

**WETLANDS AND WATERCOURSES
TOWN OF BROOKFIELD
CHAPTER 220**

[HISTORY: Adopted by the Inland Wetlands Commission of the Town of Brookfield, 6/24/74, revised 9/2/82, revised 11/13/89, revised 5/1/91, revised 1/197, revised 11/24/08, effective 4/01/09, revised 12/17/12, effective 12/22/12. Subsequent amendments noted where applicable.]

220-1 STATUTORY AUTHORITY

The following, hereinafter referred to as Chapter 220 of the Code of the Town of Brookfield¹, are the Wetlands and Watercourses Regulations adopted by the Inland Wetlands Commission pursuant to ordinance of the Town of Brookfield entitled, "An Ordinance Authorizing the Inland Wetlands Commission to Promulgate Regulations Protecting the Wetlands and Water Courses of the Town" for the purposes therein enunciated and in accordance with the provisions of the Inland Wetlands and Water Courses Act (Sections 22a-36 to 22a-45 of the General Statutes, as amended) and/or Section 7-131a of the General Statutes.

¹ Editor's Note: See Chapter 34, Inland Wetlands Commission

220-2TITLE AND AUTHORITY

- A. The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater, and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment and thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the State for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the State. It is therefore, the purpose of these regulations to protect the citizens of the State by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of natural habitats thereof, deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the State's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the State and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the State, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- B. These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Brookfield."
- C. The Inland Wetlands Commission of the Town of Brookfield was established in accordance with an ordinance adopted June 24, 1974, and shall implement the purposes and provisions of these regulations and the Inland Wetland and Watercourses Act in the Town of Brookfield.
- D. 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.
- E. The Commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Brookfield pursuant to sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

220-3DEFINITIONS

A. As used in these regulations:

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

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

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

"**Commission**" means the Inland Wetlands Commission of the Town of Brookfield.

"**Commission member**" means a member of the Inland Wetlands Commission of the Town of Brookfield.

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

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

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

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

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

"**Farming**" shall be consistent with the definition as noted in section 1-1(q) of the Connecticut General Statutes. (see Appendix A.)

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

"**License**" means the whole or any part of any permit, certificate or approval or similar form of permission, which may be required of any person by the provisions of sections 22a-36 to 22a-45, inclusive.

"**Management practice**" means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials;

procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

"Marshes" are watercourses 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 inches or more in depth are common.

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

"Municipality" means the Town of Brookfield, Fairfield County, Connecticut.

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

"Permit" see license

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

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

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

"Planning Commission" means the Planning Commission of the Town of Brookfield.

"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 the wetlands or watercourses, but shall not include the activities specified in Section 220-5 of these regulations. Furthermore, any operation that may disturb the natural and indigenous character of a wetlands or watercourse and any earth moving, filling, construction, or clear-cutting of trees within two hundred feet (200') of the mean waterline of Candlewood Lake, the Still River, or Lake Lillinonah, within one hundred feet (100') of such waterline of any other watercourse or within seventy-five feet (75') of any wetlands is a regulated activity. Furthermore, any clearing, grubbing, filling, grading, paving, excavating,

construction, depositing or removal of material and discharging of storm water in the following areas is a regulated activity:

- (1) on land within seventy-five feet (75') measured horizontally from the boundary of any wetland or one hundred feet (100') of any watercourse, provided
- (2) if the slope of such land exceeds 5%, within the distance measured horizontally from the boundary of the wetland or watercourse equal to seventy-five (75') feet for a wetland and one hundred (100') feet for a watercourse plus an additional 5 feet for each 1% increase in slope greater than 5%, but not more than two hundred (200') feet;

The Commission may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses is a regulated activity.

"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 waters of the State, including, but not limited to, change in odor, color, turbidity or taste.

"Significant impact" means any activity, including, but not limited to the following activities which may have a major effect

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

"Soil Scientist" means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management (formerly the U.S. Civil Service Commission).

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

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

"Town" means the Town of Brookfield, Fairfield County, in the State of Connecticut.

