

INLAND WETLANDS

AND

WATERCOURSES

AGENCY

CITY OF MIDDLETOWN

REGULATIONS

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SECTION 1 – TITLE AND AUTHORITY

- 1.1 These regulations shall be known as the “Inland Wetlands and Watercourses Regulations of the City of Middletown”.
- 1.2 These regulations have been prepared in accordance with the provisions of Sections 22a – 36 through 22a – 45 of the Connecticut General Statutes, as amended; authorized by the Common Council of the City of Middletown in accordance with Ordinance #17 adopted May 18, 1973, as amended by Ordinance #6 adopted February 3, 1975, and Ordinance # 73 adopted November 18, 1987.
- 1.3 Pursuant to Sections 22a – 36 through 22a – 45 of the Connecticut General Statutes, as amended, the Inland Wetlands and Watercourses Agency shall Enforce all provisions of the Inland Wetlands and Watercourses Agency and Shall issue permits, issue permits with modifications, and deny permits for all regulated activities on Inland Wetlands and Watercourses in the City of Middletown.

SECTION 2 – DEFINITIONS AS USED IN THESE REGULATIONS

- 2.1 “Act” means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, as amended.
- 2.2 “Agency” means the Inland Wetlands and Watercourses Agency of the City.
- 2.3 “Bogs” are wetlands and/or watercourses usually distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage and highly acidic conditions.
- 2.4 “City” means the City of Middletown in the County of Middlesex in the State of Connecticut.
- 2.5 “Clear-cutting” means the harvest of timber products in a fashion which removes all species of trees larger than 2” in diameter at breast height.
- 2.6 “Clearing and grubbing” means the removal of all vegetation including stumps.
- 2.7 “Commission member” means a member of the Inland Wetlands and Watercourses Agency of the City of Middletown.
- 2.8 “Commissioner of Environmental Protection” means the Commissioner of the State of Connecticut Department of Environmental Protection.
- 2.9 “Contamination or rendering unclean or impure” means any alteration of the physical, chemical or biological properties of any of the waters of the State including, but not limited to, change in odor, color, turbidity, taste or temperature.
- 2.10 “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 flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.
- 2.11 “Deposit” includes but shall not be limited to, fill, grade, dump, place, discharge or emit.
- 2.12 “Designated Agent” means that Department of City government or representative of that Department which has been duly authorized by the Agency to regulate and inspect regulated activities and to enforce permit conditions on behalf of the Agency; and, to maintain as may be require for or directed by the Agency the necessary records.
- 2.13 “Detention basin (pond)” means a storage facility for the temporary storage of stormwater runoff. Detention basins or ponds differ from retention basins in that the water storage is only temporary, often released by mechanical means at such time as downstream facilities can handle the flow.
- 2.14 “Discharge” means the emission of any water, substance, or material into water or watercourses whether or not such substance causes pollution.

- 2.15 “Disturbing the natural and indigenous character of the land” means that the activity will significantly 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.
- 2.16 “Essential to the farming operation” means that the activity proposed is necessary and indispensable to sustain farming activities.
- 2.17 “Farming” means using any tract of land for growing crops, raising livestock or other agricultural use.
- 2.18 “Feasible” means able to be constructed or implemented consistent with sound engineering principles.
- 2.19 “Gardening” means the tilling of soil, planting, cultivating and harvesting of vegetable matter.
- 2.20 “Grazing” means using any tract of land to feed or supply farm animals with grass or pasture, to tend farm animals, or feeding.
- 2.21 “Harvesting of crops” means gathering plants or animals or plant or animal products which have been grown to be harvested.
- 2.22 Intermittent watercourse” means those waterways which are characterized by non-persistent flow. For purposes of these regulations, intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the flowing 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.
- 2.23 “Marshes” are wetlands and/or watercourses 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 surface throughout the year, but seasonal fluctuations are encountered and areas of open water six (6”) inches or more in depth are common.
- 2.24 “Material” means any substance, solid or liquid, organic or inorganic, but not limited to, soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.
- 2.25 “Nurseries” means land used for propagating trees, shrubs, or other plants for transplanting, sale or for use as stock for grafting.

- 2.26 “Official Wetlands and Watercourses Map for Middletown, Connecticut” is the series of topographic maps with wetlands superimposed prepared by Purcell Associates (1980).
- 2.27 “Permit” means an approval to conduct a regulated activity under the authority of the Agency and includes the whole or any part of, any document, certificate or approval or similar form of permission which may be required of any persons by the provision of these regulations.
- 2.28 “Permittee” means the person to whom said permit has been issued.
- 2.29 “Person” means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind including municipal organizations, governmental agencies or subdivisions thereof.
- 2.30 “Pollution” means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the State by reason of erosion or 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, sedimentation and erosion resulting from any filling, land clearing or excavation activity.
- 2.31 “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.
- 2.32 “Regulated activity” means 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, but shall not include the specified activities in section 22a-40 of the Connecticut General Statutes.

Furthermore, any clearing, grubbing, filling; grading; paving; excavating; constructing; including the underground installation of fuel tanks; depositing or removing of material; earth-moving; discharging of storm-water or the clear cutting of trees on the land within one hundred (100’) feet, measured horizontally from the boundary of any wetland or watercourse, is a regulated activity.

The construction or placement of decks, pools, sheds, play equipment or other accessory uses associated the use and enjoyment of residential properties are permitted within regulated areas. Staff may refer any such application to the Agency for a review and/or permit.

The Agency may rule any other activity, located within such regulated area or in any other non-wetland and/or watercourse area as provided by in Section 2.33 of these regulations, that is likely to impact or affect a wetland or watercourse is a regulated activity. (Amended effective 5/30/06)

2.33 “Regulated area” is the geographic area in which the Agency reviews regulated activities in order to determine if such activities will likely impact or affect a wetland or a watercourse.

It includes all wetlands and watercourses as defined herein plus all adjacent non-wetland, non-watercourse areas measured horizontally from the established wetland or watercourse boundaries to a distance of one hundred (100’) feet. The regulated area will be extended by the Agency if the Agency determines that activities beyond the one hundred (100’) foot regulated area are likely to impact or affect a wetland or watercourse. “Regulated activity” means any operation within or use of a wetland or watercourse involving removal or deposition of material or any obstruction, construction, alteration or pollution of such wetlands or watercourses and any earth moving, filling, construction, including the underground installation of underground oil tanks, or the clear cutting of trees within one hundred (100’) feet of wetlands or watercourses, but shall not include the activities specified in Section 6 of these regulations. (Amended effective 5/30/06)

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

2.35 “Rendering unclean or impure” (see 2.8 – Contamination).

2.36 “Retention basins” means a pond, pool or basin used for the permanent storage of water runoff. Retention basins differ from detention basins in that the latter are temporary storage areas. Both types of basins may provide for controlled release of the water.

