

PREAMBLE

The inland wetlands and watercourses of the City of Danbury are an indispensable and irreplaceable but fragile natural resource with which the citizens of the City have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water, the hydrological stability and control of flooding and erosion, 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 deposition, filling, or removal of materials, or the diversion or obstruction of water flow, or the pollution of its atmosphere, erection of structures and other uses, all of which have despoiled, polluted, and/or 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 City of Danbury and has imperiled and will continue to imperil the quality of the environment, thus adversely affecting the ecological, scenic, historic, and recreational values and benefits of the City 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 are in the public interest, and are essential to the health, welfare, and safety of the citizens of the City of Danbury. It is, therefore, the purpose of these regulations to protect the citizens of the City of Danbury, by making provisions for the protection, preservation, maintenance, and use of the inland wetlands and watercourses (1) by minimizing their disturbance and pollution, (2) maintaining and improving water quality in accordance with the highest standards set by Federal, State or Local authorities, (3) preventing damage from erosion, turbidity or siltation, (4) preventing loss of fish and other beneficial aquatic organisms, wildlife, and vegetation and the destruction of the natural habitats thereof, (5) deterring and inhibiting the danger of flood and pollution, (6) protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational, and other public and private uses and values, and, (7) protection of the City'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 economic growth of the City and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the citizens of the City the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

It is also the purpose of these Regulations to prevent substantial degradation of the City's significant wetlands and watercourses, to avoid any further uncompensated loss of the total stock of Danbury's wetlands and watercourses, and to encourage compensation for the unavoidable loss of wetlands or watercourses.

SECTION 1: TITLE, PURPOSE AND AUTHORITY

- 1.1. These Regulations shall be known and may be cited as the "Inland Wetlands and Watercourses Regulations of the City of Danbury".
- 1.2. The purpose of these Regulations is to carry out and effectuate the purposes and policies of the Connecticut General Statutes, Sections 22A-36 through 22A-45, inclusive, as amended.
- 1.3. 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.
- 1.4. The Commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and watercourses in the City of Danbury pursuant to the Inland Wetlands and Watercourses Act and these Regulations.

SECTION 2: DEFINITIONS

As used in these Regulations:

“The Act” means The Inland Wetlands and Watercourses Act, Section 22A-36 through 22A-45, inclusive, of the Connecticut General Statutes, as amended.

“Best 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 water courses; procedures for maintaining continuous stream flows; and confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

“Bogs” are areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.

“Clear Cutting or Grubbing”. "Clear Cutting" means the harvesting of trees which are of two inch (2") diameter or greater at breast height, in a fashion which removes at least fifty percent of the trees in an area not less than one acre in size. "Grubbing" means to dig; clear of roots, stumps, etc.; to uproot.

“Commission” means the Environmental Impact Commission of the City of Danbury.

“Commission Member” means a member of the Environmental Impact Commission of the City of Danbury.

“Commissioner of Environmental Protection” means the Commissioner of the

Department of Environmental Protection of the State of Connecticut.

“Construction” is defined as activities undertaken for the purpose of erecting a structure, including stockpiling of building materials, digging of foundations, but not including grading, clearing, and stockpiling of soil or other site preparations.

“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 hydro-logical season, June through September, but it recurs in prolonged succession.

“Deposit” includes but shall not be limited to fill, grade, dump, place, discharge or emit.

“Designated Agent” means an individual or individuals designated by the Commission to carry out specific functions and purposes.

“Discharge” means the emission of any water, sub-stance or materials into wetlands or watercourses whether or not such substance causes pollution.

“Disturb the natural and indigenous character of the wetland or watercourse” means to alter the inland wetland and watercourse by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.

“Environmentally Sensitive Zone of the Watercourse” means the area encompassed by a distance of 100 feet outward from the edge of the stream channel of a watercourse during low flow conditions. The intent of these Regulations is to preserve the ecological integrity and pollutant renovation functions within this area.

“Essential to the Farming Operation” means that the activity proposed is necessary and indispensable to sustain farming activities.

“Farming” means the use of land for the growing of crops, raising of livestock or other agricultural purposes.

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

“License” means the whole or part of any permit, certificate, approval or similar form of permission which may be required of any person by the provisions of these Regulations under the authority of the Environmental Impact Commission.

“Marshes” are areas with soils that exhibit aquatic 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 water table fluctuations are encountered.

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

“Nurseries” means land used for propagating trees, shrubs, or other plants for transplanting, sale, or for use as stock for grafting. This definition does not include stockpiling of soil or use for storage of equipment not necessary for the operation.

“Permit” means the whole or any part of any license, certificate of approval or similar form of permission which may be required of any person by the provisions of these Regulations under the authority of the Commission.

“Permittee” means the person to whom such permit has been issued.

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

“Planning Commission” means the Planning Commission of the City of Danbury.

“Point Source Drainage Discharge” means water carried by pipes, culverts, paved ditches or other conveyances, which drain directly into a wetland at a distinct point.

“Pollution” means harmful effect on or the contamination or rendering unclean or impure of any wetlands or watercourses of the state by reason of any waste or other materials, including thermal discharges, discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any wetlands or watercourses. 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 within or use of a wetland or watercourse involving removal or deposition of materials, or any obstruction, construction, alteration or pollution, of such wetland or watercourse, or any operation within or use of any land which may disturb the natural and indigenous character of a wetland or watercourse, but shall not include the activities specified in Section 4 of these Regulations. Regulated activities include but are not limited to the following:

(a) Activities in Upland Review Areas. Any of the activities listed in subparagraphs (i) through (iv) of this paragraph shall be deemed to be a regulated activity when any portion of said activities is conducted within the following upland review areas: a) within 100 feet of the outer boundary of a wetland, b) within 200 feet of the mean high water line of Candlewood Lake, Lake Kenosia, Still River, and all public water supply reservoirs, and c) within 100 feet of the mean high water line of any other watercourse:

(i) location of any portion of any subsurface waste disposal system;

(ii) clear cutting or grubbing of land, except as permitted in Section 4 of these Regulations;

(iii) excavating, filling or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition when the area of the ground cover destroyed, removed or disturbed by such activity is cumulatively more than five thousand (5,000) square feet, and any part of the area of such ground cover is within the upland review areas; or

(iv) permanent outdoor or underground storage or storage capacity of any petroleum based product.