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

"Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to sections 221-28 through 22a-35, inclusive, of the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

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

"Zoning Board of Appeals" means the Zoning Board of Appeals of the Town of Brookfield.

"Zoning Commission" means the Zoning Commission of the Town of Brookfield.

220-4**INVENTORY OF WETLANDS AND WATERCOURSES**

- A. The map entitled Zoning District Map; Brookfield, Connecticut; Revised May 20, 1997” 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 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, and locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a soil scientist where soil classifications are required, or where watercourse determinations are required, by any qualified individuals. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.
- B. Any person may petition the Commission for an amendment of the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances that support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not limited to aerial photography, remote sensing imagery, resource mapping or other available information. The Commission may require such person to provide an accurate delineation of regulated areas in accordance with Section 220-15 of these regulations.
- C. The Commission shall maintain a current inventory of regulated areas within the Town. The Commission may amend its map as more accurate information becomes available.
- D. All map amendments are subject to the public hearing process outlined in Section 220-15 of these regulations.

220-5**PERMITTED USES AS OF RIGHT AND NON-REGULATED USES**

- A. The following operations and uses shall be permitted in land wetlands and watercourses, as of right:
- (1) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include: road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
 - (2) A residential home
 - (a) for which a building permit has been issued or
 - (b) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of the promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as a right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement.
 - (3) Boat anchorage or mooring; not to include dredging or dock construction;
 - (4) Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality (provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two (2) acres). 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.
 - (5) Construction and operation, by water companies as defined by Section 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-410 of the General Statutes.

- (6). Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, “maintenance” means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.
- B. 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 wetlands or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetlands or watercourse:
- (1) Conservation of soil, vegetation, water, fish, shellfish, and wildlife; and
 - (2) Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water-skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated.
- C. All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Commission in accordance with Section 220-7 of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with Section 220-13 of these regulations.
- D. To carry out the purpose of this section, any person proposing a permitted operation and use or a nonregulated operation and use, shall, prior to commencement of such operation and use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of the wetland or watercourse. The Commission shall rule that the proposed operation or use is a permitted or a non-regulated operation and use or that the proposed operation and use is a regulated activity and a permit is required.

220-6**ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION**

- A. The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, Commission or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- B. The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes as amended.
- C. The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands Commission for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- D. The Commissioner of Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.

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REGULATED ACTIVITIES TO BE LICENSED

- A. No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetland Commission of the Town of Brookfield.

- B. Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Town of Brookfield Inland Wetland Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 220-15 of these regulations and any other remedies as provided by law.

220-8 **APPLICATION REQUIREMENTS**

- A. Any person wishing to undertake a regulated activity or to renew or amend a permit to conduct such activity shall apply for a permit on a form provided by the Land Use Office. An application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained in the Land Use office of the Town of Brookfield. An application form is also incorporated herein as "Appendix C".
- B. If an application to the Town of Brookfield Planning Commission, or Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Commission in accordance with this section, no later than the day the application is filed with such planning, zoning, or planning and zoning commission.
- C. All applications shall contain such information that is necessary for a fair and informed determination of the issues.
- D. A prospective applicant can request that the Commission determine whether or not the proposed activity involves a significant impact.
- E. The applications shall include the following information in writing or on maps or drawings:
- (1) The applicant's name, home and business mailing address and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing members or responsible corporate officer's name, address and telephone number;
 - (2) The owner's name, mailing address, and telephone number, and written consent of the landowner if the applicant is not the owner of the land upon which the subject activity is proposed;
 - (3) Applicant's interest in the land;
 - (4) 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 wetland or watercourse disturbance proposed, soil type(s) and wetland vegetation; identification of designated open space acreage, if any proposed; and the acreage of that entire area which are inland wetlands and/or watercourses.
 - (5) The purpose and a description of the proposed activity and proposed erosion and sedimentation controls; and other management practices and mitigation measures which maybe considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;

