

# INLANDS WETLANDS AND WATERCOURSES

## ARTICLE 1 General Provisions

### §271-1. Title and Authority.

- A. 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.
- (1) 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.
  - (2) 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.
- B. 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.

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### **§271-2. Title.**

These Regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Guilford".

### **§271-3. Inland Wetlands Commission.**

The Inland Wetlands and Watercourses Commission of the Town of Guilford was established in accordance with an ordinance adopted 24 November 1973 and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Guilford.

### **§271-4. Adoption.**

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.

### **§271-5. Enforcement.**

The Commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue with terms, conditions, limitations or modifications, and deny permits for all regulated activities on inland wetlands and watercourses in the Town of Guilford pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended. [**Amended 12-21-2000**]

## ARTICLE 2

### **General Provisions**

### **§271-6. Definitions.**

As used in these Regulations, the following terms shall have the meanings indicated:

ACT" - The Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the General Statutes, as amended.

"AGENCY" - The Inland Wetlands Commission of the Town of Guilford. [**Added 12-21-2000**]

“AQUIFER PROTECTION ZONE” - Area of contribution Level B. [**Added 12-21-2000**]

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"BOGS" - Areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

"CLEAR-CUTTING" - The harvest of timber in a fashion which removes all trees down to a 2" diameter at breast height.

"COMMISSION" - The Inland Wetlands and Watercourses Commission of the Town of Guilford.

"COMMISSION MEMBER" - A member or a seated alternate of the Inland Wetlands and Watercourses Commission of the Town of Guilford.

"COMMISSIONER OF ENVIRONMENTAL PROTECTION" - The Commissioner of the State of Connecticut Department of Environmental Protection.

"CONTINUAL FLOW" - 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. [**Added 12-21-2000**]

"DEPOSIT" - Includes, but shall not be limited to, fill, grade, dump, place, discharge, or emit.

"DESIGNATED AGENT" - An individual designated by the Commission to carry out its functions and purposes.

"DISCHARGE" - Emission of any water, substance, or material into wetlands or watercourses, whether or not such substance causes pollution.

"DISTURB THE NATURAL AND INDIGENOUS CHARACTER OF THE LAND" - To alter the inland wetlands and watercourses by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse. [**Amended 12-21-2000**]

"ESSENTIAL TO THE FARMING OPERATION" - That the proposed activity is necessary and indispensable to sustain farming activities on the farm.

"FARMING" - Use of land for the growing of crops, raising of livestock or other agricultural use.

"FEASIBLE" - Able to be constructed or implemented consistent with sound engineering principles. [**Added 12-21-2000**]

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"MANAGEMENT PRACTICE" - 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. [**Added 12-21-2000**]

"MARSHEs" - Areas with soils that exhibit aquic moisture regimes and 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 fluctuations are encountered. [**Amended 12-21-2000**]

"MATERIAL" - 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. [**Amended 12-21-2000**]

"MUNICIPALITY" - The Town of Guilford. [**Added 12-21-2000**]

"NURSERIES" - Land used for propagating trees, shrubs, or other plants for transplanting, sale, or for use as stock for grafting.

"PERMIT" - The whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these regulations and the Act or other municipal, state and federal law. [**Amended 12-21-2000**]

"PERMITTEE" - The person to whom a permit has been issued. [**Amended 12-21-2000**]

"PERSON" - Any person, firm, partnership, association, corporation, company, organization, or legal entity of any kind, including municipal corporations, governmental agencies, or subdivisions thereof.

"POLLUTION" - 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. [**Amended 12-21-2000**]

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“PRUDENT” - 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. [**Added 12-21-2000**]

"REGULATED ACTIVITY" - 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. This shall not include the specified activities in Article IV of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water within an upland review area is a regulated activity. The Commission may rule that any other activity located inside or outside the 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. [**Amended 12-21-2000; 08-13-03**]

“REGULATED AREA” - Regulated Area means any wetlands or watercourse as defined in these regulations. [**Amended 5-9-2001.**]

"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" - 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" - Any activity, including, but not limited to, the following activities which may have a major effect or significant impact. [**Amended 5-9-2001.**]

1. Any activity involving deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system. [**Amended 12-21-2000**]
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system. [**Amended 12-21-2000**]
3. 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 perform other functions. [**Amended 12-21-2000**]

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4. Any activity which causes or has the potential to cause substantial turbidity, siltation, or sedimentation in a wetland or watercourse. [**Amended 12-21-2000**]
5. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area. [**Amended 12-21-2000**]
6. Any activity which is likely to cause or has the potential to cause, pollution of a wetland or watercourse. [**Amended 12-21-2000**]
7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value. [**Amended 12-21-2000**]

"SOIL SCIENTIST" - An individual duly qualified in accordance with standards set by the Federal Office of Personnel Management. [**Amended 12-21-2000**]

"SWAMPS" - Areas with soils that exhibit aquatic moisture regimes and are distinguished by the dominance of wetland trees and shrubs. [**Amended 12-21-2000**]

"SUBMERGED LANDS" - Lands which are inundated by water on a seasonal or more frequent basis.

