

INLAND WETLANDS & WATERCOURSES

Chapter 160

Town

of

NORFOLK

**GENERAL
CODE**

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Chapter 160

INLAND WETLANDS AND WATERCOURSES

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[HISTORY: Adopted by the Conservation Commission/Wetlands Agency of the Town of Norfolk 8-3-1998. Amendments noted where applicable.]

1. Editor's Note: This regulation also superseded former Ch. 160, Inland Wetlands and Watercourses, adopted 6-27-1988, as amended.

GENERAL REFERENCES

~~Conservation Commission/Wetlands Agency~~ — See Ch. 5. Subdivision of land — See Ch. 170.
Municipal land use application fees — See Ch. 84, Art. I. Zoning — See Ch. 180.
Flood damage prevention — See Ch. 88.

ARTICLE I
General Provisions**§ 160-1. Findings and purpose.**

The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

§ 160-2. Title.

These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Norfolk, Connecticut."

§ 160-3. Establishment of Agency.²

The Conservation Commission and Wetlands Agency of the Town of Norfolk, Connecticut was established in accordance with an ordinance adopted December 13, 1972, and amended May 9, 1988, and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act³ in the Town of Norfolk, Connecticut.

§ 160-4. Amendment. [Amended 7-5-2005]

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. The Agency shall review these regulations periodically, as needed.

§ 160-5. Powers of Agency. [Amended 10-4-2004]

The Agency shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Norfolk, Connecticut pursuant to C.G.S. §§ 22a-36 to 22a-45, inclusive, as amended. As part of these duties, the Agency may review activities in the upland, outside the regulated area and the upland review area, on a case-by-case basis, and require an application to be filed for those activities which it determines are likely to impact or affect wetlands and/or watercourses.

ARTICLE II Definitions

§ 160-6. Terms defined.

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

ACT — The Inland Wetlands and Watercourses Act, C.G.S. §§ 22a-36 through 22a-45, inclusive, as amended.

AGENCY — The Wetlands Agency of the Town of Norfolk, Connecticut. [Amended 10-4-2004]

AGENCY MEMBER — A member of the Conservation Commission/Wetlands Agency of the Town of Norfolk, Connecticut. [Added 10-4-2004]

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

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

2. Editor's Note: See also Ch. 5, Conservation Commission/Wetlands Agency.

3. Editor's Note: See C.G.S. §§ 22a-36 through 22a-45.

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

CONTINUAL FLOW — A flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

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

DESIGNATED AGENT — An individual(s) designated by the Conservation Commission and Wetlands Agency to carry out its functions and purposes.

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

DISTURB THE NATURAL AND INDIGENOUS CHARACTER OF THE WETLAND OR WATERCOURSE — To alter the inland wetlands and watercourses by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.

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

FARMING — The use of land for the growing of crops, raising of livestock or other agricultural use.

FEASIBLE — Able to be constructed or implemented consistent with sound engineering principles.

MANAGEMENT PRACTICE — A practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to, erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

MARSHES — Areas with soils that exhibit aquatic moisture regimes and are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.

MATERIAL — Any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.

MUNICIPALITY — The Town of Norfolk, Connecticut.

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

ORDINARY HIGH WATER MARK — A mark on the land caused by the presence and action of water, which presence and action is so common and usual and so long continued in all ordinary years so as to mark upon the land a distinction between the abutting upland and

the watercourse. Such mark may be found by examining the bed and bank of any watercourse and ascertaining thereon an abrupt change in the characteristics of soil or vegetation or slope of the land. [Added 10-4-2004]

OUTSIDE CONSULTANT — A professional who is not an employee of the Town, including, but not limited to, engineering, environmental and planning professionals. [Added 10-4-2004]

PERMIT — The whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these regulations and the Act or other municipal, state and federal law.

PERMITTEE — The person to whom a permit has been issued.

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

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

PRUDENT — Economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity, provided that 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 — 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. It shall also include any earth moving, filling, construction or clear cutting of trees within 100 feet of the edge of the wetlands or watercourses. The Agency may determine that any other activity conducted within the upland review area or that any activity conducted in any other nonwetland or nonwatercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity. The term "regulated activity" shall not include the specified activities in Article IV of these regulations. [Amended 10-4-2004]

REGULATED AREA — Any wetlands or watercourses as defined in these regulations. Activities in the regulated area are automatically subject to review to determine whether a permit is required, including confirmation that the specified activities in Article IV of these regulations are being carried out in such a way as to require no permit. [Amended 10-4-2004]

REMOVE — Includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.

RENDERING UNCLEAN OR IMPURE — Any alteration of the physical, chemical or biological properties of any waters of the state, including but not limited to change in odor, color, turbidity or taste.