- (6) Alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan or drawing;
 - (7) A site plan showing existing and proposed conditions in relation to wetlands and watercourses;
 - (8) Names and addresses of adjacent property owners;
 - (9) Statement that the applicant is familiar with all of 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 members and agents of the Commission to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit
 - (11) Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
 - (12) Submission of the appropriated filing fee based on the fee schedule established in Section 220-17 (A) of these Regulations incorporated herein as Appendix D.
- F. At the discretion of the Commission or its agent, or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity including but not limited to the following, is required:
- (1) Site plans for the proposed use or operation and the land which will be affected; these plans will show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the development drawn by a licensed surveyor, professional engineer, architect or landscape architect registered in the State of Connecticut or by such other qualified person; in conformance with the site plan checklist provided with the application form.
 - (2) Engineer reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
 - (3) Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service (the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans);
 - (4) Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions;

- (5) Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and each alternative which would cause less or no environmental impact to wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent;
- (6) Analysis of chemical or physical characteristics of any fill material;
- (7) Management practices and other measures that 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.

- (8) The applicant shall certify whether:
 - (a) any portion of the property on which the regulated activity is proposed is located within five hundred feet (500') of the boundary of an adjoining municipality;
 - (b) traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - (c) sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or
 - (d) water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

G. Thirteen (13) copies of all application materials shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Inland Wetland Commission.

H. Any application to extend the expiration date of a previously issued permit or amend an existing permit shall be filed with the Commission at least sixty-five (65) days prior to the expiration date for the permit in accordance with §220-9 of these Regulations. Any application for amendment, renewal or extension shall be made in accordance with this Section provided:

- (1) The application may incorporate by reference the documentation and record of the original application
- (2) The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
- (3) The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;

- (4) The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property for which the permit was issued;
 - (5) The Commission may, prior to the expiration of a permit, accept an untimely application to extend the expiration date of a permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if in its judgment, the permit is likely to be extended and the public interest or environment will be best served by not interrupting the activity.
- I. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.
 - J. A reporting form shall be completed during the application process that provides the Commissioner of the DEP 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 lineal feet of watercourse proposed to be altered.

220-9 **APPLICATION PROCEDURES**

- A. All petitions, application, requests or appeals shall be submitted to the Inland Wetlands Commission of the Town of Brookfield.
- B. The Commission shall, in accordance with Connecticut General Statutes Section 8-7 D(f), (See Appendix B) notify the Clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
- (1) any portion of the property affected by a decision of the Commission is within five hundred feet (500') of the boundary of an adjoining municipality;
 - (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - (3) a significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or
 - (4) water 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, appeal, request or plan.

- C. 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 Commission of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.
- D. The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Commission, immediately following the day of submission to the Commission, or its agent of such petition, application, request or appeal or thirty-five (35) days after such submission, whichever is sooner.
- E. At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 220-12 B of these regulations.

- F. All applications shall be open for public inspection.

- G. Incomplete applications may be denied.

220-10**PUBLIC HEARINGS**

- A. The Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition requesting a hearing signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed is filed with the Commission not later than fourteen 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. The Commission may issue a permit without a public hearing provided no petition provided for in this section is filed with the Commission on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard.
- B. Notice of the public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.

220-11 **CONSIDERATION FOR DECISION**

- A. The Commission may consider the following in making its decision on an application:
- (1) The application and its supporting documentation;
 - (2) Reports from other agencies and commissions including but not limited to the Town of Brookfield
 - (a) Conservation Commission
 - (b) Planning, Zoning or Planning & Zoning Commission
 - (c) Building Official
 - (d) Health Officer
 - (3) The Commission may also consider comments on any application from the Northwest Conservation District, or other regional organizations (i.e., Council of Elected Officials); agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.
 - (4) Non-receipt of comments from state agencies and commissions listed in subdivision §220-11A (3) and (4) above within the prescribed time shall neither delay nor prejudice the decision of the Commission.
 - (5) For an application for which a public hearing is held, public comments, evidence and testimony.

B. **STANDARDS AND CRITERIA FOR DECISION**

In carrying out the purposes and policies of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall consider all relevant facts and circumstances in making its decision on any application for a permit, including but not limited to the following:

- (1) The environmental impact of the proposed activity on wetlands and watercourses;
- (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 impacts 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 resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
 - (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; and
 - (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 and watercourses.
- C. In the case of any application that received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in Section 220-11 of these regulations. The finding and the reasons therefore shall be stated on the record in writing.
- D. 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 may propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- E. For purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands and watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- F. A municipal inland wetlands Commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- G. 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.