"TOWN" - The Town of Guilford. [**Added 12-21-2000**]

"WASTE" - Sewage or any substance, liquid, gaseous, solid, or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town. [**Amended 12-21-2000**]

"UPLAND REVIEW AREA" – An area within one (100) feet measured horizontally from the boundary of all wetlands or watercourses. [**Added 08-13-2003; Amended 9-17-2004**]

"WATERCOURSE" - Rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through, or border upon the Town, or any portion thereof, not regulated pursuant to Sections 22a-28 to 22a-35, inclusive, of the General Statutes, as amended. These watercourses are generally shown for informational purposes only on a map on file in the Town Hall entitled, "Designated Inland Wetlands and Water Courses of the Town of Guilford, Connecticut". 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

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than a particular storm incident, and(C) the presence of hydrophytic vegetation.  
[Amended 12-21-2000]

"WETLANDS" - Land, including submerged land, not regulated pursuant to Sections 22a-28 to 22a-35 inclusive of the General Statues, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the land, including submerged land, not regulated pursuant to Sections 22a-28 to 22a-35 inclusive, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and flood plain by the National Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the U.S. Department of Agriculture. 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. [Amended 5-9-2001.]

### ARTICLE 3 Inventory of Regulated Areas

#### **§271-7. Inland Wetlands and Watercourses Map.**

The map of regulated areas entitled, "Designated Inland Wetlands and Watercourses of the Town of Guilford, Connecticut", delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the offices of the Town Clerk or the Inland Wetlands Commission. 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 locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a soil scientist where soil classifications are required or, where watercourse determinations are required, by other qualified individuals. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses. [Amended 12-21-2000]

#### **§271-8. Petition for map change.**

Any 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 Commission 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 inapplicable. Documentation in accordance with Article 15 of these Regulations may be required of property owner when the Commission requires an accurate delineation of regulated areas. [Amended 12-21-2000]

#### **§271-9. Records; map amendments.**

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The Inland Wetlands Commission or its designated agent(s) shall maintain a current inventory of all regulated areas within the Town. The Commission may amend its map as more accurate information becomes available. Any person may petition for an amendment to the map. Petitioners shall bear the burden of proof for all requested map amendments. Such proof may include, but not be limited to, aerial photography, remote sensing imagery, resource mapping or other available information. Such map amendments are subject to the public hearing process outlined in Article 15 of these regulations. [**Amended 12-21-2000**]

### ARTICLE 4

#### Permitted Uses and Non-regulated Uses

##### §271-10. Permitted uses 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. The provisions of this subsection shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel, or similar material from wetlands or watercourses for the purposes of sale; [**Amended 12-21-2000**] 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. [**Amended 5-9-2001.**]
- B. A residential home (i) for which a building permit has been issued, or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Planning and Zoning Commission as of the effective date of promulgation of the municipal regulations pursuant to Subsection (b) of Section 22a-42a, or as of July 1, 1974, whichever 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 of 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, house and well locations, septic system, driveway, approval date, or other necessary information to document his entitlement;
- C. Boat anchorage or mooring, not to include dredging or dock construction;
- D. Uses incidental to the enjoyment or maintenance of residential property, such property

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defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the Town and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse.

- E. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs, and other facilities necessary to the impounding, storage, and withdrawal of water in connection with public water supplies, except as provided in Sections 22a-401 and 22a-410 of the Connecticut General Statutes. [**Amended 12-21-2000**]
- F. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided that such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subsection, "Maintenance" means the removal of accumulated leaves, soil, and other debris, whether by hand or machine, while the pipe remains in place. [**Added 12-21-2000**]

### **§271-11. Non-regulated uses.**

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: [**Amended 12-21-2000**]

- 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.