2.37 “Significant impact or major effect” means any activity which will or may cause:

- Substantial turbidity, erosion, siltation or sedimentation in a regulated area, a substantial reduction of an inland wetlands’ or watercourses’ natural flood storage capacity, the construction or alteration of a watercourse channel which might result in increasing the volume or velocity of water leading to upstream or downstream flooding.
- A decrease in the minimum low flow of a watercourse during period of drought.
- The actual or potential pollution of a wetland, or watercourse.
- A reduction of the natural capacity of a regulated area to support desirable biological life, prevent flooding, supply water, assimilate waste, facilitate drainage and/or function effectively as a component of the total wetlands ecosystem.
- A loss of unique areas and/or undisturbed areas valuable for scientific or educational purposes.
- A reduction of the area’s suitability for recreation which may result from destruction of wildlife habitat, scenic values, archeological and/or historical features.

- A conflict with the community plan of development or open space plan which may result from incompatible uses, loss of amenities.
 - The creation of conditions which may adversely affect the health, welfare and safety of the individual or the community which may be incurred when unsuitable development occurs in wetlands along watercourses, or in areas subject to flooding.
- 2.38 “Soil Scientist” or Certified Professional Soil Scientist means an individual who satisfies one of the following requirements:
- A. Certified by the American Registry of Certified Professionals in Agronomy, Corps and Soils, 667 South Seago Road, Madison, Wisconsin as a Certified Professional Soil Scientist (Soil Classifier), or
 - B. Is certified by the Soil Scientist of Southern New England with an “A” Rating, or
 - C. Duly qualified in accordance with standards set by the Federal Office of Personnel.
- 2.39 “Submerged lands” means those lands which are inundated by water on a seasonal or more frequent basis.
- 2.40 “Swamps” or wetlands and/or watercourses dominated by wetland trees and shrubs such as red maple, black gum and black ash. There is often a conspicuous understory of high bush shrubs and a rich diversity of wild flowers. Shrub swamps are another swamp type, which a higher water table. In swamps, the underlying deposits are relatively shallow and usually highly organic.
- 2.41 “Waste” means sewage or any substance, liquid, gaseous, solid or radioactive which may pollute or tend to pollute any of the wetlands or watercourses of the City.
- 2.42 “Watercourses” means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through, or border upon the City or any portion thereof, not regulated pursuant to sections 22a-28 to 22a-35, inclusive, of the Connecticut General Statutes.
- 2.43 “Wetland restoration activity: is the activity pursued to restore a damaged, polluted, and/or altered wetlands to its natural state and function.
- 2.44 “Wetlands” means land, including submerged land not required by Sections 22a-28 to 22a-35 of the Connecticut General Statutes, as amended, comprised of soil types which are designated by the National Cooperative Soils Survey, as it may be amended from time to time, of poorly drained, very poorly drained, alluvial and floodplain, including those areas which are inundated by surface or groundwater with a frequency sufficient to support and, under normal circumstances, do support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction, and are shown for informational purposes on a map filed in the Office of the Town Clerk.

SECTION 3 - APPLICATION PROCEDURE

- 3.1 No person shall conduct or maintain a regulated activity without first applying for and having obtained a permit for such activity from the Agency.
- 3.2 Application shall be made by the property owner of record or the duly authorized agent of such owner, such authorization to be in writing.
- 3.3 In the case of any application where any portion of the wetland or watercourse on which the regulated activity is proposed, is located within 500 feet of the boundary in Berlin, Cromwell, Meriden, Durham, Middlefield, Haddam or Portland, the applicant shall give written notice of the proposed activity, certified mail return receipt requested, to the adjacent municipal Wetlands Agency on the same day of filing an Inland Wetlands and Watercourses Agency. Documentation of such notice shall be provided to the City of Middletown Inland Wetlands and Watercourses Agency.
- 3.4 The Agency of any municipality shall notify the clerk of any adjoining municipality of the pendency of any application, petition, request or plan concerning any project on any site in which:
 - A. Any portion of the property affected by a decision of such inland wetlands commission is within five hundred (500') feet of the boundary of the 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 on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or,
 - D. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of receipt of the application, petition, request or plan. No hearing may be conducted on any 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.

3.5 The Agency requires submission of the complete application to its designated agent eight (8) working days prior to its regular meeting in order for the application to be included on the agenda.

3.6 A complete application is comprised of the following:

A. Completed application form entitled "Application for Inland Wetlands and Watercourses Development:" which shall include:

1. The applicant's name, home and business address and telephone numbers;
2. The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application.
3. Applicant's interest in the land;
4. The geographical location of the property which is to be affected by the proposed activity, including a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, area(s) of wetland or watercourse disturbance, soil type(s) and vegetation and the number of acres of wetlands involved.
5. The purpose and a description of the proposed activity;
6. Alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen. These alternatives shall be diagrammed on a site plan or drawing and submitted to the Agency as part of the application;
7. A site plan showing existing and proposed conditions in relation to wetlands and watercourses;
8. Names and addresses of adjacent property owners;
9. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information.
10. Authorization for the Commissioners and agents of the Agency to inspect the property, at reasonable times, both before and after a final decision has been issued; and

11. Any other information the Agency deems necessary to the understanding of what the applicant is proposing.
- B. If the proposed activity involves a significant activity as determined by the Agency and defined in Section 2 of these Regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:

A site plan or map shall be submitted, drawn at a scale of 1" = 40' and shall be prepared and sealed by a professional engineer licensed by the State of Connecticut. Such plan or map shall show the property boundaries with the horizontal control based upon the Connecticut coordinate system and the vertical control for elevation and sounding of which is based upon U.S. Geological Survey datum and shall be a Class A-2 survey signed and sealed by a land surveyor licensed in the State of Connecticut. Sheet size shall be 12" x 18", 18" x 24", or 24" x 35". This map shall be the same site plan or map as presented to the Planning and Zoning Commission and shall include the following, if a public hearing is required:....

1. Property lines of the real property to be affected, the owners of record of that property and of adjoining properties and the structures existing on the affected property;
2. Areas of proposed changes in use or activity;
3. Locations of wetlands or watercourses on or near the affected property;
4. Locations of all borings and soil samples data and the map to be signed by the soil scientist;
5. Existing topography at two (2') foot contour intervals;
6. All existing and proposed drainage structures;
7. Locations of all existing and proposed wastewater treatment facilities;
8. Areas where material will be deposited or moved;
9. Location of all existing or proposed construction within a watercourse;
10. Proposed grading at two (2') foot contours;
11. Boundaries of regulated areas and soils classifications (USDA) for each regulated area.

12. Additional information on the map. For the purpose of adequately locating and identifying the area for which a permit is requested, the following information shall also be incorporated onto the site plan:
 - a. North arrow;
 - b. All distances with angles or bearings;
 - c. All merestones or pins:
 - d. Title block, including: name of project; name of owner; name of applicant; date of original plan and reference to the Official Inland Wetlands and Watercourses Map for Middletown, Connecticut;
 - e. Revision block;
 - f. Scale;
 - g. Key map or location plan referenced to the City's mapping;
 - h. Approval block.
13. Site Plan Report
 - a. Biological evaluation of affected wetland(s):
 - (a) dominant botanical species, rare species and wetland characteristic of flora;
 - (b) habitat value for wildlife species;
 - (c) depth to groundwater table or level of water, if inundated, according to USGS standards for percolation tests.
 - b. Material analysis
 - (a) volume (cubic yards);
 - (b) nature of materials;
 - (c) define procedures by which property will be protected from erosion and leaching of deposited materials.
 - c. Description of all proposed structures and their construction.
 - d. The effect of proposed activity on any associated watercourse:
 - (a) pH;
 - (b) turbidity;
 - (c) bacteria
 - (d) flow

- e. Measures which would 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, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.