220-12 **DECISION PROCESS AND PERMIT**

- A. The Commission, or its duly authorized agent acting pursuant to Section 220-12 of these regulations, may, in accordance with Section 220-10 of these regulations, grant the application as filed, or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act; or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the Commission, or its agent, determines that such restrictions are necessary to carry out the policy of the Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- B. No later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement and action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such application. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission must either be withdrawn by the applicant or denied by the Commission.
- C. The Commission shall state upon its record the reasons and bases for its decision.
- D. 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 in the issuance or denial of the permit, in a newspaper having general circulation in the Town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen day period, the applicant may provide for the publication of such notice within ten days thereafter.
- E. If an activity authorized by the inland wetland permit also involves an activity which requires zoning or subdivision approval, a special zoning permit, variance or special exception, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Commission shall file a copy of the decision and report on the application shall be filed with the Town of Brookfield Planning, Zoning or Planning and Zoning Commission within fifteen (15) days of the date of the decision thereon.
- F. Any permit issued by the Commission for the development of land for which an approval is required under chapter 124, 124b, 126 or 126a of the Connecticut General Statutes shall be valid until the approval granted under such chapter expires or for ten years, whichever is

earlier. Any permit issued by the Commission for any activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years.

- G. Notwithstanding the provisions of Section F. of these regulations, any permit issued by the Agency prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.
- H. No permit issued by the Commission shall be assigned or transferred without the written permission of the Commission.
- I. If a bond or insurance is required in accordance with Section 220-14 of these Regulations, no permit shall be issued until such bond or insurance is provided.
- J. General provisions in the issuance of all permits:
 - (1) 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
 - (2) All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Agency Commission of the Town of Brookfield 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.
 - (3) If the activity authorized by the inland wetlands permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception under sections 8-3(g), 8-3(c), or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
 - (4) In constructing the authorized activities, 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 wetland and watercourses.
 - (5) Permits are not transferable without the prior written consent of the Commission.

220-13**ACTION BY DULY AUTHORIZED AGENT**

- A. The Commission may delegate to its duly authorized agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 220-8 (D) of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 220-9, 220-10 and 220-11 of these regulations, such agent may approve or extend such an activity at any time.
- B. Any person receiving such approval from such agent shall, within ten (10) 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 Commission within fifteen (15) days after the publication date of the notice and the Commission shall consider such appeal at the next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 220-8 of these regulations.

220-14

BOND AND INSURANCE

- A. The Commission may require as a permit condition the filing of a bond in such amount and in a form approved by the Commission.

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

220-15**ENFORCEMENT**

- A. The Commission may appoint an agent or agents to act in its behalf with the authority to issue notices of violations or cease, desist and restore orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for decision under Section 220-11 of these regulations.
- B. The Commission or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued with the consent of the property owner or the authorized agent of the owner during the life of the permit
- A. In the case in which a permit has not been issued or a permit has expired, the Commission or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- D. If the Commission or its duly authorized agent finds that a person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:
1. 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 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. The agency may file a certificate of such order in the office of the town clerk of the town in which the land is located and the town clerk shall record such certificate on the land records of such town. Such certificate shall be released upon compliance with such order.
 2. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subsection (1) of this Section or other enforcement proceedings as provided by law.
- E. The Commission may suspend or revoke a permit if it finds that the permittee has not

complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the 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 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, revoke or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