None of the above listed activities to be conducted within the upland review areas specified in this Section shall be deemed to be a regulated activity if, as of the original effective date of the language in this subsection (a) (January 1, 1992), said activity has been completed, or a zoning permit has been issued for said activity, or the Zoning Commission or the Planning Commission has issued a special permit or special exception allowing the activity.

(b) Any construction or other development activity which adds or proposes to add one or more acres of impervious surface, shall be deemed to be a regulated activity if (1) the discharge of stormwater will increase the loading of pollutants from such impervious surfaces to a watercourse as compared to pre-development conditions, as determined under the standard set forth in subsection (b)(i) hereof; or (2) if the discharge of stormwater will increase the downstream peak flow of the receiving watercourse using the 25 year storm as a reference standard. Notwithstanding the foregoing sentence, the activities referred to in this subsection (b) shall not be deemed to be a regulated activity if, as of the effective date of this subsection (b) (April 24, 1998), said activity has been completed, or a zoning permit has been issued for said activity, or the Zoning Commission or Planning Commission has issued a special permit or special exception allowing the activity.

(i) The determination of pollutant loadings from a proposed development shall be made using the method described in Debo and Reese, Municipal Stormwater Management, Lewis Publishers, 1995, pp. 169-171 ("Debo and Reese"). The pollutant loading factors shall use the mean concentrations for each pollutant, utilizing the composite data table developed by the Environmental Protection Agency for the "National Urban Runoff Program". This composite table is found at page 170 of Debo and Reese, supra. Additionally, pollutant reduction factors specified in Debo and Reese, pp. 547-633, for specific best management practices may be used to normalize pollutant loadings from the site, provided that in all cases the pollutant reduction factor shall be the most conservative reduction factor stated therein. Other methodologies for predicting pollutant loadings to a receiving watercourse or pollutant reduction factors for best management practices may be proposed by the applicant, for the review and consideration of the Environmental Impact Commission or its agent, as alternatives to the methods described herein.

“Regulated Area” means a wetland, a watercourse, or upland review area as defined in these Regulations.

“Remove” includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, bulldoze, dragline or blast.

“Rendering Unclean or Impure” means any alteration of the physical, chemical or biological properties of any of the waters of the City including, but not limited to change in odor, color, turbidity, temperature or taste.

“Significant Activity” means:

(a) any activity involving a deposition of material which will or may have a substantial adverse effect on a wetland or watercourse;

(b) any activity involving a removal of material which will or may have a substantial adverse effect on a wetland or watercourse;

(c) any activity which substantially alters the natural channel or may inhibit the natural dynamics of a wetland or watercourse;

(d) any activity which substantially diminishes the natural capacity of a wetland or watercourse to support desirable fisheries, wildlife or other biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, ground water recharge, and/or provide recreation, open space or significant wildlife habitat, or perform other functions;

(e) any activity which may result in lowering the water quality of a wetland or watercourse below the water quality goals established by the Department of Environmental Protection of the State of Connecticut;

(f) any activity which destroys unique wetlands or watercourses having demonstrable scientific, aesthetic, or educational value;

(g) any activity which causes substantial turbidity, siltation, or sedimentation in a wetland or watercourse; or

(h) any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area.

In determining whether an activity is a significant activity" as defined herein, the Commission may consider any and all relevant factors including but not limited to whether the activity:

(i) involves filling, draining or permanent development on wetlands which will replace or permanently alter the characteristics of twenty-five percent (25%) or more of its current undeveloped area;

(ii) will result in any degree of loss of functionality of a wetland or watercourse in any of the categories defined in "Bulletin No. 9" published by the Department of Environmental Protection of the State of Connecticut;

(iii) involves drainage to a watercourse which may increase its floodstage due to runoff from impervious areas greater than one (1) acre in size;

(iv) will substantially affect undisturbed virgin wetland tracts which provide high functional values of ecological integrity in every category as defined in "Bulletin No. 9" published by the Department of Environmental Protection of the State of Connecticut;

(v) will substantially affect a permanent stream channel and its banks;

(vi) will substantially affect the one hundred (100) year floodway, as defined in Federal Emergency Management Agency (FEMA) maps;

(vii) will substantially affect ecological communities that are classified as "critical habitats" by the Connecticut Department of Environmental Protection's Natural Resource Diversity Data Base;

(viii) will substantially affect the habitat of a Connecticut or U.S. Endangered Species; or

(ix) will substantially affect a unique wildlife habitat which functions as a breeding/nesting grounds for species that are locally rare or wetlands which function as buffers or ecosystem edges for wetland communities that serve as habitats for species that are endangered, threatened, or locally rare.

“Soil Scientist” means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management (formerly the United States Civil Service Commission).

(a) Degree: soil science or a related discipline which includes 30 semester hours, or equivalent in biological, physical, or earth science, with a minimum of 15 semester hours in such subjects as soil genesis, pedology, soil chemistry, soil physics and soil fertility; or

(b) Combination of education and experience -- courses equivalent to a major in soil science or a related discipline, which includes at least 30 semester hours in biological, physical, or earth sciences. At least 15 of these semester hours must be in the areas specified in a. above, plus appropriate experience or additional education.

“Swamps” are areas with soils that exhibit ehoic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.