C. The applicant shall certify whether:

1. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
2. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
3. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
4. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

D. A check payable to the City of Middletown for the proper amount indicated in the schedule of fees of these regulations.

(Amended effective 10/15/93)

- 3.7 The "Application" shall be made available in the manner specified under Section 14 of these regulations.
- 3.8 The date of receipt of such application shall be the date of the next regularly scheduled meeting of the Agency immediately following the date of said application, provided such meeting is no earlier than three (3) business days after receipt, at which such application is officially received by the Agency, or thirty-five (35) days from the date of the application, whichever is sooner. Submission of applications between eight (8) and three (3) business days before a regularly scheduled meeting of the Agency will not be guaranteed a place on the agenda.
- 3.9 At any time during the review period, the Agency may require the applicant to provide more information about the wetlands and/or watercourses in question and/or the proposed activity, which the Agency or its designated agent deems pertinent to make a decision on the application. This information shall be submitted before the next regularly scheduled meeting.

Requests for additional information by the Agency shall not stay the time limitations as set forth in subsection 8.4 of these regulations. Any “new” information beyond these requests shall be submitted at least eight (8) working days before the next regularly scheduled meeting.

- 3.10 An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.
- 3.11 If an application to the Planning and Zoning Commission for site plan review, special permit, special exception, subdivision or resubdivision involves an activity regulated by the Inland Wetlands Agency, the applicant shall submit and application for a permit to the Agency on the same day as such application is filed with the Planning and Zoning Commission. The report of the Agency, with its final decision on the application, must be submitted to the Planning and Zoning Commission prior to rendering of a decision on said site plan, special permit, special exception, subdivision or resubdivision.
- 3.12 No person shall conduct any regulated activity within an inland wetland or watercourse which requires zoning or subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception or variance or other documentation establishing that the proposal complies with the zoning or subdivision requirements of the City of Middletown.
- 3.13 Failure to file the required information or obtain a permit for activity in a wetland may subject the violator to a penalty according to the provisions of Section 22a-44b of the Connecticut General Statutes.
- 3.14 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 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 (7) days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application.

- 3.15 No retention ponds are allowed in a wetland, if there is an alternative site outside the wetland. If there is no alternative site, and no alternative solution to stormwater management, detention ponds in a wetland may be considered. If a detention pond is allowed:
- A. Effective maintenance of such shall be performed by the property owner;
 - B. Access to such pond for maintenance shall be kept open by the property owner and shall not have a adverse impact on the wetland.
- 3.16 Reed Canary grass is not allowed as a cover in the wetlands.
- 3.17 (RESERVED FOR: CALCULATION OF LOT SIZE WHERE WETLANDS ARE INVOLVED).
- 3.18 Designation of the wetland boundary shall be recorded in the deed as referenced on the map approved by the Inland Wetlands and Watercourses Agency

SECTION 4 - PUBLIC HEARINGS

- 4.1 The Inland Wetlands Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses; or a petition signed by at least twenty-five persons requesting a hearing is filed with the Agency not later than thirty days after the submission of such application; or the Agency finds that a public hearing regarding such application would be in the public interest.
- 4.2 No later than sixty-five (65) days after the receipt of such application, the Agency may hold a public hearing on such application. The hearing shall be completed within forty-five (45) days of its commencement. All decisions on such matters shall be rendered within thirty-five (35) days after completion of such hearing.
 - A. Notice of the hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having general circulation in each town where the affected wetland and watercourse, or any part thereof, is located.
 - B. 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.
 - C. 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 the applicant may withdraw such application. Failure of the Inland Wetlands Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.
- 4.3 In any matter before the Agency requiring a public hearing, the applicant shall cause to be posted a temporary sign or signs visible from the street notifying the public of said hearing. The sign(s) shall be the responsibility of the applicant and posted subject to the following conditions:
 - A. The sign shall be posted seven (7) days prior to the day of the hearing. It shall be firmly secured to the ground or structure to prevent vandalism. If there is more than one frontage of the parcel on a street or streets, one sign for each frontage shall be posted.
 - B. The composition of the sign(s) shall be of a durable material (wood or metal) 40" x 40" in size painted white with black lettering having a minimum height of 4" with a letter stroke of 1".
 - C. The sign(s) shall advertise the date, time and place of the public hearing of the wetlands activity or boundary change.
 - D. Format of the sign(s) shall be obtained from the office of the Agency.

- E. Any proponent who fails to display the sign shall be required to file a new application.
 - F. The sign(s) shall be taken down within one week after the public hearing is completed.
- 4.4 In the case of any application which is subject to the notification provisions of Section 3.4 of these Regulations, a public hearing shall not be conducted if the clerk of the adjoining municipality(ies) has not received notice of the pendency of the application.

SECTION 5 - INVENTORY OF REGULATED AREAS

5.1 The map of regulated areas, entitled "Official Inland Wetlands and Watercourses Map for Middletown, Connecticut" delineates the general locations and boundaries of inland wetlands and the location of watercourses. Copies of this map are available for inspection at the Municipal Development Office. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of regulated soil types and locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a certified soil scientist where soil classifications are required or where watercourse determinations are required by any qualified individuals deemed acceptable to the Agency.

The burden of proof for a wetland boundary determinations shall be with the applicant. Should the Agency dispute the location of the wetland boundary provided by the applicant, it may consult the Soil Conservation Service or the DEP to resolve the dispute.

5.2 Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map, may petition the Agency to change the designation in accordance with Section 15 of these regulations. 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 Section 15 of these regulations, may be required of the property owner when the Agency requires an accurate delineation of regulated areas.

5.3 The Agency and/or its designated agent shall monitor and maintain general surveillance of the regulated areas within the City to ensure that no unauthorized regulated activities occur and that permitted activities occur within any permit restrictions.

5.4 The Agency or its designated agent shall continually inventory inland wetlands and watercourses. The Agency may amend the Official Inland Wetlands and Watercourses Map delineating said wetlands and watercourses to be regulated, in accordance with Section 15 of these regulations.

SECTION 6 - PERMITTED AND NON-REGULATED OPERATIONS AND USES

6.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:

- A. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less, essential to the farming operations. These provisions 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; and, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purpose of sale.
- B. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the building permit has been issued or the subdivision has been approved by the Planning & Zoning Commission, as of May 18, 1973, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987.
- C. Boat anchorage or mooring, not to include dredging or dock construction.
- D. Uses incidental to the enjoyment and maintenance of residential property, such 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 significant 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 in Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 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-403 of the Connecticut General Statutes.

6.2 The following operations and uses shall be permitted, as non-regulated uses in wetlands and watercourses provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

- A. Conservation of soil, vegetation, water, fish, shellfish and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.

- B. Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell-fishing and cross-country skiing where otherwise legally permitted and regulated.
- 6.3 Wetland restoration activities must be approved by the Inland Wetlands and Watercourses Agency.
- 6.4 To carry out the purposes of this section, any person proposing to carry out a permitted or non-regulated operation or use of a wetland or watercourse shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or non-regulated use or operation or that a regular permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time. Initiation of the permitted use or operation shall be within one (1) year and any ruling pursuant to this section expire in one (1) year from date of issuance unless otherwise extended by the Agency.