### **§271-12. Permit required for other uses.**

All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, clearing, or grading, or any other alteration or use of a wetland or watercourse not specifically permitted by this Section and otherwise defined as a regulated activity by these regulations shall

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require a permit from the Commission in accordance with Article 6 of these Regulations.  
[Amended 12-21-2000]

### §271-13. Review of proposed use by Commission.

To carry out the purposes of this Article, any person proposing to carry out a permitted or non-regulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation or use, notify the Commission on a form provided by it, and provide the Commission 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 Commission or its designated agent shall rule that the proposed operation or use is a permitted or a non-regulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Commission following the meeting at which the request was received. The designated agent for the Commission may make such ruling on behalf of the Commission at any time. [Amended 12-21-2000]

## ARTICLE 5

### Activities Regulated by the State

### §271-14. Jurisdiction.

In addition to any permit or approval required by the Commission, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses, subject to the following jurisdiction:

- A. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-411 of the Connecticut General Statutes, as amended; [Amended 12-21-2000]
- B. Construction, encroachment or placement of any structure or obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349a of the Connecticut General Statutes, as amended; [Amended 12-21-2000]
- C. Construction or placement of any structure or obstruction within the tidal, coastal, or navigable waters of the State pursuant to Sections 22a-359 through 22a-363, or in designated tidal wetlands pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended; [Amended 12-21-2000]
- D. 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 100 acres or

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larger, pursuant to Sections 22a-365 through 22a-378a of the Connecticut General Statutes, as amended; [**Amended 12-21-2000**]

- E. Discharges into the waters of the State, pursuant to Section 22a-430 of the General Statutes, as amended; and [**Amended 12-21-2000**]
- F. Discharge of fill or dredged materials into the wetlands and watercourses of the State, pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

### **§271-15. Activities undertaken by state agencies.**

The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities and other activities in or affecting wetlands or watercourses undertaken by any department, agency, or instrumentality of the State of Connecticut, except any local or regional Board of Education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes. [**Amended 12-21-2000**]

### **§271-16. Tidal wetlands, dam repair and removal.**

- 1. The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes as amended. [**Amended 12-21-2000**]
- 2. The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under sections 22a-403 or 22a-41 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or dam construction permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit. [**Added 12-21-2000**]

## ARTICLE 6

### **Regulated Activities to be Licensed**

#### **§271-17. Permit required.**

No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Commission of the Town of Guilford.

#### **§271-18. Penalties for offenses.**

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Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Inland Wetlands Commission of the Town of Guilford, or violating any other provision of these Regulations, shall be subject to the enforcement proceedings and penalties prescribed in Article 14 of these Regulations and any other remedies as provided by law. **[Amended 12-21-2000]**

### ARTICLE 7

#### **Application Requirements**

##### **§271-19. Forms.**

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 entitled "Guilford Inland Wetlands Commission - Application." An application shall include an application form and such information as prescribed by §271-22 and, in the case of a significant activity, by §271-23 of these regulations. Application forms may be obtained in the office of the Guilford Inland Wetlands Commission. The application shall contain the information described in this Article and any other information the Guilford Inland Wetlands Commission may reasonably require. **[Amended 12-21-2000]**

If an application to the Town of Guilford Planning and Zoning Commission for subdivision or re-subdivision of land involves land containing a wetland, watercourse or regulated area, 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 Guilford Inland Wetlands Commission in accordance with this Article, no later than the day the application is filed with the Guilford Planning and Zoning Commission. **[Added 12-21-2000]**

##### **§271-20. Necessary Information.**

The application shall contain such information as is necessary for a fair and informed determination thereon by the Guilford Inland Wetlands Commission. **[Amended 12-21-2000]**

##### **§271-21. Pre-application meeting.**

An applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity. **[Amended 12-21-2000]**

##### **§271-22. Information to be provided.**

All applications shall include the following information in writing or on maps or drawings: **[Amended 12-21-2000]**

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- A. The applicant's name, home and business mailing addresses and telephone numbers. **[Amended 12-21-2000]**
- B. The owner's name, address, telephone number, and written consent, if applicant is not the owner of the property involved in the application.
- C. The applicant's interest in the land.
- D. A map showing:
  - (1) The geographical location of the land which is the subject of the proposed activity. **[Amended 12-21-2000]**
  - (2) Inland wetlands and watercourses boundaries marked with flag numbers by a soil scientist. **[Amended 12-21-2000]**
  - (3) Area(s) in acres or square feet of wetlands or watercourses to be disturbed. **[Amended 12-21-2000]**
  - (4) Soil types.
  - (5) Vegetation.
  - (6) If a land surveyor or a professional engineer prepares the map it must bear the seal of a registered land surveyor or professional engineer. **[Amended 08-08-07]**
- 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. **[Amended 12-21-2000]**
- F. Alternatives considered and subsequently rejected by the applicant and reasons why the proposal to alter wetlands as set forth in the application was chosen; all such alternatives shall be diagramed on a site Plan or drawings. **[Amended 12-21-2000]**
- G. A site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable

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by the proposed regulated activity and which may have an impact on wetlands or watercourses. [**Amended 12-21-2000**]

- H. The names and mailing addresses of adjacent land owners.
- I. Statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information. [**Amended 12-21-2000**]
- J. Authorization for the Commissioners and agents of the Commission to inspect the subject land, at reasonable times, both before and after a final decision has been issued. [**Amended 12-21-2000**]
- K. A completed DEP reporting form; the Commission shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies. [**Added 12-21-2000**]
- L. Any other information the Commission deems necessary to the understanding of what the applicant is proposing; and submission of the appropriate filing fee based on the fee schedule established in Article 19 of these Regulations. [**Amended 12-21-2000**]

### **§ 271-23. Additional information for significant activities.**

If the proposed activity involves a significant activity as determined by the Commission and defined in § 271-6 of these Regulations, additional information based on the nature and anticipated effects of the activity, including, but not limited to, the following is required: [**Amended 12-21-2000**]

- A. Site plans for the proposed activity and the land which will be affected thereby, which show existing and proposed conditions, wetlands 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 bearing the seal of a registered professional land surveyor, professional engineer, or landscape architect licensed by the State of Connecticut, or by such other qualified person; [**Amended 08-08-07**]
- B. Engineering reports and analyses and additional drawings to fully describe the proposed project including any filling, excavation, drainage, or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan; [**Amended 12-21-2000**]

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- C. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and that the field delineation be depicted on the site plans; [**Amended 12-21-2000**]
- 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; [**Amended 12-21-2000**]
- 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 or within two hundred (200) feet of the property line, and with each alternative, a description of why each alternative considered was deemed neither feasible nor prudent; [**Amended 12-21-2000**]
- 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. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses, and natural habitats or re-vegetation which prevent flooding, degradation of water quality, erosion and sedimentation, and obstruction of drainage, or which otherwise safeguard water resources. [**Amended 12-21-2000**]

### **271-24. Impact on adjoining 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 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.

### **§ 271-25. Submission of materials.**

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Five (5) copies of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed, in writing, by the Inland Wetlands Commission. **[Amended 12-21-2000]**

### **§ 271-26. Amendment, renewal or extension of permit.**

Any application to renew or amend an existing permit shall be filed with the Commission in accordance with Article 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 Article 7 of these regulations provided: **[Amended 12-21-2000]**

- 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; **[Added 12-21-2000]**
- 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; **[Amended 12-21-2000]**
- E. The Commission may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity. **[Amended 12-21-2000]**
- F. The Commission shall evaluate the application pursuant to Article 10 of these Regulations and grant the application as filed, grant it with any terms or limitations, or deny it. **[Amended 12-21-2000]**

Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years. **[Added 12-21-2000]**

### ARTICLE 8 **Application Procedures**

When an application to conduct or cause to be conducted a regulated activity upon an inland

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wetland or watercourse is filed and any portion of such wetland or watercourse is within five hundred feet of the boundary of another municipality, the applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the inland wetlands agency of such other municipality. [Added 5-9-2001.]

### § 271-27. Filing.

All applications shall be filed with the Commission.

### §271-28. Notice to adjoining municipality.

A. The Commission shall, in accordance with Connecticut General Statutes Section 22a-42b notify the Town Clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when: [Amended 12-21-2000]

(1) Any portion of the property on which the regulated activity is proposed is located within five hundred (500) feet of the boundary of adjoining municipality;

(2) 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;

(3) A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or

(4) Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

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

### §271-29. Date of receipt.

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 such agency, immediately following the day of submission to such agency or its agent of such petition, application, or request, or appeal or thirty-five days after submission, whichever is sooner.[Amended 9-17-2004.]

### § 271-30. Additional information.

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At any time during the review period, the Commission may require applicant to provide additional information about the regulated area or regulated activity which is the subject of the application, or wetlands or watercourses affected by the regulated activity. Requests for such additional information shall not stay the time limitations as set forth in § 271-42 of these regulations. [Amended 12-21-2000]

### § 271-31. Public inspection; incomplete applications.

- A. All applications shall be open for public inspection.
- B. Incomplete applications may be denied.

### § 271-32. Notice to 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 Agency. [Amended 12-21-2000]

## ARTICLE 9 Public Hearings

### § 271-33. When required.

The Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed .requesting a hearing is filed with the Commission not later than fourteen days after the submission, day of receipt of such application or the Commission finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing provided no petition provided for in this Article is filed with the Commission on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard and may be represented by agent or by attorney. [Amended 12-21-2000; 09-17-2004]

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### § 271-34. Publication of notice.

