:

- a. The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
- b. The names and mailing addresses of the owners of abutting land;
- c. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
- d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.

- 15.6 Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 15.7 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having substantial circulation in the municipality at least twice (2) at intervals of not less than two days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing. All materials including maps and documents relating to the petition shall be open for public inspection.
- 15.8 The Agency shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty five (65) days after receipt of such petition. The hearing shall be completed within thirty five (35) days of commencement. The Agency shall act upon the changes requested in such petition sixty five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one (1) or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty five (65) days, or may withdraw such petition. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.9 The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

Section 16

Appeals

- 16.1 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.
- 16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

Section 17

Conflict and Severance

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

Section 18

Other Permits

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

Section 19 Application Fees

- 19.1 Method of Payment. All fees required by these regulations shall be submitted to the Agency by check, cash, or money order payable to the "Town of Canton" at the time the application is filed with the Agency.
- 19.2 No application shall be granted or approved by the Agency unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to Section 19.7 of these regulations.
- 19.3 The application fee is not refundable unless a waiver has been granted by the Agency under Section 19.7 of these regulations.
- 19.4 Definitions: As used in this Section:

"Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

"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.

"Other uses" means activities other than residential uses or commercial uses.

- 19.5 Fee Schedule: Application fees shall be based on the following schedule:
- **All fees listed under this Subsection shall include an additional \$60.00 fee mandated by the State of Connecticut under Connecticut General Statutes Section's 22a-27 (subject to change)**

A. Regulated Uses:

- | | |
|---|------------------------------|
| 1. Regulated Activities on existing residential lots
(including Authorized Agent approvals) | \$100 |
| 2. Residential Subdivision | \$200
plus the following: |
| a. Without new roads or storm drainage
(for each lot with proposed activities in the regulated area) | \$50
(per lot) |
| b. With new roads
(for each lot with proposed activities in the regulated area
and additional \$200 for each 1,000 linear feet of road or any
part thereof). | \$50
(per lot) |

3. Commercial, Industrial and Multi-Family Mixed (as allowed by the Canton Zoning Regulations) Based on 1,000 sq. ft. of new impervious coverage (or any part thereof). Gravel areas are to be included in the calculation.	\$200 plus the following:
a. Up to 5,000 sq. ft.	\$200
b. 5,001 sq. ft to 50,000 sq. ft.	\$200 plus \$5/1,000 sq. ft in excess of 5,000 sq. ft.
c. Over 50,000 sq. ft.	\$650 plus \$3/1,000 sq. ft in excess of 50,000 sq. ft.
B. Public Hearing Fee	\$300 If applicable

When it has been decided that a public hearing is required per Section 9 of these regulations and the fee required in Subsection a. above is less than \$500, the applicant must submit this additional fee to the Agency prior to or at the commencement of the public hearing. Failure to submit the payment of such fee will find the application incomplete and be reason for denial.

C. Complex Application Fee	cost to be determined
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The Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not be limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts. The Agency or the duly authorized Agent shall estimate the complex application fee which shall be paid pursuant to Section 19.1 of these regulations with 10 days of the applicant's receipt or notice of such estimate. Any portion of the complex application fee in excess of the actual cost shall be refunded to the applicant no later than 30 days after publication of the agency's decision.

D. Permitted and Non-regulated Uses:	
1. Permitted Uses as of Right	No Fee
2. Non-Regulated Uses	No Fee
E. Regulation Amendment Petitions	\$200
F. Map Amendment Petitions	\$350

G. Modification of Previous Approval	\$100 (plus Public Hearing fee if required)
H. Renewal of Previous Approval	\$100
I. Appeal or Reconsideration of Previous IWWA Decision	\$100
J. Monitoring Compliance Fee	As required by Agency

Fees for monitoring/inspecting a site by the Agency and/or its authorized Agent(s) are additional fees and may be established at the time of the granting of the permit as follows:

1. \$300 for an anticipated need of a high level of inspection (9+ inspections) required during the course of the regulated activity;
2. \$100 for an anticipated need of a medium level of inspections (3-8 inspections) required during the course of the regulated activity;
3. No charge for an anticipated need of a low level of inspection (1-2 inspections) required during the course of the regulated activity.

As a condition of any permit, the Agency may require that the applicant engage and pay for an independent consultant to report to the agency the results of project monitoring and/or inspections. The consultant shall monitor and/or inspect on a schedule determined by the Agency. The consultant shall send written reports on performance on a schedule determined by the Agency simultaneously to both the Agency and the applicant.

- 19.6 Exemption: Boards commissions, councils and departments of the Town of Canton are exempt from all fee requirements.
- 19.7 Waiver: The applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Agency may waive all or part of the application fee if the Agency determines that:
 - a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee or;
 - b. The amount of the application fee is clearly excessive in relation to the cost to the town for reviewing and processing the application.
 - c. The applicant has shown good cause.

The Agency shall state upon its record the basis for all actions under this Subsection.

Section 20
Effective Date of Regulations

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

APPENDIX
Connecticut General Statutes Section 1-1(q) –
“Agriculture” and “Farming” Defined.

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