SECTION 7 - ACTIVITIES REGULATED BY THE STATE

- 7.1 In addition to any permit or approval required by the Agency, 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-41O of the General Statutes, as amended;
 - B. Placement of any obstruction or encroachment within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349 of the General Statutes, as amended;
 - C. Erection of structures and placement of fill 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 of 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;
 - 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.
- 7.1 The Commissioner of Environmental Protection shall have exclusive jurisdiction to grant, deny, limit or modify a permit for any proposed regulated activity conducted by any department, Agency or instrumentality of the state, except any local or regional board of education, (1) after an advisory decision on such license or permit has been rendered to the Commissioner by the Agency or (2) thirty-five (35) days after receipt by the Commissioner of such application whichever occurs first.
- 7.2 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.
- 7.3 The Commissioner of Environmental Protection shall have the authority to revoke and to reinstate local jurisdiction over inland wetlands and watercourses pursuant to Section 22a-42d of the Connecticut General Statutes, as amended, if the Commissioner determines that the agency has consistently failed to perform its duties.

SECTION 8 - RENDERING DECISION

- 8.1 The Agency shall consider the following in making its decision on the application pursuant to Section 1.3 of these regulations.
- A. Written or oral testimony offered prior to and at the public hearing.
 - B. Any reports from other agencies and commissions.
 - 1. The Agency shall submit all applications involving significant activities to the Middlesex County Soil and Water Conservation District.
 - 2. The Agency may request comments on all applications from the following:
 - a. City of Middletown Conservation Commission;
 - b. City of Middletown Planning and Zoning Department;
 - c. City of Middletown Public Works, including the Building Division
 - d. City of Middletown Water and Sewer Department;
 - e. City of Middletown and/or State Department of Health;
 - f. Middlesex County Soil and Water Conservation District;
 - g. Midstate Regional Planning Agency or other regional organization;
 - h. Appropriate agencies in adjacent municipalities which may be affected by the proposed activity;
 - i. Other technical agencies or organizations which may undertake additional studies or investigations such as but not limited to, the following: Department of Environmental Protection; U.S. Army Corps of Engineers; Environmental Protection Agency; Department of Interior; Department of Agriculture; Agriculture Extension Service.
 - j. A certified soil scientist designated by the Agency.
 - C. Information submitted with the application.
 - D. All relevant facts and circumstances as they affect inland wetlands and watercourses and their functional services including but not limited to:
 - 1. The environmental impact of the regulated activity on wetlands or watercourses including the effects on the inland wetlands' and watercourses' capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.
 - 2. 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.

3. The relationship between the short-term and long-term impact of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
 4. 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 (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.
 5. 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, or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community.
 6. 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.
 7. Measures which would mitigate the impact of any aspect of the proposed regulated activity(s). Such measures include, but are not limited to, actions which avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect or enhance the wetlands' or watercourses' natural capacity to support fish and wildlife, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage and to provide recreation and open space.
- 8.2 In the case of any application which received a public hearing pursuant to a finding by the Inland Wetlands Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative to alter or destroy Wetlands and/or Watercourses does not exist. In making this decision, the Agency shall consider the facts and circumstances set forth in Section 8.1 of these regulations. This finding and the reasons therefore shall be stated on the record in writing in the decision of the Agency.

- 8.3 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the agency shall identify 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.
- 8.4 All action on the application shall be in conformance with Section 9 of these regulations and shall be in writing.
- Action shall be taken on the application within thirty-five (35) days after the completion of a public hearing or, in the absence of a public hearing, within sixty-five (65) days from the date of the receipt of the application unless extensions are granted as specified in Section 4.3 of these regulations.
- 8.5 The Agency shall notify the applicant of its decision by certified mail within fifteen (15) days of the date of the decision and the Agency shall cause notice of its order in issuance, denial, revocation or suspension of a permit to be published in a daily newspaper having general circulation within the City. 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.
- 8.6 The Agency shall file its decision with the City and Town Clerk within fifteen (15) days and shall also cause the Agency's designated agent to maintain a record of all applications.
- 8.7 If an activity authorized by the Inland Wetlands permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed with the City of Middletown Planning & Zoning Commission within fifteen (15) days of the date of the decision.
- 8.8 Monthly reports to the Commissioner of Environmental Protection shall be mailed no later than the 15th of each month on the forms provided by the Department of Environmental Protection, including all information required under Section 22a-39(m)-1,

SECTION 9 - GRANTING A PERMIT

- 9.1a The Agency authorizes its agent 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 minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner pursuant to Sec. 22a-39 of the General Statutes.
- 9.1b Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three (3) business days after receipt by such Agency or its agent of such appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 3 of these regulations.
- 9.1c The Agency or its agent may grant the application as filed; grant it upon other terms, conditions, limitations or modifications which are designed to carry out the policy of Sections 22a-36 to 22a-45, inclusive, of the General Statutes. 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.
- 9.2 The Agency shall state upon its record the reasons and basis for its decision and, in the case of any public hearing, such decision shall be based on the record of such hearing and shall be in writing.
- 9.3 If the Agency denies the permit without prejudice or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The Agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for the purposes of appeal. If the conditions of the permit require changes to the plan(s), the applicant shall make the required modifications and submit the amended plan to the Agency within one week of approval for the signature of the Chairman, or in the case of his inability to sign, the Vice Chairman.
- 9.4 If the Agency denies the permit, no further application will be heard by the Agency concerning the property and the uses requested in the application unless the Agency shall determine that the applicant has significantly modified his or her proposal pursuant to these regulations. Such a significantly modified application shall be deemed a new application and the review process set forth in these regulations shall be followed.

9.5 A. The permit shall be valid for a period of five years from approval by the Agency. Any regulated activity approved by the Agency shall be completed within one year from the time such activity has commenced. The Agency may establish a specific time period of less than one year within which any regulated activity, once commenced, be completed. The expiration date shall be clearly stated on the permit. Upon the expiration of the permit, or expiration of any period of extensions, such permit shall be null and void. All permits shall expire upon completion of the act(s) specified therein, or upon the expiration date, whichever is sooner.

B. The Agency may extend (1) the time period of the original permit provided that such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section. No such extension shall be granted by the Agency except upon a written request by the permitholder. Such written request shall include the following: 1) the specific reasons for the extension of time, 2) statement that no change in the regulated area referred to in the permit occurred since the issuance of the permit or most recent extension, or if change has occurred, statement that the originally issued permit or the most recent extension adequately protects the regulated area, taking into account such change, 3) disclosure of the qualifications of the person(s) making statement required in subsection 2. A permitholder bears the burden of proving that there is no change in circumstances since the prior application or request for extension.