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. [Amended 12-21-2000]

### § 271-35. Notice to abutting property owner(s).

The application shall include the names and addresses of the current owners whose property boundary comes within 100 feet of the applicant's property as indicated in the Guilford Assessor's records. The applicant shall notify by certified mail all property owners so identified of the pending public hearing. Said notification shall have been mailed at least 15 days prior to the hearing. Proof of certified mail notification shall be submitted to the Commission prior to the public hearing. [Amended 12-21-2000]

### § 271-36. Notice to adjoining municipality(ies).

In the case of any application which is subject to the notification provisions of §271-28 B. of these regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record. [Amended 12-21-2000]

## ARTICLE 10 Review Process

### § 271-37. Consideration for decision.

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

- A. The application and its supporting documentation;
- B. Public comments, evidence, and testimony from a Public Hearings;
- C. Reports from other agencies and commissions including, but not limited to, the Town of Guilford
  - (1) Conservation Commission
  - (2) Planning and Zoning Commission
  - (3) Building Official
  - (4) Director of Health
  - (5) Town Engineer

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- D. The Commission may also consider comments on any application from New Haven County Soil and Water Conservation District; South Central Regional Council of Governments; agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
- E. Non-receipt of comments from agencies and commissions listed in Subsection C and D above within the prescribed time shall neither delay nor prejudice the decision of the Commission. [**Amended 12-21-2000**]

### **§271-38. 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: [**Amended 12-21-2000**]

- A. The environmental impact of the proposed action regulated activity on wetlands or watercourses; [**Amended 12-21-2000**]
- 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; [**Added 12-21-2000**]
- C. 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; [**Amended 12-21-2000**]. The relationship between the short term and long term impacts to the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long term productivity of such wetlands or watercourses." [**Added 5-9-2001.**]
- D. 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. [**Amended 5-9-2001**]

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- E. 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. [**Added 12-21-2000**]

### **§ 271-39. Finding that alternative does not exist.**

- A. In the case of an application which received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in § 271-38 of this Article. The finding and the reasons therefore shall be stated on the record in writing. [**Amended 12-21-2000**]
- B. 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 Commission shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity. [**Amended 12-21-2000**]

### **§ 271-40. Decision to be based on record of Public Hearing.**

In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision. 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. [**Amended 12-21-2000**]

## ARTICLE 11 **Decision Process and Permits**

### **§ 271-41. Decision of Commission.**

The Commission, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include

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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. [Amended 5-9- 2001.]

### **§ 271-42. Time limits for hearing decision.**

No later than sixty-five (65) days after receipt of an application, the Commission may hold a Public Hearing on such application. The Hearing shall be completed within thirty-five (35) 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. An application deemed incomplete by the Commission must either be withdrawn by the applicant or denied by the Commission. 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 Commission to act within any time period specified in this Subsection, or any extension thereof, shall not be deemed to constitute approval of the application. [Amended 08-08-07]

### **§ 271-43. Records.**

The Commission shall state upon its record the reasons and bases for its decision and, in the case of any Public Hearing, such decision shall be based fully on the record of such Hearing and shall be in writing and shall as applicable and in accordance with Article 10 of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives. [Amended 12-21-2000]

### **§ 271-44. Notice of decision.**

The Commission shall notify applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its order in the issuance or denial of the permit to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter. [Amended 12-21-2000]

### **§ 271-45. Duration of permit.**

Any permit issued by the Commission 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

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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. **[Added 12-21-2000]**

### **§ 271-46. Transfer of permit.**

No permit shall be assigned or transferred without the written permission of the Commission.

### **§ 271-47. Bond or insurance.**

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

### **§ 271-48. General Provisions regarding permits.**

- A. In evaluating applications in which the Commission relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete, or inaccurate, the permit may be modified, suspended, or revoked.
- B. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Guilford, and convey no rights in real estate or material, nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property or activity.
- C. If the activity authorized by the inland wetlands permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance, or special exception, under sections 8.3(g), 8.3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetlands permit may begin until such approval is obtained. **[Amended 12-21-2000]**
- 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. **[Amended 12-21-2000]**
- E. Permits are not transferable without the prior written consent of the Agency. **[Added 12-21-2000]**