“Waste” means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute a wetland or watercourse.

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

“Wetlands” means land, including submerged land, not regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and Floodplain by the National Cooperative Soil Survey, as it may be amended from time to time by the United States Department of Agriculture Natural Resource Conservation Service. Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by said National Cooperative Soil Survey.

“Wetland Discharge Point” means the location, in the regulated area, where the point source drainage discharge flows into a wetland.

“Zoning Board of Appeals” means the Zoning Board of Appeals of the City of Danbury.

“Zoning Commission” means the Zoning Commission of the City of Danbury.

SECTION 3: INVENTORY OF REGULATED AREAS

- 3.1. The map of regulated areas entitled "Inland Wetlands and Watercourses Map, Danbury, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Town Clerk or of the Commission. In all cases, the precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types, vegetation, and locations of watercourses. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.
- 3.2. Any property owner who disputes the designation of any part of his or her land as a wetland or watercourse on the Inland Wetlands and Watercourses Map may petition the Commission to change the designation by submitting an application to the Commission.

All applications for such a redesignation shall be in writing, on a form to be supplied by the Commission, and shall include all relevant facts and circumstances which support the change as specified in the application. The petitioner shall provide proof that the designation is inappropriate. Documentation in accordance with Section 14 of these Regulations is required of the property owner when the Commission requires an accurate delineation of regulated areas.

SECTION 4: PERMITTED USES AS OF RIGHT AND USES

4.1. The following operations and uses shall be permitted in wetlands and watercourses:

(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 purpose of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this Section shall not be construed to include (1) road construction or the erection of buildings not directly related to the farming operation, (2) relocation of watercourses with continual flow, (3) filling or reclamation of wetlands or watercourses with continual flow, (4) clear cutting of timber except for the expansion of agricultural crop land, or (5) the mining of top soil, peat, sand, gravel or similar material from a wetland or watercourse 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 building permit has been issued or the subdivision has been approved by the Planning Commission as of July 1, 1974, 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 person claiming a use of wetlands permitted as of right under this subsection shall document the validity of said right by notifying the Commission on the form attached to these Regulations as Schedule B and made a part hereof, and by providing the Commission with the information required by such form, including a certified copy of the building permit, the approval date of the subdivision, if applicable, and a site plan showing house and well locations, septic system, and driveway;

(c) Boat anchorage or mooring, not to include dredging or dock construction:

(d) Uses incidental to the enjoyment or maintenance of residential property, defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the City and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of substantial 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 Section 22a-401 and 22a-410 of the Connecticut General Statutes.

(f) Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For the purposes of this 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 regulated areas 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, including educational and research activities;

(b) Outdoor recreation, including the use of play and sporting areas, field trails, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing and cross-country skiing where otherwise legally permitted and regulated;

(c) Installation of groundwater monitoring wells for the purpose of subsurface hydrogeologic or water quality investigation, provided that a mitigation plan for restoring damaged or disturbed areas of soils or vegetation is approved prior to installation by the Danbury Health and Housing Department; and

(d) Placement of no more than one newly constructed dock into a watercourse from a parcel of land abutting such watercourse, provided that said dock has no more than two moorings and does not exceed 25 feet in length. Notwithstanding the foregoing sentence, any dock which was initially placed into a watercourse prior to the effective date of this subsection (d) (April 24, 1998) shall be permitted as of right, and the removal and redeployment of any such dock shall also be permitted as of right.

4.3. To implement the purpose of this Section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse, which may disturb the natural and indigenous character of the wetland or watercourse, shall, prior to commencement of such operation or use, notify the Commission by completion and submission of the form attached to these Regulations as Schedule B, to provide the Commission sufficient information to enable it properly to determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Commission shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than thirty-five (35) days following the date of receipt by the Commission of said notification form, provided that the failure of the Commission to act within such

time period shall not be deemed to constitute approval of the proposed operation or use. The Commission shall notify the applicant of its decision and publish notice of its decision in accordance with the requirements of Section 10.4. of these Regulations.

- 4.4. 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 Commission in accordance with Section 6 of these Regulations.

SECTION 5: ACTIVITIES REGULATED BY THE STATE

- 5.1. 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) a construction or modification of any dam pursuant to Sections 22a-401 through 22a-410 of the General Statutes, as amended;

- (b) construction or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349 of the General Statutes, as amended;

- (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 General Statutes, as amended;

- (d) diversion of water in excess of fifty thousand (50,000) gallons per day or any surface waters of the State where the tributary watershed area above the point of diversion is one hundred (100) acres or larger pursuant to Sections 22a-365 through 22a-378 of the General Statutes, as amended;

- (e) discharges into the waters of the State pursuant to Section 22a-430 of the General Statutes, as amended; or,

- (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 (CWA), as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal CWA.

- 5.2. 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.

- 5.3. The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Section 22a-28 through 22a-35 of the General Statutes.

SECTION 6: REGULATED ACTIVITIES TO BE LICENSED

- 6.1. No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Commission.
- 6.2. The Commission shall regulate any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution of such wetlands, watercourses, or regulated areas and any other regulated activity as defined in Section 2 of these Regulations, unless such operation or use is permitted or nonregulated pursuant to Section 4 of these Regulations.
- 6.3. Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these Regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 13 of these Regulations and any other remedies as provided in Section 22a-44 of the Connecticut General Statutes, as amended.