C. Any written requests for extension of time shall be made to the Agency and received by the Agency before the expiration of the original approval period or any extension previously granted. Upon timely request for extension, the permit shall not expire until the Agency acts upon the request. If a request for extension is received by the Agency after the expiration of the permit or any previously granted extension, the Agency shall deny the request and inform the party requesting the extension that a new application for a permit may be filed and can be acted upon the Agency. (Amended effective 2/17/95)

D. Before acting upon the request for extension, the Agency shall review and consider the original permit and previous extensions granted, if any, and the written request by the permitholder. The Agency may require the permitholder to provide more information which the Agency deems pertinent to making a decision on the request. The Agency may request comments from any agencies or commissions listed in Section 8.1.B.2 of these regulations. A public hearing may be held on all requests for extension. A public hearing may be held in any other matter.

E. The Agency may (1) grant the extension as requested, (2) grant the request with conditions, or (3) deny the extension, if in the case of (2) or (3), the Agency has found that a change of condition affecting the regulated area has occurred since its prior decision or other considerations materially affecting the regulated area have intervened or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued and no vested rights have arisen as a result of issuance of the permit, and, in the case of (2), that conditions to protect regulated areas must be imposed, or, in the case of (3) that denial is the appropriate action to protect the regulated area. (Amended effective 10/15/93).

- 9.6 No permit shall be assigned, transferred, sublet or sold to any other person without the prior written permission of the Agency. There shall be a permit transfer fee of \$25.00.
- A. In order to obtain a transfer permit, the buyer must apply for a transfer permit within thirty (30) days of the closing on the property on which a wetlands permit is in effect.
 - B. Record of the transfer shall be kept on file with the office of the Inland Wetlands Agency.
 - C. Before a building permit is issued, the new owner must satisfactorily demonstrate to the Building Department that either: (1) no permit is needed for the proposed activity; or, (2) that the wetlands permit in effect at the time of the closing has been properly transferred.
 - D. Transfers where no changes are sought can be approved by the staff secretary who will report all such transfers at the next meeting.
- 9.7 If a bond or insurance is required, in accordance with Section 10 of these regulations, no permit shall be issued until such bond or insurance is provided.
- 9.8 General provisions in the issuance of all permits.
- A. Nothing in these regulations shall obviate any requirement for the applicant to obtain any other assent, permit or license required by law or regulation by the Government of the United States or of the State of Connecticut or any other political subdivisions thereof.

The obtaining of such assents, permits or licenses is solely the responsibility of the applicant.
 - B. Flagging of the wetland boundaries shall be by continuous construction ribbon, shall be in place before any activity commences, and shall be kept in good repair for the duration of the project. No disturbance or activity either permanent or temporary is allowed within fifty (50') feet of the wetland boundaries other than as shown on the plan(s) duly approved by the Agency. Flagging must be visible above the basic ground level vegetation.
 - C. In evaluating applications in which the Agency 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, then the permit may be modified, suspended or revoked.
 - D. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the City of Middletown 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.

- E. 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, no work pursuant to the Inland Wetlands permit may begin until such approval is obtained and the Chairman of the Inland Wetlands and Watercourses Agency signs the final Mylar plans.
- F. The permittee shall employ construction management practices, 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.
- G. A copy of the plans approved by the Agency shall be kept at the job site.
- H. The Agency shall be notified, by postcard, immediately before any activity begins in the wetlands in order to schedule a pre-construction conference with the Enforcement Officer.

SECTION 10 - BOND AND INSURANCE

- 10.1 The applicant, upon approval of the application and prior to issuance of a permit, at the discretion of the Agency, may be required to file a performance bond and/or a maintenance bond in an amount and with sureties and in a form approved by the Agency.
- 10.2 The bond and sureties shall be conditioned on compliance with all provisions of these regulations and conditions imposed on application approval.
- 10.3 The applicant may be directed to certify that he has public insurance against liability which might result from the proposed operation or use covering any and all damages which might occur within three (3) years of completion of such operations in an amount equal to the project cost and the full market value of the land at 100% value.

SECTION 11 - ENFORCEMENT

- 11.1 If the Agency or its designated agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the regulations or of conditions imposed by the Agency, the Agency may issue:
- A. A written order, served personally and by certified mail, to such person conducting such activity or maintaining such facility or condition to cease immediately such activity and/or to correct such facility or condition. The written order may also be served personally. Within ten (10) days of the issuance of such order, the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The hearing shall be open to public testimony if deemed appropriate by the Agency. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing, notify the person by certified mail that the original order remains in effect, that a revised order is in effect or that the order has been withdrawn. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to the penalties provided by Section 22a-36 through 22a-45, as amended (by Public Act 87-338) for such violations.
 - B. A notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice of filing a proper application for the necessary permit. Failure to carry out the actions(s) directed in a notice of violation may result in issuance of the order provided in Subsection A. of this Section or other enforcement proceedings as provided by law.
- 11.2 The Agency and/or its designated agent, shall make regular inspections of all activities for which permits have been issued under these regulations. Such activities shall be open to inspection at all reasonable time. The owner, applicant or their agent, shall have such permit readily available and shall produce the same for inspection by such designated agent of the Agency upon

request. In the event that the Agency determines that a regulated activity is being carried out in violation of the permit conditions, or that a regulated activity is being performed without a permit, the Agency shall issue an order to “Cease and Desist and/or to Correct”, to the permittee or agent of the permittee conducting the activity.

- 11.3 The Agency may suspend or revoke a permit if it finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The Agency must give due notice to the permittee, personally or by certified mail, return receipt requested, of the facts or conduct which warrant the intended action and hold a hearing at which the permittee is given an opportunity to shown compliance with the requirements for retention of the permit.
- 11.4 The applicant shall be notified of the Agency’s decision to suspend, revoke or maintain by certified mail within fifteen (15) days of the date of the decision and the Agency shall cause notice of its order of revocation or suspension of a permit to be published in a daily newspaper having general circulation in the municipality wherein the wetland or watercourse lies.
- 11.5 Illegal work in a wetlands may subject the violator to a civil penalty up to \$25,000 per day. In addition, willful violations of the wetlands law may subject the violator to a criminal penalty of up to \$1,000 per day and six months imprisonment. Subsequent violations may subject the violator to fines of up to \$2,000 per day, a year imprisonment, or both.
- 11.6 If a transfer permit is not obtained within thirty (30) days of property transfer, a cease and desist order will be issued.
- 11.7 Nothing in these regulations shall be taken as limiting or excluding other remedies as are available to the Agency for the protection of inland wetlands and watercourses.

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SECTION 12 - CORRESPONDENCE

- 12.1 Correspondence from the public will be considered by the Inland Wetlands and Watercourses Agency at the next regularly scheduled meeting, provided it is submitted eight (8) working days before such meeting. Once on the agenda, the public will have the opportunity to address the items identified in said correspondence.

SECTION 13 - CONFLICT AND SEVERANCE

- 13.1 Where there is a conflict among the provisions of these regulations the provision which imposes the greatest restrictions on the use of wetlands and watercourses shall govern. The invalidity of any work, clause, sentence, section, part of provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part of parts.