- F. Any person who commits, takes part in, or assists in any violation of any provision of section 22a-36 to 22a-45 of the General Statutes, inclusive, or of these regulations or regulation adopted by the Commissioner of Environmental Protection pursuant to the grant of authority contained in said statutes, shall be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each offense in addition to the penalties provided for in the Brookfield Inland Wetlands Penalty Ordinance. Each violation of said sections shall be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The superior court, in an action brought by the Commissioner of Environmental Protection, the Town, or any person, shall have jurisdiction to restrain a continuing violation of said sections, to issue orders directing that the violation be corrected or removed and to assess civil penalties pursuant to this section. All costs, fees and expenses in connection with such action shall be assessed as damages against the violator together with reasonable attorney's fees that may be allowed, all of which shall be awarded to the Commissioner of Environmental Protection, the Town, or person who brought such action.
- G. Any person who willfully or knowingly violates any provision of §22a-36 to 22a-45 inclusive, of the General Statutes, or of these regulations or regulations adopted by the Commissioner of Environmental Protection, shall be fined not more than one thousand dollars (\$1,000) for each day during which such violation continues or be imprisoned not more than six months or both as provided for in the Brookfield Inland Wetlands Penalty Ordinance. For a subsequent violation, such person shall be fined not more than two thousand dollars (\$2,000.) for each day during which such violation continues or be imprisoned not more than one year or both. For the purposes of this subsection, "person" shall be construed to include any responsible corporate officer.

220-16AMENDMENTS

- A. These regulations and the map entitled "Zoning District Map; Brookfield, Connecticut; Revised May 20, 1997" that delineates the general location and boundaries of inland wetlands and the general location of watercourses for the Town of Brookfield may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the State Department of Environmental Protection, or as new information regarding soils and inland wetlands or watercourses becomes available.
- B. An application filed with an Inland Wetlands Commission which is in conformance with the applicable Inland Wetlands Regulations as of the date of the decision of such Commission 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 decision and appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such decision.
- C. The provisions of this subdivision 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 provision of Chapter 440 of the General Statutes as of the date of such decision. These regulations and the Town of Brookfield Inland Wetlands and Watercourses Map entitled "Zoning District Map; Brookfield, Connecticut; Revised May 20, 1997" shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five (35) days before the public hearing on their adoption.
- D. Petitions, requesting changes or amendments to the map entitled "Zoning District Map; Brookfield, Connecticut; Revised May 20, 1997" shall contain at least the following information:
- (1) The petitioner's name and address and telephone number;
 - (2) The address, or location, of the land affected by the petition;
 - (3) Petitioner's interest in the land affected by the petition;
 - (4) Map(s) showing the geographic location of the property affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
 - (5) The reasons for the requested action.

-
- E. Any person who submits a petition to amend the map entitled "Zoning District Map; Brookfield, Connecticut; Revised May 20, 1997" 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 220-15D, the petition shall include:
- (1) The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
 - (2) The names and mailing addresses of the owners of abutting land;
 - (3) 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
 - (4) Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- F. Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- G. A public hearing shall be held on petitions to amend the map entitled "Zoning District Map; Brookfield, Connecticut; Revised May 20, 1997". Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.
- H. The Commission shall hold a public hearing on a petition to amend the regulations and the map entitled "Zoning District Map; Brookfield, Connecticut; Revised May 20, 1997" within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such petition. Failure of the Commission to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.
- I. The Commission shall make its decision and state, in writing, the reasons why the change in the map entitled "Zoning District Map; Brookfield, Connecticut; Revised May 20, 1997" was made.

220-17

APPEALS

- A. Appeal on actions of the Commission shall be made in accordance with the provisions of Section 22a-43 of the General Statutes, as amended. (Note: Section 22a-43 was amended by Public Act 89-356).

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

220-18

ADMINISTRATION

In order to defray a portion of the costs of the Commission in enforcing and carrying out the purposes and provisions of the Act and this chapter, including the cost of legal notices, the Commission shall establish and set the amount of filing fees and other charges payable to the Town. Such fees and charges shall be established by town ordinance pursuant to Section 127-6 of the Town Code and are incorporated herein, as "Appendix D," which shall be available for inspection at the offices of the Town Clerk and the Commission.

220-19

CONFLICT AND SEVERANCE

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

- B. If there is a conflict between the provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

220-20

OTHER PERMITS

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

Section 220-21

EFFECTIVE DATE OF REGULATIONS

A. These regulations are effective upon filing in the office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Brookfield.