SECTION 7: PERMIT APPLICATION REQUIREMENTS AND PROCEDURES

- 7.1. Any person wishing to conduct a regulated activity shall, prior to the commencement of such activity, submit an Application for Permit to Conduct Regulated Activity to the Commission. The form for such application is annexed hereto as Schedule A and is made a part of these Regulations. Copies of application forms are on file in the office of the Commission.
- 7.2. All applications shall contain such information as is necessary for a fair and informed determination of the issues. All information submitted in the application shall be considered factual and binding. A failure of the applicant or any of his, her or its agents to provide correct information, or performance exceeding the scope of the work as set forth in the application, shall be sufficient grounds for the revocation of any permit under these Regulations and/or for penalties to be imposed. Each day of violation shall be considered as a separate offense.
- 7.3. All applications shall include the following information in writing:
 - (a) The applicant's name, home and business address and telephone numbers.
 - (b) The owner's name, home and business address and telephone numbers and written consent to the proposed activity if the applicant is not the owner of the property involved in the applications. If the owner is a corporation or other non-individual entity the name, address, and phone number of a principal must be included.
 - (c) Applicant's interest in the land.
 - (d) A sketch showing the geographical location of the land which is the subject of the proposed activity, and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), and wetland vegetation.

(e) The purpose and description of all proposed activities including computation of the area(s) in acres of wetlands or watercourses disturbance and the proposed amount of fill, and proposed erosion and sedimentation controls.

(f) A detailed narrative of the alternatives considered and subsequently rejected by the applicant and why the proposal to alter wetlands set forth in the application was chosen. The Commission may require the applicant to submit a site plan showing the alternatives.

(g) Two site plans with one showing the existing conditions, and one showing 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) List of names and correct mailing addresses of all abutting property owners, and all owners of property across the street from the subject property. In the event that the Commission schedules a public hearing on the application, the applicant shall submit envelopes preaddressed to such owners no later than five (5) days following the date on which the Commission sets the matter down for a hearing. If land abutting or across the street from the subject property is a "common interest community" as defined in Chapter 828 of the Connecticut General Statutes, and a unit owners' association has been organized for such common interest community, the applicant need only submit the name of (and if applicable, an envelope preaddressed to) the unit owners' association.

(i) Certification that the applicant is familiar with these Regulations and all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information.

(j) Authorization for the members and agents of the Commission and the City to inspect the property, at reasonable times: both before and after a final decision has been issued if a permit has been issued; while the regulated activities are being conducted; and at any time thereafter up to and including the period of time in which the applicant's bond or surety is in effect in order to ensure that the activities are being conducted in accordance with the permit.

(k) Whether the proposed regulated activity will require subdivision or re-subdivision approval, a zoning permit, special permit, special exception or exemption, or a variance, from the Zoning Commission, Planning Commission or Zoning Board of Appeals, as the case may be.

(l) Whether any of the following circumstances applies:

(i) Any portion of the property affected by the decision of the Commission is located within five hundred (500) feet of the boundary of

an adjoining municipality;

(ii) 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;

(iii) 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,

(iv) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

(m) Any other information the applicant 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 12 of these Regulations.

(o) Any compensatory mitigation measures which the applicant wishes to propose to the Commission, in accordance with the criteria set forth in Section 9.2(d) of these Regulations. Notwithstanding any other provision of these Regulations, the applicant shall not be required to propose, either in the application or at the request of the Commission, any compensatory mitigation measure that would create or restore a wetland or watercourse that is larger than one and one half times the area of the wetland or watercourse that would be eliminated or degraded as a result of the proposed activity.

(p) 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, as amended.

7.4. At any time prior to issuance of a decision on an application for a permit or in the case of an application on which a public hearing is conducted, at any time prior to the close of the public hearing, the Commission may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application.

7.5. Decisions on Nonregulated Activities (Declaratory Ruling). If the Commission finds that a proposed activity does not involve any regulated activity or involves only a permitted use as defined in Section 4, it shall issue a declaratory ruling allowing the activity. A declaratory ruling may be limited or revoked by the Commission if it is later shown that a regulated activity or non-permitted use is a consequence of the proposed activity. The Commission shall state in writing its reasons for finding that a proposed permitted use or other activity does not involve a regulated activity.

7.6. Decisions on Regulated. Nonsignificant Activities (Summary Ruling). If the Commission finds that a proposed activity is a regulated activity but not a significant

activity, it may issue a summary ruling granting a permit for the activity with or without conditions. In order to grant a permit at this stage, the Commission, after full review of the considerations set forth in Section 9 and other pertinent factors, shall state upon the record its reasons for granting the permit with or without conditions.

7.7. Decisions on Significant Activities (Plenary Ruling). If the Commission finds that the activity applied for is or may be a significant activity, the Commission may request the applicant to provide information which may include, but is not limited to, the following:

(a) Site Plan. A site plan for the proposed use or operation of the applicant's property and any adjacent property which will be affected, which shows existing and proposed conditions, wetland and watercourse boundaries, upland review areas if applicable, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the development, drawn by a licensed surveyor, professional engineer or landscape architect registered in the State of Connecticut. The map shall be at a scale of 1" = 40' (one inch equals forty feet), or at such other scale as the Commission may deem to be more suitable for the size of the site. If the applicant's surveyor, professional engineer or landscape architect is unable to comply with any requirement of this subsection (a) with regard to the mapping of adjacent property, the reasons shall be clearly stated on the site plan.

(b) Engineering Reports. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses, and the pro-posed erosion and sedimentation control plan.

(c) Soil Sample Mapping. The applicant shall present documentation by a soil scientist showing the soil types classified as poorly drained, very poorly drained, alluvial, or flood plain according to the National Cooperative Soils Survey. The applicant shall also present a map of the land in question signed by a licensed surveyor on which the flag locations defining the boundaries of the regulated soil types are depicted.

(d) Analysis of Material to be Deposited. The applicant shall describe any materials to be deposited on the affected property in terms volume, chemical or physical characteristics, composition, and the possibility of erosion or leaching from deposited materials.

(e) Proposed Activity. A description of the proposed construction or the erection of structures on the affected property, including blueprints or engineering or architectural plans or designs, to the extent necessary to permit the Commission to determine the impact of such construction on any regulated area. Such description should include the purposes of such construction or activity.