SECTION 14 - EFFECTIVITY

14.1 No regulations of an inland wetlands agency including boundaries of inland wetland and watercourse areas shall become effective or be established until after a public hearing in relation thereto is held by the inland wetlands agency, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing in a newspaper having a substantial circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than FIFTEEN (15) days nor less than TEN (10) days, and the last not less than two (2) days, before such hearing, and a copy of such proposed regulation or boundary shall be filed in the office of the town, city or borough clerk as the case may be, in such municipality, for public inspection at least ten (10) days before such hearing, and may be published in full in such paper. A copy of the notice and the proposed regulations or amendments thereto except determinations of boundaries, shall be provided to the commissioner of the Department of Environmental Protection at least thirty-five (35) days before such hearing. Such regulations and inland wetland and watercourse boundaries may be from time to time, amended, changed or repealed, by majority vote of the inland wetlands agency, after a public hearing, in relation thereto, is held by the inland wetlands agency, at which parties in interest and citizens shall have an opportunity to be heard and for which notice shall be published in the manner specified in this subsection. Regulations or boundaries or changes therein shall become effective at such time as is fixed by the inland wetlands agency, provided a copy of such regulation, boundary or change shall be filed in the office of the town, city or borough clerk, as the case may be. Whenever an inland wetlands agency makes a change in regulations or boundaries, it shall state upon its records the reason why the boundary or change to the commissioner of environmental protection no later than ten (10) days after its adoption provided failure to submit such regulation, boundary or change. All petitions submitted in writing and in a form prescribed by the inland wetlands agency, requesting a change in the regulations or the boundaries of an inland wetland and watercourse area shall be considered at a public hearing in the manner provided for establishment of inland wetlands regulations and boundaries within ninety (90) days after receipt of such petition. The inland wetlands agency shall act upon the changes requested in such petition within sixty (60) days after the hearing. The petitioner may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of any such

period shall not be for longer than the original period as specified in this subsection, or may withdraw such petition. The failure of the inland wetlands agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

- 14.2 These regulations shall become effective upon filing in the office of the City and Town Clerk of the City of Middletown, Connecticut.

SECTION 15 - AMENDMENTS

- 15.1 These regulations and the Official Inland Wetlands and Watercourses Map for the City of Middletown may, from time to time, be amended by the Agency in accordance with changes in the General Statutes or regulations of the State Department of Environmental Protection and as new information regarding soils, hydrology and botanical species peculiar to inland wetlands and watercourses in the City of Middletown becomes available.
- 15.2 Any application submitted to the Agency shall be judged according to the regulations in force on the date of receipt of its submission. More specifically, an application filed with an Inland Wetlands Agency which is in conformance with the applicable Inland Wetlands Agency Regulations as of the date of such receipt of such agency with respect to such application shall not be required thereafter to comply with any change in Inland Wetlands Regulations, (or boundaries) including changes to setbacks and buffers, taking effect on or after the date of such receipt. The provisions of this subsection shall not be construed to apply: (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses; or, (2) to any change in regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of such receipt.
- 15.3 These regulations and the City of Middletown Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except determinations of boundaries, at least thirty-five (35) days before the public hearing on their adoption.
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Middletown, Connecticut" shall contain at least the following information:
- A. The applicant's name, address and telephone number;
 - B. The owner's name (if not the applicant), address, telephone number and a written consent to the proposed action set forth in the application;
 - C. Applicant's interest in the land;
 - D. The geographic location of the property involved in the petition including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas;
 - E. The reasons for the requested action;
 - F. The names and addresses of adjacent property owners; and,
 - G. A site plan showing proposed development of the property.

- 15.5 The property owner shall present documentation by a certified soil scientist that the land in question does not have a soil type classified by the National Cooperative Soils survey as poorly drained, very poorly drained, alluvial or flood plain. Such documentation includes a map of the land in question signed by a certified soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted, along with their appropriate numerical designations at an accuracy of an A-2 survey standard established by the State of Connecticut Board or Registry for Professional Engineers and Land Surveyors.
- 15.6 Watercourses shall be delineated by a competent soil scientist, geologist, ecologist or other individual satisfactory to the Agency.
- 15.7 No regulations of an inland wetlands agency including boundaries of inland wetland and watercourse areas shall become effective or be established until after a public hearing in relation thereto is held by the inland wetlands agency, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing in a newspaper having a substantial circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than FIFTEEN (15) days nor less than TEN (10) days, and the last not less than two (2) days, before such hearing, and a copy of such proposed regulation or boundary shall be filed in the office of the town, city or borough clerk as the case may be, in such municipality, for public inspection at least ten (10) days before such hearing, and may be published in full in such paper. A copy of the notice and the proposed regulations or amendments thereto, except determinations of boundaries, shall be provided to the commissioner of the Department of Environmental Protection at least thirty-five (35) days before such hearing. Such regulations and inland wetland and watercourse boundaries may be from time to time, amended, changed or repealed, by majority vote of the inland wetlands agency, after a public hearing, in relation thereto, is held by the inland wetlands agency, at which parties in interest and citizens shall have an opportunity to be heard and for which notice shall be published in the manner specified in this subsection. Regulations or boundaries or changes therein shall become effective at such time as is fixed by the inland wetlands agency, provided a copy of such regulation, boundary or change shall be filed in the office of the town, city or borough clerk, as the case may be. Whenever an inland wetlands agency makes a change in regulations or boundaries it shall state upon its records the reason why the change was made and shall provide a copy of such regulation, boundary or change to the commissioner of environmental protection no later than ten (10)

days after its adoption provided failure to submit such regulation, boundary or change shall not impair the validity of such regulation, boundary or change. All petitions submitted in writing and in a form prescribed by the inland wetlands agency, requesting a change in the regulations or the boundaries of an inland wetland and watercourse area shall be considered at a public hearing in the manner provided for establishment of inland wetlands regulations and boundaries within ninety (90) days after receipt of such petition. The inland wetlands agency shall act upon the changes requested in such petition within sixty (60) days after the hearing. The petitioner may consent to one or more extensions of the periods for action on such petition, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such petition. The failure of the inland wetlands agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

- 15.8 Within ninety (90) days after receipt of a complete petition for a change in the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the petition. The Agency shall act upon the changes requested in such petition within sixty (60) days after the hearing. The petitioner may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be fore longer than the original period as specified in the subsection, or the petitioner may withdraw such petition. The failure of the Inland Wetlands Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.9 The Agency shall make its decision and state the reasons why the change in the Inland Wetlands and Watercourses Map was made in writing.

SECTION 16 - APPEALS

- 16.1 Appeal on actions of the Agency shall be made in accordance with the provisions of Section (22a-43) 22a-36 to 22a-45 of the Connecticut General Statutes, as amended.

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

Adopted: March 9, 1988
Effective Date: March 10, 1988

Revised: October 5, 1988
Effective: October 12, 1988

Revised: October 4, 1989
Effective: October 27, 1989

Revised: December 6, 1989
Effective: December 8, 1989

Revised: February 7, 1990
Effective: February 16, 1990

Revised: December 6, 1990
Effective: December 23, 1990

Revised: April 2, 1997
Effective: April 10, 1997

Return to:
Inland Wetlands and Watercourses Agency
Municipal Building, Room 202
245 deKoven Drive
Middletown, Connecticut 06457

For Agency Use Only:

Application Fee _____
Received \$ _____

By _____ Date _____

**City OF MIDDLETOWN
INLAND/WETLANDS AND WATERCOURSES AGENCY
APPLICATION FOR
INLAND WETLANDS AND WATERCOURSES ACTIVITY**

(Applicant to complete all information in Items 1-15
applications for significant activities should attach additional
sheets for Item 16)

1. Applicant Name and Address	2. Property Owner Information (If different than applicant)
Telephone during Business hours:	Telephone during Business hours:
3. Applicant's Interest in Property: (Circle One) Owner Developer Option Holder Other (describe)	4. Exact Location of Property: Name of Street (including Assessor's Map, Block, and Lot Number)
5. Summary Description of Proposed Activity:	
6. Purpose of Proposed Activity:	

7. Activity Location and site plan showing existing and proposed conditions in relation to wetlands and watercourses. Location of activity should be shown on the City's wetland maps.