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- F. The permittee shall preserve from injury or defacement all vegetation designated to be left in the given areas shown on the plan. If the activity authorized by the inland wetlands permit involves re-vegetation, the permittee is responsible for following plant health care techniques to achieve maximum plant survival. The replanted areas will be inspected regularly up two (2) years after completion of work and the permittee will be required to replace any damaged existing plants designated to be preserved and any re-vegetation which has not survived. A bond may be required to assure that the requirements of this section are fulfilled. **[Added 12-21-2000]**

### ARTICLE 12

#### **Action By Duly Authorized Agent**

##### **§ 271-49. Action by Duly Authorized Agent**

- A. The Commission may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under § 271-22 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Articles 8, 9 and 11 of these regulations, the Commission may approve or extend such an activity at any time. **[Added 12-21-2000]**
- B. 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 Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by the Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Article 7 of these regulations. **[Added 12-21-2000]**

### ARTICLE 13

#### **Bond and Insurance**

##### **§271-50. Bond.**

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

### **§ 271-51. Insurance.**

The Commission may require applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount to be determined by the Commission commensurate with the regulated activity.

## ARTICLE 14 **Enforcement**

### **§ 271-52. Agent of Commission.**

The Commission may appoint an agent or agents to act in its behalf with the authority to inspect any public or private property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these Regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for decision under § 271-38 of these regulations. [Amended 12-21-2000]

### **§ 271-53. Inspections.**

The Commission or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these Regulations. [Amended 12-21-2000]

### **§ 271-54. Orders; suspension or revocation of permit; notice of violation.**

If the Commission 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 Commission or its duly authorized agent may:

- A. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or 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 Commission shall hold a hearing to provide the person an opportunity to

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be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission 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 applicant has not complied with the terms, conditions, or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application, including application plans. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. At a hearing, the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality. **[Amended 12-21-2000]**
- C. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation, including without limitation, halting work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly-scheduled meeting of the Commission to discuss the unauthorized activity and/or provide a written reply to the notice or the filing of 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 § 271-54 A. of this Article or other enforcement proceedings as provided by law. **[Amended 12-21-2000]**

### ARTICLE 15 Amendments

#### § 271-55. Effect on existing applications.

These Regulations and the Inland Wetlands and Watercourses Map for the Town of Guilford may be amended from time to time by the Commission in accordance with changes in the Connecticut General Statutes or Regulations of the State Department of Environmental

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Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

An application filed with the Commission 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 Commission 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. [**Amended 12-21-2000**]

### **§ 271-56. Procedure.**

These Regulations and the Town of Guilford Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five (35) days before the Public Hearing on their adoption. Application forms and fee schedules shall be considered as part of the Commission Regulations. [**Amended 12-21-2000**]

### **§ 271-57. Amendments.**

Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Guilford, Connecticut", shall contain at least the following information:

- A. The petitioner's name, mailing address, and telephone number;
- B. The owner's name (if not the petitioner, address, telephone number, and a written consent to the proposed action set forth in the application; [**Amended 12-21-2000**])
- C. The address, or location, of the land affected by the petition;
- D. The petitioner's interest in the land affected by the petition; [**Amended 12-21-2000**]
- E. 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. [**Amended 12-21-2000**]

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F. The reasons for the requested action;

**§ 271-58. Documentation of soil type.**

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Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Guilford, 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 Commission. 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 § 271-57, the petition shall include: **[Added 12-21-2000]**

- A. The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative; **[Added 12-21-2000]**
- B. The names and mailing addresses of the owners of abutting land; **[Added 12-21-2000]**
- 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 **[Added 12-21-2000]**
- D. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries. **[Amended 12-21-2000]**

### **§ 271-59. Delineation of watercourses.**

Watercourses shall be delineated by a soil scientist, geologist, ecologist, or other qualified individual.

### **§ 271-60. Public hearing.**

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 (2) days, the first not more than fifteen days nor less than ten days, and the last not less than two (2) days, before such Hearing. A copy of such proposed boundary change shall be filed in the Office of the Town Clerk for public inspection at least ten (10) days before such Hearing.

### **§ 271-61. Time limits for hearing and action.**

Within ninety (90) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Commission shall hold a Public Hearing to consider the petition. The Commission 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

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period specified in this Subsection for the holding of the Hearing and for action on such petition, provided the total extension of any such period shall not be for longer than the original period as specified in this Subsection, or may withdraw such petition. The failure of the Commission to act within any time period specified in this Subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

### **§ 271-62. Decision.**

The Commission shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

## ARTICLE 16 **Appeals**

### **§ 271-63. Procedure.**

Appeal on actions of the Commission shall be made in accordance with the provisions of Section 22a-43 of the General Statutes, as amended.