(f) Other Property Owners. A list of other property owners of whom the applicant has notice whose rights or interests will be significantly affected by the proposed activity.

(g) Watercourse Characteristics. If the proposed activity upon the applicant's property may affect a watercourse lying within, partly within, or flowing through or adjacent to the applicant's property, the applicant shall submit information relative to the present character and the projected impact of the proposed activity upon the watercourse. For any regulated activity that occurs in the environmentally sensitive zone of the watercourse, the following information is required:

(i) A map, on a minimum scale of 1" = 40', that illustrates the environmentally sensitive zone of the watercourse in the vicinity of the proposed activity;

(ii) Illustration and description of any proposed area of impervious coverage on the environmentally sensitive zone of the watercourse;

(iii) Mitigative measures proposed by the applicant to treat the stormwater discharge to the environmentally sensitive zone of the watercourse. Such measures may include compensating for loss of pervious areas on the environmentally sensitive zone of the watercourse, establishing vegetative cover, and structural measures to reduce stormwater pollutants draining from the proposed development on to the environmentally sensitive zone of the watercourse.

(h) Mitigation Measures. Measures which would mitigate the impact of the proposed activity. Such measures include, but are not limited to, best management practices, plans or other actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or point source drainage discharges to wetlands, or which otherwise safeguard water resources.

(i) Environmental Impact and Alternatives. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application (which communities and functions the applicant shall specifically describe), and a description of why each alternative considered was deemed neither feasible nor prudent.

(j) Compensatory Mitigation Measures. Evaluation of alternative on-site or off-site mitigation measures, in accordance with the standards and criteria for such measures set forth in Section 9.2d of these Regulations, to compensate for the direct loss of wetlands or watercourses or the diminishing of the environmental functions of regulated wetlands or watercourses that will occur as a result of the proposed activity.

(k) Habitat Report. A report that identifies wetland vegetation species, wildlife, habitat characteristics and functional values of the wetland system on the proposed site of development.

- 7.8. Fourteen (14) copies of all application materials shall be submitted unless the Commission otherwise directs in writing.
- 7.9. The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission of the application to the Commission, provided such meeting is no earlier than three (3) business days after receipt, or thirty-five (35) days after such submission, whichever is sooner.
- 7.10. Except as otherwise provided in this Section 7.10, any application to renew a permit or to amend an existing permit shall be made in accordance with this Section 7 provided:
- (a) The application may incorporate by reference the documentation and record of the original application;
 - (b) The application, if for renewal, shall state the reason why the authorized activities will not be or were not initiated or completed within the time specified in the permit, and if for amendment, shall describe in detail the nature of the proposed amendment and the reasons why it is necessary;
 - (c) The application shall describe any changes in facts or circumstances involving or affecting wetlands or watercourses or the property for which the permit was issued;
 - (d) The Commission shall evaluate any application to amend an existing permit pursuant to Section 9 of these Regulations and grant the application as filed, grant it with any terms or limitations, or deny it; and
 - (e) Any application to renew a permit (whether filed before or after the expiration of the original 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 (10) years from the date of its original approval.
- 7.11. A reporting form shall be completed during the application process which provides the Commissioner of Environmental Protection with information necessary to properly monitor the inventory of State wetlands. The reporting form shall be part of the application and specified sections shall be completed by the applicant. These sections shall include the following: name of applicant; location and name of the project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered. The Commission shall be responsible for the remaining information on the reporting form and for any corrections thereon and for filing it in accordance with the Inland Wetlands and Watercourses Regulations of the Department of Environmental Protection.
- 7.12. Incomplete applications may be denied.

- 7.13. When an application to conduct or cause to be conducted a regulated activity upon any portion of such wetland or watercourse is filed and any portion of such wetland or watercourse is within 500 feet of the boundary of New Fairfield, Brookfield, Bethel, or Ridgefield in Connecticut or Southeast in New York State, the applicant shall give written notice of the application by certified mail, return receipt requested, to the municipal wetland agency of the adjacent municipality on the same day of filing an inland wetland permit application with the Commission. The applicant shall submit proof of such notice to the Commission within five (5) days of the date of receipt of the application.
- 7.14. The Commission shall notify the clerk of any adjoining municipality of the pendency of any application, petition, request or plan concerning any project on any site when:
- (a) Any portion of the property affected by the decision of the Commission is located within five hundred (500) feet of the boundary of an adjoining municipality;
 - (b) A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - (c) A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or
 - (d) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality. Notice of the pendency of such application shall be made by registered mail and shall be mailed within seven (7) days of the date of receipt of the application.
The notice required under this Section shall be by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of receipt of the application, petition, request or plan. No hearing may be conducted on any such application, petition, request or plan unless the adjoining municipality has received the notice required under this Section. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, request or plan.
- 7.15. When an application is filed with the Commission to conduct or cause to be conducted a regulated activity upon a 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 City of Danbury and with the Commission. Such notice shall be made by certified mail, return receipt requested, and shall be made 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 Commission.
- 7.16. All applications and supporting maps and documentation shall be open for public inspection at the Commission's office.

- 7.17. Whenever the Commission or its designated agent requests revisions to an application or any component part thereof, the revision shall be accompanied by a narrative explanation of the changes from the previously filed application, and any revised site plan shall clearly indicate the changes from the previous site plan.