Number of acres of wetlands (or portion thereof) on the property: _____

Total acreage of wetlands or linear feet of watercourse to be altered: _____

Total area of impacted, regulated area: _____

8. Estimated Time land will be disturbed during construction: _____

9. Check applicable activities occurring within 0-100 feet from wetland or watercourse:

Removal

Discharge: _____

Specify Type

Filling

Surface Water Diversion

Paving

Vegetation Removal

Other: _____

Specify Type

10. Explain in detail extent of any activity checked above and type of material:

11. Explain what alternatives have been considered in connection:

12. Identify any other local, State or Federal permits previously issued or that will be required for work on the property.

To comprise a complete application, the following must be submitted to the Inland Wetland and Watercourses Agency: seventeen (17) copies of this application form; seventeen (17) copies of the site plan and any supporting documentation. It is requested all permit applications should be submitted eight (8) days prior to the next scheduled Agency meeting to insure consideration at that meeting. (Amended effective November 17, 2017)

13. The undersigned is familiar with all the information provided in this application and is aware that any permit obtained through deception, inaccurate, or misleading information is subject to revocation.

Applicant

Date

14.

Authorized Agent

Date

Address of Authorized Agent

15. The undersigned, as owner of the property, hereby consents to necessary and proper inspections of the above-mentioned property by Commissioners of the Inland Wetlands and Watercourses Agency, agents of the City of Middletown, the Connecticut Department of Environmental Protection and the U.S. Department of Agriculture, Soil Conservation Service, at reasonable times, both before and after a final decision has been issued by the Middletown Inland Wetlands and Watercourses Agency.

Owner's Authorization

Date

16. If the proposed activity involves a significant activity as determined by the Agency and defined in Section 2 of these Regulations, additional information, based on the nature and anticipated effects of the activity, shall be submitted as per Section 3.6B of the Inland Wetlands and Watercourses Agency Regulations.

DELETED

PERMIT TRANSFER
INLAND WETLANDS AND WATERCOURSE PERMIT

For the PRESENT PERMITTEE:

I, _____ do hereby give permission to
(print name of signatory listed below)

transfer City of Middletown Inland Wetlands Permit # _____

(describe property or portion to be considered under transfer)

_____ Dated: _____
(signature of permittee or authorized agent)



For the PROSPECTIVE PERMITTEE:

This is a request for the transfer of City of Middletown Inland Wetlands Permit # _____. This request is made in full knowledge and understanding of the permit and the Prospective Permittee does hereby agree to comply with the permit as applied for and issued.

Legal Name and Address of Prospective Permittee:

Home Phone # _____ Business Phone # _____

_____ Dated: _____
(signature of prospective permittee)



Fee paid: _____

Transfer of permit authorized by: _____
Secretary, Middletown Inland Wetlands and
Watercourses Agency

Dated: _____

INLAND WETLANDS AND WATERCOURSES AGENCY

PERMIT NO. _____ DATE GRANTED: _____

This authorization refers to your application to conduct a regulated activity within inland wetlands and/or watercourses at the following location:

The Inland Wetlands and Watercourses Agency has considered your application with due regard for the criteria enumerated in Section 22a-41 of the General Statutes and in Section 8 of the Agency's Regulations and has found that the proposed work, as specified and conditioned below, is in conformance with the purposes and provisions of said sections.

The authorized activity consists of: _____

with the following conditions: _____

This Permit is issued subject to the following conditions and/or modifications:

1. The permittee shall notify the Wetlands Officer immediately upon the commencement of work and upon its completion.
2. If the authorized activity is not completed on or before _____ said activity shall cease and, if not previously revoked or specifically extended, this Permit shall be null and void.
3. All work and all regulated activities conducted pursuant to this authorization shall be consistent with the terms and conditions of this Permit. Any structures, excavation, fill obstructions, encroachments or regulated activities

Page 2.

Inland Wetlands and Watercourses Permit Authorization

Not specifically identified and authorized herein shall constitute a violation of this Permit and may result in its modification, suspension, or revocation. Upon initiation of the activities authorized herein, the permittee thereby accepts and agrees to comply with the terms and conditions of this Permit.

4. This authorization is not transferable without the written consent of the Secretary of the Inland Wetlands and Watercourses Agency.
5. In evaluating this application, the Agency has relied on information provided by the applicant and, if such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, this Permit may be modified, suspended or revoked.
6. The permittee shall employ best management practices, consistent with the terms and conditions of this Permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands or watercourses. The permittee shall immediately inform the Wetlands Officer of any problems involving wetlands or watercourses which have developed in the course of, or which are caused by, the authorized work.
7. No equipment or material including, without limitation, fill construction materials, or debris shall be deposited, placed, or stored in any wetland or watercourse on or off site unless specifically authorized by this Permit.
8. This Permit is subject to and does not derogate any present or future property rights or other rights or powers of the State of Connecticut, and conveys no property rights in real estate or material nor any exclusive privileges, and is further subject to any and all public and private rights and to any federal, state or local laws or regulations pertinent to the property or activity affected hereby.

Secretary,
Inland Wetlands and Watercourses Agency

SCHEDULE OF FEES AND PENALTIES

- A. Permitted Uses – Section 6.1 - no charge.
- B. Non-regulated Uses - Section 6.2 - \$45.00
- C. Regulated Uses - Section 7

Application Fee

Single Family / Residential Use Fee Schedule

- A. Application Fee:
 - 1. Single Lot - \$60.00 plus \$60.00 State Tax = \$120.00
 - 2. Subdivision - \$250.00 plus \$60.00 State Tax = \$310.00
- B. Public Hearing / Significant Activity Fee - \$375.00
- C. Permit Fee (upon approval of Permit by Agency):
 - 1. \$18.00 for each 1000 square feet or part thereof of impacted, regulated area up to 2,000 square feet; plus
 - 2. \$12.00 for each 1000 square feet or part thereof of impacted, regulated area between 2000 square feet and 50,000 square feet; plus
 - 3. \$6.00 for each 1000 square feet and 50,000 square feet or part thereof of impacted, regulated area over 50,000 square feet.
(Section amended effective 1/27/95)

NON-RESIDENTIAL / MULTI FAMILY USE FEE SCHEDULE

- A. Application Fee
 - 1. Single Building / Use - \$250.00 plus \$60.00 State Tax = \$310.00
 - 2. Multiple Buildings / Use - \$350.00 plus \$60.00 State Tax = \$410.00
- B. Public Hearing / Significant Activity Fee - \$375.00
- C. Permit Fee (Upon approval of permit by Agency)
 - 1. \$20.00 for each 1,000 square feet or part thereof of impacted, regulated area up to 2,000 square feet; plus
 - 2. \$15.00 for each 1,000 square feet or part thereof of impacted, regulated area between 2,000 square feet and 50,000 square feet; plus
 - 3. \$8.00 for each 1,000 square feet or part thereof of impacted, regulated area over 50,000 square feet.
(Section amended effective 2/17/95)

AMENDMENT FEE

\$75.00 for petition to change the boundaries of the inland wetlands or the regulations of the Inland Wetlands and Watercourses Agency.