- 1) Effective date of Regulations: June 24, 1974.
- 2) Effective date of revised Regulations: September 2, 1982.
- 3) Effective date of revised Regulations: November 13, 1989.
- 4) Effective dated of revised Regulations: May 1, 1991.
- 5) Effective dated of revised Regulations: January 1, 1997

(EFFECTIVE DATE OF THESE REGULATIONS: December 21, 2012)

APPENDIX A

Connecticut General Statute section 1-1 (q)

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

APPENDIX B

Connecticut General Statute Section 8-7D

Hearings and decisions, Time limits, Day of receipt, Notice to adjoining municipality, Public notice registry.

- (a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 or an aquifer protection agency under chapter 446i and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board or agency may, by regulation, provide for additional notice. Such regulations shall include provisions that the notice be mailed to persons who own land that is adjacent to the land that is the subject of the hearing or be provided by posting a sign on the land that is the subject of the hearing, or both. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered not later than sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.
- (b) Notwithstanding the provisions of subsection (a) of this section, whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered not later than sixty-five days after receipt of such site plan. Whenever a decision is to be made on an application for subdivision approval under chapter 126 on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an inland wetlands and watercourses application under chapter 440 on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an aquifer protection

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area application under chapter 446i on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such plan or application.

- (c) For purposes of subsection (a) or (b) of this section and section 7-246a, the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such commission, board or agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner. If the commission, board or agency does not maintain an office with regular office hours, the office of the clerk of the municipality shall act as the agent of such commission, board or agency for the receipt of any petition, application, request or appeal.
- (d) The provisions of subsection (a) of this section shall not apply to any action initiated by any zoning commission, planning commission or planning and zoning commission regarding adoption or change of any zoning regulation or boundary or any subdivision regulation.
- (e) Notwithstanding the provisions of this section, if an application involves an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by a zoning commission or planning and zoning commission established pursuant to this section would elapse prior to the thirty-fifth day after a decision by the inland wetlands agency, the time period for a decision shall be extended to thirty-five days after the decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.
- (f) The zoning commission, planning commission, zoning and planning commission, zoning board of appeals, inland wetlands agency or aquifer protection agency shall notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which: (1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality; (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

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APPENDIX C – Application Form

APPLICATION # _____

**TOWN OF BROOKFIELD
INLAND WETLANDS COMMISSION APPLICATION**

Application date: _____ Property ID#: _____

(circle one): Jurisdictional Ruling Short Form Long Form Modification to Existing Permit

SITE LOCATION (All applications):

Street Address: _____

Subdivision Name: (if applicable) _____ Subdivision Lot #: _____

APPLICANT/AGENT (All Applications)

Name: _____

Home Address: _____

Business Address: _____

Contact: _____

Phone: _____

LAND OWNER OF RECORD (All applications)

Name: _____

If LLC or Corporation, managing member's name: _____

Address: _____

Phone #: _____

Alternate Phone #: _____

If applicant is an LLC or Corporation,

Managing member name: _____

Address: _____

Phone #: _____

If owner is not applicant, is written consent provided? Yes _____ No _____ (If not, see page 2 for signature line)

Type of Activity (check all that apply): New Construction Addition Deck/shed Pool

Residential Commercial Industrial Other _____

PURPOSE & DESCRIPTION OF PROPOSED ACTIVITY (All applications):

Previous Applications with Wetlands Commission for this property? no yes (dates) _____

SITE DATA (for Short and Long Form applications only):

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Total Acreage/square footage of property: _____

Disturbed wetland area: _____ **Total wetland area on property:** _____

Disturbed linear feet of watercourse(s): _____ **Total linear feet of watercourse(s):** _____

Disturbed upland review area: _____

Is slope of upland review area greater than 5%? _____

If so, what is the greatest slope of the upland review area adjacent to the regulated area? _____

Flood Plain Designation: _____

Required information (provided in writing, on drawings or on maps):

- List of adjacent property owner's names and addresses (may be shown on site map)
- Site plan showing existing conditions and proposed work (see site plan checklist)
- Erosion and sediment controls proposed? _____