SECTION 8: PUBLIC HEARINGS

- 8.1. The Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses or a petition signed by at least twenty-five (25) persons requesting a hearing is filed with the Commission not later than fifteen (15) days after the date of receipt of such application or the Commission finds that a public hearing regarding such application would be in the public interest. Such hearing shall be held no later than sixty-five (65) days after the date of receipt of such application. Any person may appear and be heard at a public hearing.
- 8.2. 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 public hearing in a newspaper having a general circulation in each municipality where the affected wetland and watercourse or any part thereof is located.
- 8.3. The public hearing shall be commenced and completed within the time periods set forth in Section 10.2 of these Regulations. The Commission shall mail notice of the public hearing to the applicant and the owner(s) of record of land abutting or across the street from the subject property no less than fifteen (15) days prior to the day of the hearing.
- 8.4. In the case of any application which is subject to the notification provisions of Section 7.11 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record. Such adjoining municipality may, through a representative, appear and be heard at any hearing on the application.

SECTION 9: CONSIDERATIONS FOR DECISION

- 9.1. 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 hearing or meeting;
 - (c) Reports from other federal, State and local agencies and commissions including but not limited to the following authorities of the City of Danbury;
 - (i) Conservation Commission;
 - (ii) Planning Commission and Zoning Commission;

- (iii) Building Official;
- (iv) Department of Health;
- (v) Engineering Department;
- (vi) Department of Public Works; and
- (vii) Director of Planning.

(d) The Commission also may consider comments from the Fairfield County Soil and Water Conservation District, the Housatonic Valley Council Regional Planning Agency, Candlewood Lake Authority or other regional organizations, or 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.

9.2. Standards and Criteria for Decision.

In carrying out the purposes and policies of these Regulations and sections 22a-36 to 22a-45a of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall consider 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. In evaluating such loss of wetlands or watercourses, the Commission may consider as a condition of issuing a permit for such activity mitigation measures including, but not limited to, measures to (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. Any mitigation measures, including but not limited to those proposed by the applicant, shall be considered in accordance with the following standards and criteria:

- (i) The environmental impact of the proposed activity on wetlands and watercourses on the applicant's property should be considered independently of the proposed compensatory mitigation measures. If the Commission determines that the proposed activity will not significantly impair a wetland or watercourse (based upon the criteria described in Section 9.2 (a) - (g) above, and there are no feasible and prudent alternatives to the loss of a wetland or watercourse (or the diminishing of

their environmental functions), compensatory mitigation may be considered as a means of assuring that the total stock of wetlands and watercourses in Danbury is substantially maintained.

(ii) Any compensatory mitigation measure shall be designed to restore or create wetlands or watercourses including, but not limited to marsh restorations, shoreline stabilization, establishing wetland vegetation, and sponsoring environmental design services or construction activities to implement the project.

(iii) On-site mitigation measures should be considered as the primary alternative for compensating for the unavoidable loss of a wetland or watercourse due to a proposed activity.

(iv) Any proposal for off-site compensatory mitigation on property of the City of Danbury shall not be submitted until the Health & Housing Department (after consultation with other City departments that may be involved with or have jurisdiction over the subject parcel) has approved the proposed work. If the Health & Housing Department determines that the work should be performed only by the City (or by its authorized agents), the applicant's proposal shall include a written commitment to pay the City the amount that is determined by the Health & Housing Department to be reasonably necessary to cover the cost of the proposed work. The Commission may include such cost as part of the amount of any bond which it sets pursuant to Section 11 of these Regulations. Any proposal for off-site compensatory mitigation on private property shall be accompanied by a written statement of consent, signed by the property owner, and a letter of approval from the Danbury Health & Housing Department approving the compensatory mitigation project.

(e) The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which is caused or threatened by the proposed regulated activity.

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

(g) The degree to which the environmentally sensitive zone of the watercourse is maintained in a stable, vegetated and ecologically viable state that preserves the pollutant reduction functionality within the riparian zone.

(h) The degree to which drainage impacts at the location in the wetland where the point source discharge occurs are mitigated by best management practices and outlet protection. Unless demonstrated by the applicant that no feasible or prudent alternatives are available, point source drainage discharges to wetlands without stormwater management controls shall be prohibited.

- 9.3. (a) In the case of an application which received a public hearing either on the petition of twenty five (25) or more persons pursuant to § 8.1 of these Regulations or pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in Section 9 of these Regulations. The finding and the reasons therefor shall be stated on the record in writing.
- (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 or she is entitled to the permit or to present alternatives to the proposed regulated activity.
- 9.4. 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.

SECTION 10: DECISION PROCESS AND PERMIT

- 10.1. The Commission, or its duly authorized agent (acting pursuant to subsection (a) of this Section 10.1), may grant the application as filed or grant it upon terms, conditions, limitations or modifications of the regulated activity, which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, or deny it. 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.
- (a) The Commission hereby delegates to the City's Coordinator of Environmental and Occupational Health Services and the City's Environmental Inspector the authority to issue declaratory rulings (pursuant to Section 7.5 of these Regulations) and summary rulings (pursuant to Section 7.6 of these Regulations) or to renew approvals for activities originally approved by a declaratory ruling or summary ruling, for activities that are not located in a wetland or watercourse. Either of such persons (hereafter referred to as "Agent") shall have the authority to issue such an approval or renewal, provided that the Agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes, and provided further that the Agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses.
- (b) Any person receiving an approval from the Agent pursuant to subsection (a) above shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of approval in a newspaper having a general

circulation in the City of Danbury. Any person may appeal such decision of the Agent to the Commission within fifteen (15) 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 (3) business days after receipt by the Commission or the Agent of such appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its Agent or require an application for a permit in accordance with these Regulations.