PERMIT TRANSFER FEE

\$25.00 to transfer a permit for a regulated activity approved by the Agency.

PENALTIES

Penalties shall be imposed according to the provisions of Section 22a-44g of the Connecticut General Statutes, as amended.

TIME LINE

<hr/>	<u>Date of Submission of:</u> <ul style="list-style-type: none">• Application• Correspondence• New” Information on pending applications• Amendments
8 WORKING DAYS TO BE ON THE AGENDA	
3 WORKING DAYS TO START THE CLOCK RUNNING	
<hr/>	<u>Date of Receipt:</u> The next regularly scheduled meeting of Inland Wetlands and Watercourses Agency – first Wednesday of the month.
65 DAYS	Hearing notice #1 – between fifteen (15) to ten (10) days before meeting date.
65 DAYS IF NO PUBLIC HEARING	Hearing notice #2 – at least two (2) days before meeting date.
<hr/>	<u>Date of Public Hearing:</u> within sixty-five (65) days of date of receipt.
45 DAYS	<u>Date of Close of Public Hearing:</u> within forty-five (45) days.
<hr/>	
35 DAYS	
<hr/>	<u>Date of Action on Application:</u>
	Either thirty-five (35) days after close of the public hearing or sixty-five (65) days after date of receipt if no public hearing occurred.

* NOTE: The time line for amendments is slightly different. See Section 15.7 and 15.8 of these regulations.

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APPENDIX E.

(RESERVED FOR CALCULATION OF WETLANDS
ALLOWANCE ON MINIMUM LOT AREA).

**Middlesex County Soil and Water Conservation District,
Inc.
Extension Center – Route 154 – Haddam, Connecticut 06438 – Phone (203) 345-3219**

EROSION AND SEDIMENT CONTROL PLAN WORKSHEET

This is a guide for the development and review of erosion and sediment control plans. Local commissions should be consulted for regulatory requirements concerning erosion and sediment control planning.

Checked () items are those that have been provided on the current erosion and sediment control plan. Items identified with a star (*) should be incorporated into final plans.

Name of development _____

Materials received _____

Total Area _____ Location _____

Engineer _____

Date received _____ Site Visit _____ Reviewed By _____

Submitted by _____

NARRATIVE SECTION DESCRIBING: (Narrative should be on plan)

- _____ The Development
- _____ Purpose of activity
- _____ The number of total acres and acres to be disturbed in the project
- _____ The schedule of grading and construction activities, including:
 - _____ Start and completion dates
 - _____ Sequence of grading and construction activities
 - _____ Application sequence of all E & S control measures
- _____ The design criteria for all proposed E & S control measures
- _____ Construction details for all proposed E & S control measures
- _____ Installation procedures for all proposed E & S control measures
- _____ The operations and maintenance program for all proposed E & S control measures
- _____ The name of the person or organization that will be responsible for the installation and maintenance of the E & S control measures
- _____ Organization or person responsible for maintenance of permanent measures when project is completed.

A SITE PLAN AT A SUFFICIENT SCALE SHOWING:

NATURAL FEATURES

- _____ Existing topography
- _____ Soils information, including test pit data if available
- _____ Identification of wetlands, watercourses and water bodies on the site
- _____ Name of soil scientist who performed wetlands delineation and flag numbers
- _____ Major drainage-ways and drainage areas
- _____ Rock outcrop areas
- _____ Seeps, springs
- _____ Major aquifers
- _____ Floodplains (100 year) and floodways
- _____ Channel encroachment line (DEP permit)
- _____ Existing vegetation
- _____ Coastal zone boundary
- _____ Gateway or Connecticut River Assembly zone

PROJECT FEATURES

- _____ The location of the proposed development
- _____ Adjacent properties
- _____ Major land uses of adjoining areas
- _____ Property lines
- _____ Lot lines and setback lines
- _____ Lot and/or building numbers
- _____ Planned and existing roads
- _____ Location of existing and planned utilities
- _____ Location of wells and septic systems
- _____ Proposed topography
- _____ North arrow
- _____ A plan legend

CLEARING, GRADING, VEGETATIVE STABILIZATION

- _____ The sequence for installation and application of all E & S control measures
- _____ The sequence of grading and construction activities
- _____ The location of and construction details for all proposed E & S control measures
- _____ Measures needed are: _____

-
- _____ Limits of disturbed areas
 - _____ Extent of areas to be graded
 - _____ All proposed structures
 - _____ Disposal sites for cleared material
 - _____ Location of stockpiled topsoil and subsoil
 - _____ Temporary erosion control protection for stockpiles
 - _____ Areas to be vegetatively stabilized
 - _____ Temporary erosion control protection of disturbed and/or cleared areas
 - _____ Temporary erosion protection when time of year or weather prohibit establishment of permanent vegetative cover
 - _____ The sequence for final stabilization of disturbed areas
 - _____ Amount of topsoil to be spread (depth in inches)
 - _____ Seedbed preparation
 - _____ Seeding mixture, rates and seeding dates
 - _____ Fertilizer and lime application rates
 - _____ Mulch application rate
 - _____ Mulch anchoring measures

DRAINAGE SYSTEM

- _____ Existing and planned drainage pattern
- _____ Size and location of culverts and storm sewers
- _____ Drainage calculations for review by town engineer
- _____ Stormwater management measures and construction details
- _____ Groundwater control measures (footing drains, curtain drains)
- _____ Planned water diversions and dams (DEP permit)

HOUSE SITE DEVELOPMENT

- _____ Sediment and erosion control measures for individual lot development

ADDITIONAL COMMENTS

AMENDMENT TO INLAND WETLANDS REGULATIONS

Requiring Signs Prior to a Public Hearing – Adopted May 1, 1985

- 4.3 In any matter before the Agency requiring a public hearing, the applicant shall cause to be posted a temporary sign or signs, visible from the street notifying the public of said hearing. The sign(s) shall be the responsibility of the applicant and posted subject to the following conditions:
- A. The sign shall be posted seven (7) days prior to the day of the hearing. It shall be firmly secured to the ground or structure to prevent vandalism. If there is more than one frontage of the parcel on a street or streets, one sign for each frontage shall be posted.
 - B. The composition of the sign(s) shall be of a durable material (wood or metal) 40" x 40" in size painted white with black lettering having a minimum height of 4" with a letter stroke of 1".
 - C. The sign(s) shall advertise the date, time and place of the public hearing of the wetlands activity or boundary change.
 - D. Format of the sign(s) shall be obtained from the office of the Agency.
 - E. Any proponent who fails to display the sign shall be required to file a new application.
 - F. The sign(s) shall be taken down at least one week after the public hearing is completed.

Sample Format of Sign



MUST BE DOUBLE SIDED AND PERPENDICULAR TO ROAD