### **§ 271-64. Notice.**

Notice of such appeal shall be served upon the Commission and the Commissioner of Environmental Protection.

## ARTICLE 17 **Conflicts; Severability; Additional Permits; When Effective**

### **§ 271-65. Conflict between provisions; severability.**

- A. 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.
- B. If there is a conflict between the provisions of these regulations and the provisions of the Act, the provision of the Act shall govern. [Added 12-21-2000]

## ARTICLE 18 **Other Permits**

### **§ 271-66. Required licenses and permits.**

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

### ARTICLE 19 Application Fees

#### § 271-67. Payment.

- A. Method of Payment. With the exception of any complex application fee charged by the Commission pursuant to subsection J., all fees required by these Regulations shall be submitted to the Commission at the time the application is filed.
- B. Payment required. No application shall be granted or approved by the Commission unless the correct application fee is paid in full or unless a waiver has been granted by the Commission pursuant to § 271-67. G. of these regulations. [**Amended 12-21-2000**]
- C. The application fee is not refundable.
- D. Definitions. As used in this Article, the following terms shall have the meanings indicated:
  - 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.
- E. Fee Schedule. Application fees shall be based on the following schedule:
  - (1) **Boundary clarification or map amendment**, which shall include approval of a map showing the boundaries in enough detailed survey information to permit their location in the field. Usually at a scale of 1 inch equals 10 feet to 1 inch equals 100 feet: \$175.00 Plus fee from Schedule B in this Section. Amended 04-24-2004]
  - (2) **REGULATED USES-Article 6 and § 271-12 of these Regulations.**

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- |            |  |                 |
|------------|--|-----------------|
| <b>a.</b>  | <b>RESIDENTIAL USES</b>  | <b>\$75.00</b>  |
|            | Plus: \$25,00/lot or \$45.00/acre wetlands, rounded to the nearest tenth of an acre, on the property whichever is more. Amended 04-24-2004 |                 |
| <b>b.</b>  | <b>COMMERCIAL USES</b>   | <b>\$75.00</b>  |
|            | Plus: Fee from Schedule A of this Section.   |                 |
| <b>c.</b>  | <b>ALL OTHER USES Amended 04/24/2004</b>   | <b>\$75.00</b>  |
| <b>(3)</b> | <b>SIGNIFICANT ACTIVITY APPLICATION FEE</b>  | <b>\$175.00</b> |
|            | § 273-23 of these Regulations Amended 04-24-2004   |                 |
| <b>(4)</b> | <b>PERMITTED USES AS OF RIGHT (§ 271-10)</b>   | <b>\$ 50.00</b> |
|            | Amended 04-24-2004   |                 |
| <b>(5)</b> | <b>MODIFICATION,EXTENSION OR<br/>TRANSFER OF PREVIOUS APPROVAL</b>   | <b>\$ 50.00</b> |
- § 271-26 and 271-46 of these Regulations There shall be no fee correcting typographical or other errors. Amended 04-24-2004**

### SCHEDULE A.

For the purpose of calculating the permit application fee, the regulated area in Schedule A is the total area of wetlands and watercourses upon which a regulated activity is proposed. Amended 04-24-2004

Sq. Ft. Regulated Area	Fee/1000Sq.Ft. of Regulated Area
Less than and including the first 2,500	<b>\$18.00</b>
From 2,501 to 5,000	<b>12.00</b>
For any additional amount over 5,000	<b>6.00</b>

### SCHEDULE B

For the purpose of calculating the map amendment application fee, the regulated area in Schedule B is the total length of wetlands and watercourses boundary subject to the proposed boundary change. Amended 04-24-2004

## INLANDS WETLANDS AND WATERCOURSES

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

### **SAMPLE APPLICATION FEE CALCULATIONS:**

- a.** Ten lot residential subdivision of eleven acres that includes two acres of wetlands and watercourses:

Fee is the greater of:

- 1.) \$75.00 plus 2 X \$45.00 = \$165.00**
- 2.) \$75.00 plus 10 X \$25.00 = \$325.00**

**Fee would be \$325.00**

If the proposed activity is a “significant activity”, add **\$175.00**, which would make the fee 500.00

**Residential development** of a single 2.8 acre building lot that includes 1.3 acres of wetlands and watercourses:

Fee is the greater of:

- 1.) \$75.00 plus 1.3 x \$45.00 = \$133.50**
- 2.) \$75.00 plus 1 x \$25.00 = \$100.00**

**Fee would be \$133.50.**

If the proposed activity is a “significant activity”, add 175.00, which would make the fee **\$308.50.**

**c. Commercial development** of a retail complex involving alteration and/or filling of 37,000 square feet of wetlands and watercourses. The proposed activity is a “significant activity”.