- 10.2. Any public hearing on an application shall be held no later than sixty-five (65) days after the date of receipt of an application. The hearing shall be completed within forty-five (45) days of its commencement, and action shall be taken on applications within thirty-five (35) days after completion of public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this Section 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 Section, or may withdraw the application. The failure of the Commission to act within any time period specified in this Section, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission either shall be withdrawn by the applicant or shall be denied by the Commission.
- 10.3. The Commission shall state upon its record the reasons 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 incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 10.4. The Commission shall notify the applicant and any named parties to the proceeding of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its order granting or denying the permit to be published, in a newspaper having general circulation in the municipality wherein the 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. A copy of all Commission decisions shall be forwarded to the Commissioner of Environmental Protection in such a form as is prescribed by the Commissioner.
- 10.5. If an application for an activity regulated by the Commission also involves an activity or project which requires zoning or subdivision or resubdivision approval, a special zoning permit, variance or special exception, the Commission shall cause a copy of the decision and report on the application to be filed with the Planning Commission, Zoning Commission, or Zoning Board of Appeals, as the case may be, within fifteen days of the date of decision.
- 10.6. If the Commission denies a permit, the application shall not be resubmitted within one (1) year from the date of the denial unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial. Such submittal shall take the form of a new application.
- 10.7. Any permit issued under this section for the development of property for which an

approval is required under sections 8-3, 8-25, or 8-26 of the Connecticut General Statutes shall be valid for five years provided that in approving such an application the Commission may establish a specific time period within which any regulated activity shall be conducted. Any permit issued under this section for any other activity shall be valid for a period determined by the Commission, which period shall be not less than two years and not more than five years. All permits shall expire upon the date of completion of the act specified therein.

- 10.8. No permit approved after the effective date of these Regulations shall be assigned or transferred without the written permission of the Commission. Such permission shall be granted upon receipt and review by the Commission of a written statement, on a form provided by the Commission, signed by the transferee, stating that the transferee has reviewed the applicable regulations and the terms and conditions of the permit and agrees to be bound thereby. If a bond or other security obligation is in place, the transferee shall also submit proof acceptable to the Commission that the transferee has assumed such obligation, or shall provide such substitute security as may be acceptable to the Commission. If no such bond or security obligation is in place, the Commission may require the transferee to file a bond or other substitute security acceptable to the Commission.
- 10.9. If a bond is required in accordance with Section 11 of these Regulations, no permit shall be issued until such bond is provided.
- 10.10. The following general provisions shall apply to the issuance of all permits:
 - (a) If 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 from any present or future rights or powers of the Commission or the City of Danbury, 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 any property or activity.
 - (c) If the activity authorized by the permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the permit may begin until such approval is obtained.
 - (d) The permittee shall take such necessary steps, consistent with the terms and conditions of the permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- 10.11. Each permit issued pursuant to these Regulations shall be in writing and in such form as the Commission may prescribe, and shall be signed by the Chairman or Secretary of the Commission. Any restrictions or conditions applicable to the permit shall be set forth in full therein.

SECTION 11: BONDS

- 11.1. Upon approval of the application and prior to the issuance of a permit, the Commission in its discretion may require the applicant to file a bond. The amount of the bond shall not exceed one hundred ten percent (110%) of the cost of correcting violations of the permit or any of its conditions, as estimated by the City Engineer. The bond shall be posted in the form of a certified check, passbook or letter of credit. The term of any such letter of credit shall not be less than the time remaining to complete the permitted activity plus an additional six (6) months. The bond shall be conditioned on compliance with all provisions of these Regulations and the terms, conditions and limitations established in the permit. The Commission shall release the bond upon its determination that permitted activities have been completed to its satisfaction or upon its determination that the permitted activity has not been commenced or completed within the time periods specified in Section 10.7 of these Regulations.

SECTION 12: APPLICATION FEES

- 12.1. Definitions. As used in this Section:
- (a) "Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.
 - (b) "Commercial Uses" means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.
 - (c) "Other Uses" means activities other than residential uses or commercial uses.
- 12.2. Fees are set to cover the reasonable cost of reviewing and acting on applications, and monitoring compliance with any permit or Commission order.
- 12.3. All fees required by these Regulations shall be submitted to the Commission by check or money order payable to the City of Danbury at the time the application is filed with the Commission.
- 12.4. 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 Section 12.6. of these Regulations.
- 12.5. The application fee is not refundable, except as otherwise provided herein.
- 12.6. The applicant may petition the Commission to waive, reduce or allow delayed payment of the application fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Commission should consider in its determination under this Section. The Commission shall return any fee paid for an application that the Commission grants by a declaratory ruling. 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 City for reviewing and processing the application. The Commission shall state upon its records the basis for all actions under this Section.

The Commission shall state upon its record the basis for all actions under this section.

12.7. The City of Danbury and the State of Connecticut shall be exempt from the payment of fees.

12.8. Application fees shall be based on the following schedule:

(a) PERMITTED & NON-REGULATED USES (Section 4 of these Regulations):

(i) Permitted uses of a wetland or watercourse (Section 4.1)
\$25.00

(ii) Non-regulated uses of a wetland or watercourse (Section 4.2)
.....\$25.0
0

(b.) REGULATED USES (Sections 5 and 6 of these Regulations):

(i) Subdivision site plan, single family dwellings
\$350.00 PLUS \$50.00 per lot and \$50.00 per acre (or part) of wetlands and watercourses on property.

(ii) Condominium or attached unit developments
\$350.00 PLUS \$25.00 per unit and \$50.00 per acre of wetlands and watercourses on property.

(iii) Single family dwelling not part of a subdivision
\$150.00 PLUS \$25.00 per acre (or part) of wetlands and watercourses on the property.

(iv) Residential expansions greater than 25%, septic system expansion or repair, pools, or tennis courts
\$100.00 PLUS \$25.00 per acre (or part) of wetlands and watercourses on the property.