- Management practices or mitigation measures proposed? _____

- What alternatives causing less or no environmental impact were considered? _____

- Are there site plans showing these alternatives? Yes _____ No _____
- Mapping of soil types and wetland vegetation shown? Yes _____ No _____
- Identification of designated open space, if proposed? Yes _____ No _____
- Check whether any of the following circumstances applies:
 - [] 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.
 - [] Any portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site.
 - [] Any portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage system within the adjoining municipality.
 - [] Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Town of Brookfield Inland Wetlands Commission Regulations

APPLICANT SIGNATURE & REPRESENTATION: I apply herewith for an Inland Wetlands Permit or Jurisdictional Ruling for the activity described above and represent that I am familiar with the information provided and that it is current, accurate and complete.

I understand that the agent or commission will rely in whole or in part on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete or inaccurate, the agent or commission may modify, suspend or revoke the permit.

Permission is hereby granted to the Inland Wetlands Commission members or its agent to inspect the property during reasonable hours, from this date until one year following completion of the proposed activity.

Applicant's Signature: _____ **Date:** _____

I hereby consent to the application for an Inland Wetlands permit on my property by the applicant listed above.

Owner's Signature: _____ **Date:** _____

Rev. 4/04, 8/07, 4/09, 1/11

Town of Brookfield Inland Wetlands Commission Regulations

APPENDIX D - Fee schedule



TOWN OF BROOKFIELD INLAND-WETLANDS FEE SCHEDULE ORDINANCE

Effective Date: January 1, 2013

APPLICATION FEES	JURISDICTIONAL RULING	SHORT FORM	LONG FORM
Single Residence	\$60.00	\$150.00	\$300.00
Agent Approval (minimal impact)		\$ 60.00	
Subdivision -			
Per Lot:	\$60.00	\$150.00	\$300.00
Commercial/Industrial/Multifamily:	\$120.00	\$540 + upland review impact fee from schedule A	\$1040 + fee from Schedule A + wetland impact fees from Schedule B
Watercourse/Water body Impact fee			\$3/linear foot
Modification to an approved plan		50% of original fee up to \$150.00	50% of original fee up to \$150.00

ADMINISTRATIVE FEES

State Fee (all applications)	\$ 60.00
Legal Notice Fee (short & long form applications)	\$ 30.00
Public Hearing Fee (if public hearing scheduled)	\$660.00 payable prior to start of hearing
Permit Extension	\$50.00
Resubmission Fee (if application is denied)	50% of Original Fee

ENFORCEMENT FEES

Show Cause Hearing:	
Residential	\$250.00
Commercial	\$500.00
Corrective Action Permits (as a result of a Cease and Correct order that is upheld, when a restoration permit is required).	2 times fee + \$100.00

Town of Brookfield Inland Wetlands Commission Regulations

The Commission may charge additional fees at any time during the review process, to retain outside consultants to review applications for regulated activities, and to monitor construction to insure compliance with approved plans. Said fees shall be determined by the Commission and/or the Wetland Enforcement Officer from written estimates prepared by the consultants on the basis of the anticipated cost of the review. The additional fees shall pertain to projects whose size, complexity and/or potential impact requires specialized assistance and expertise. The Commission may require that the applicant deposit an amount equal to 150% of the estimated consultant fees. The applicant shall be reimbursed for any unused funds.

Schedule A	
Disturbed upland review area	Upland review Impact Fee
0-1,000 sq ft	\$100
1,001-3,000	\$200 + \$20/1,000 sq ft
3,001-10,000	\$300 + \$20/1,000 sq ft
10,001-20,000	\$500 + \$20/1,000 sq ft
20,001-40,000	\$800 + \$20/1,000 sq ft
Over 40,001	\$1,000 + \$20/1,000 sq ft
Schedule B	
Disturbed Wetland area	Wetland Impact Fee
0-1,000 sq ft	\$200
1,001-3,000	\$300 + \$30/1,000 sq ft
3,001-10,000	\$600 + \$60/1,000 sq ft
10,001-20,000	\$1200 + \$120/1,000 sq ft
Over 20,001	\$3600 + \$360/1,000 sq ft