**The application fee is:**

\$75 plus 2.5 X \$18 or \$45 (first 2,500 sq.ft.) plus 34.5 X \$12 or 414 (remaining 34, 5000 sq.ft. plus “significant activity” fee of \$175 = a total \$709.00.

## INLANDS WETLANDS AND WATERCOURSES

- d. Application for a map amendment involving 3,450 linear feet of wetland or watercourse boundary.

**The filing fee is:**

**\$175** plus 5 X \$20 or **\$100 (first 500 ft.)**

plus 5 x \$15 or **\$75 (next 500 ft.)**

plus 24.5 X \$8 or **\$196 (last 2450 ft.)**

for a total application feet of **\$546.**

- F. Exemption boards, commission and departments of the Town of Guilford are exempt from all fee requirements under Subsection E. [**Amended 12-21-2000**]
- G. Waiver. The applicant may petition the Commission to waive, reduce or allow delayed payment of the fee required by Subsection E. Such petitions shall be in writing and shall state fully the facts and circumstances the Commission should consider in its determination under this subsection. [**Amended 12-21-2000**]
- (1) The Commission may waive all or part of the application fee if the Commission determines that:
- (a) The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee; or
  - (b) The amount of the application fee is clearly excessive in relation to the cost to the town for reviewing and processing the application.
- (2) The Commission shall state upon its record the basis for all actions under this subsection.
- H. If more wetlands area or wetlands boundary is found during the site inspection, the applicant shall revise the application as required and shall forward the difference between the full fee required by the revised application and the fee already paid by the applicant to the Guilford Inland Wetlands office prior to the hearing.  
Amended 04-24-2004.
- I. **“After The Fact” APPLICATION FEE:** After The Fact (when Activity has taken place without a permit) shall be double the normal fee for the activity. [**Amended 03-18-05**]

INLAND WETLANDS AND WATERCOURSES

- J. Complex application fee: The Commission may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications, as stated in the Code of the Town of Guilford, Chapter 166, fees, Article III. Such fee may include, but not be limited to, the cost of retaining experts to analyze, review, and report on issues requiring experts. The Commission or the duly authorized agent shall estimate the complex application fee, which shall be paid in full by the applicant within 15 days of the applicant’s receipt of such estimate. Any application with an unpaid fee shall be determined to be incomplete. 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 Commission’s decision. **[Amended 2-15-07]**

ARTICLE 20  
**Records Retention and Disposition**

**§ 271-68. Records.**

- A. The Commission and the Town Clerk for the Town of Guilford shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedules set for in § 271-72 B. **[Added 12-21-2000]**
- B. The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands Agencies effective April 24, 1989: **[Added 12-21-2000]**

<b>RECORD TITLE</b>	<b>MINIMUM RETENTION</b>	
<b>TOWN CLERK</b>	<b>REQUIRED IN AGENCY</b>	
Applications (inc. supporting materials)	10 years	
Decision Letters	10 years	Permanent
Approved Site Plans	10 years	
Legal Notices	10 years	Permanent
Staff and Public Written Testimony (hearing records)	10 years	
Minutes of Meetings &	15 years	Permanent

## INLAND WETLANDS AND WATERCOURSES

Public Hearings

Tapes, Audio-Inland Wetland Matters 4 years

Notices of Violation & Orders 10 years

Text of Changes Adopted Continuous Update/  
In Regulations Permanent

General Correspondence Issued or Received 5 years

### ARTICLE 21

#### **Effective Date of Regulations**

§ 271-69 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 Guilford. [**Amended 12-21-2000**]

## GUILFORD TOWN CODE

### APPENDIX A

### LIST OF MAJOR INLAND WETLANDS AND WATERCOURSES

1. West River
2. East River
3. Hoadley Creek
4. Towner Swamp
5. Wolf Swamp
6. Iron Stream and Swamp
7. Beaverhead Swamp
8. Myer Huber Pond
9. Neck River
10. Lake Quonnipaug
11. Menunkatuck Reservoir
12. Guilford Lakes
13. Lane Pond
14. West Lake
15. Public Water supply Watershed (as located on the Guilford Connecticut Zoning Map and described in § 273- 90.) [**Amended 12-21-2000.**] Such regulation only includes wetlands and watercourses. [**Amended 5-9-2001.**]
16. Aquifer Protection Zone (see § 271-6.) [**Amended 12-21-2000.**] Such regulation only includes wetlands and watercourses. [**Amended 5-9-2001.**]