(v) Residential expansions less than 25% or other nonsignificant regulated activities
..... \$50.00

- (vi) Commercial uses: 0 to 20,000 sq.ft. of building area
\$1,000.00
- 20,000 sq.ft. to 40,000 sq.ft. of building area
\$1,500.00
- Greater than 40,000 sq.ft. of building area
\$2,000.00

- (vii) Significant Activity Fee (to be paid prior to commencement of
public hearing)
\$500.00

- (viii) Pond dredging \$200.00

- (ix) Map Amendment Petitions (Section 13.3)
\$150.00 *PLUS* the actual costs of the Commission's soil scientist or other
technical consultants' fees, if any, will be paid to the City of Danbury.
PLUS \$35.00 per 100 linear feet of proposed new boundary of the
wetland or watercourse.

- (x) Additional Compliance Inspections\$100.00 per
inspection

(c) AMENDMENT & RENEWAL OF PERMITS (Section 7.10 of these Regulations):

- (i) Amendment of Permit (Revised site plan)
\$170.00

- (ii) Renewal of Permit
.....\$80.00

SECTION 13: ENFORCEMENT

- 13.1. The Commission may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these Regulations.

- 13.2. 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.

- 13.3. If the Commission or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these Regulations, the Commission or its duly authorized agent may, with-out limitation of any other remedy provided by law:
 - (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 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 a 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 General Statutes, as amended;

(b) 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 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. The Commission shall hold a public 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 Commission's decision to suspend or revoke 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 a general circulation in the municipality;

(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 person 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 file 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 Section 13.3.a or other enforcement proceedings as provided by law.

SECTION 14: AMENDMENTS

- 14.1. An application filed with the Commission which is in conformance with these Regulations as of the date of receipt of such application shall not be required thereafter to comply with any change in these Regulations, including changes to upland review areas, taking effect on or after the date of such receipt, and any appeal from the decision of the 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 wetlands or watercourses or (2) to any change in these Regulations necessary to make them consistent with the provisions of Chapter 440 of the General Statutes as of the date of such receipt.

- 14.2. These Regulations and the City of Danbury Inland Wetlands and Watercourses Map may be amended from time to time in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. Except in the case of map amendments pursuant to Section 14.3, the Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed amendments to regulations and notice of the public hearing thereon at least thirty-five (35) days before the public hearing on their adoption. Fee schedules shall be adopted as Regulations or as otherwise provided by municipal ordinance.
- 14.3. A public hearing shall be held on petitions to amend these Regulations and the Inland Wetland 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 twenty-five (25) days nor less than fifteen (15) days, and the last not less than two (2) days, before such hearing. A copy of such proposed regulation or boundary change shall be filed in the office of the Town Clerk for public inspection at least ten (10) days before such hearing, and may be published in full in such newspaper.
- 14.4. Any person who proposes an amendment to these Regulations or to the Inland Wetlands and Watercourses Map shall submit a petition to the Commission. Forms for such petitions may be obtained from the office of the Commission. Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Danbury, Connecticut", shall contain at least the following information:
- (a) The petitioner's name, address and telephone number;
 - (b) The address of the land affected by the petition;
 - (c) The owner's name (if not the applicant), address, telephone number, and the owner's written consent to the proposed action and to inspections and soil data verification by the Commission or its authorized agents;
 - (d) The petitioner's interest in the land affected by the petition, if any;
 - (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;
 - (f) A map of the property, including two-foot topographical contours; direction of stream flow, if any; wetland or watercourse boundary line as shown on the City of Danbury Inland Wetlands and Watercourses Map; proposed new boundary; location of test holes; and soil types;
 - (g) The reasons for the requested action;
 - (h) The names and addresses of adjacent property owners; and
 - (i) Soil test hole data, including field notes.

- 14.5. Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Danbury, 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 subsection 14.4, the petition shall include:
- (a) The name, address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
 - (b) The names and 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.
- 14.6. The Commission may require a petitioner for a change in the Inland Wetlands and Watercourse Map to present documentation by a soil scientist showing the soil types classified as poorly drained, very poorly drained, alluvial, or floodplain according to the National Cooperative Soils Survey. Such documentation shall include a map of the land in question signed by a soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted. Watercourses shall be delineated by a soil scientist, geologist, ecologist or other individual deemed qualified by the Commission.
- 14.7. Within ninety (90) days after receipt of a petition for a change in these Regulations or the Inland Wetlands and Watercourses Map, 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 periods specified in this Section 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 Section, or may withdraw such petition. The failure of the Commission to act within any time period specified in this Section, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 14.8. The Commission shall make its decision and state, in writing, the reasons why the change in these Regulations or the Inland Wetland and Watercourses Map was made. The Commission shall provide a copy of such amended regulation or map boundary to the Commissioner of Environmental Protection no later than ten (10) days after its adoption, provided failure to submit such regulation or boundary shall not impair the validity of the regulation or boundary.

SECTION 15: APPEALS

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

SECTION 16: CONFLICT AND SEVERANCE

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

SECTION 17: OTHER PERMITS

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

SECTION 18: RECORDS RETENTION AND DISPOSITION

- 18.1. The Commission and the Town Clerk for the City of Danbury shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedule set forth in Section 18.2.
- 18.2. The Public Records Administrator of the Connecticut State Library has established the following new records, retention/disposition schedules for municipal inland wetlands agencies effective April 24, 1989:

<u>RECORD TITLE</u>	<u>MINIMUM RETENTION REQUIRED</u>	
	<u>IN AGENCY</u>	<u>TOWN CLERK</u>
Applications (Including 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 and Public Hearings	15 Years	Permanent
Tapes. Audio-Inland Wetland Matters	4 Years	
Notices of Violation & Orders	10 Years	
Text of Changes Adopted in Regulations	Continuous Update/ Permanent	
General Correspondence Issued or Received	5 Years	

SECTION 19: EFFECTIVE DATE OF REGULATIONS

- 19.1. These Regulations including the Inland Wetlands and Watercourses Map, application forms, fee schedule and amendments thereto, shall become effective on January 1, 1992, except as otherwise specified herein.