SIGNIFICANT IMPACT ACTIVITY — Any activity, including but not limited to the following activities which may have a major effect or significant impact on the wetland or watercourse for which an application has been filed or on another part of the inland wetland or watercourse system: **[Amended 10-4-2004]**

- A. Any activity involving deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system.
- B. Any activity which substantially changes, or is likely to change, the natural channel or may inhibit the natural dynamics of a watercourse system.
- C. Any activity which substantially diminishes, or is likely to diminish, the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife or other biological life; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions, including functioning effectively as a part of the total wetland ecosystem.
- D. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
- E. Any activity which causes, or is likely to cause, a substantial decrease or increase of the volume or velocity of flow of a natural watercourse or a substantial decrease or increase in the groundwater levels of the regulated area.
- F. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
- G. Any activity which damages or destroys or is likely to damage or destroy unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- H. Any activity which causes or is likely to cause a reduction in the natural flood storage capacity of a wetland or watercourse.
- I. Any activity which causes or is likely to cause the destruction or impairment of an identified aquifer or recharge area.

SOIL SCIENTIST — An individual duly qualified in accordance with standards set by the federal Office of Personnel Management or its successors. **[Amended 10-4-2004]**

SUBMERGED LANDS — Those lands which are inundated by water on a seasonal or more frequent basis.

SWAMPS — Areas with soils that exhibit aquic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.

TOWN — The Town of Norfolk, Connecticut.

UPLAND — Land outside wetlands and watercourses, which are defined below, and outside the upland review area. **[Added 10-4-2004]**

UPLAND REVIEW AREA — That area starting at the edge and surrounding or bordering any wetland or watercourse and extending 100 feet measured horizontally from such edge. [Added 10-4-2004]

VERNAL POOL — A seasonal body of water that usually attains maximum depth in spring or fall, lacks permanent surface water connections with other wetlands or watercourses, lacks a permanent fish population and in most years supports breeding and development of amphibian or invertebrate species recognized as obligate to such watercourses, or a portion of a permanent wetland or watercourse that functions as a vernal pool by supporting breeding populations of vernal pool obligate species. [Added 10-4-2004; amended 7-5-2005]

WASTE — Sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.

WATERCOURSES —

A. 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 C.G.S. §§ 22a-28 through 22a-35, inclusive. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics:

- (1) Evidence of scour or deposits of recent alluvium or detritus;
- (2) The presence of standing or flowing water for a duration longer than a particular storm incident; and
- (3) The presence of hydrophytic vegetation.

B. Unless otherwise determined by the Agency on a case-by-case basis, the edge or boundary of a watercourse shall extend to its ordinary high water mark. [Added 10-4-2004]

WETLANDS — Land, including submerged land as defined in this section, not regulated pursuant to C.G.S. §§ 22a-28 through 22a-35, inclusive, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Soil Conservation Service of the United States Department of Agriculture (USDA), whether or not shown on the wetlands inventory map as issued. Such areas may include filled, graded or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey. [Amended 10-4-2004]

ARTICLE III Inventory of Regulated Areas

§ 160-7. Map; determination of regulated areas.

The map of regulated areas, entitled "Inland Wetlands and Watercourses Map," delineates the general location and boundaries of inland wetlands and the general location of watercourses.

Copies of this map are available for inspection at the office of the Town Clerk or the Agency. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types and the location of watercourses. The Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.

§ 160-8. Petition for change in designation.

Any owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map may petition the Agency to change the designation in accordance with Article XV 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. The Agency may require such an owner to provide an accurate delineation of regulated areas in accordance with Article XV of these regulations.

§ 160-9. Inventory; map amendments.

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

ARTICLE IV

Permitted Uses as of Right and Nonregulated Uses

§ 160-10. Permitted uses as of right.

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

A. Farming; gardening; farm ponds.

- (1) Grazing, farming nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation. The provisions of this 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) For the provisions of this section, the Agency may require documentary evidence of the farming operation. The Agency may also require evidence that the proposed activity is essential to the farm operation.
- B. A residential home for which a building permit has been issued or on a subdivision lot, provided that 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 promulgation of the municipal regulations pursuant to Subsection (b) of C.G.S. § 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. Any person claiming a use of wetlands permitted as a right under this subdivision 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 or her right hereunder.
- C. Boat anchorage or mooring, not to include dredging or dock construction.
- D. Uses incidental to the enjoyment or maintenance of residential property, such property 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 acres) 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 by C.G.S. § 16-1, 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 C.G.S. §§ 22a-401 through 22a-410.
- F. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to C.G.S. § 22a-42a or July 1, 1974, whichever is earlier, provided that such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subsection, "maintenance" means the removal of accumulated leaves, soil and other debris, whether by hand or machine, while the pipe remains in place.
- G. Routine activities by municipal agencies to control flooding and prevent erosion. These activities include the removal of beaver dams to prevent or alleviate roadway flooding, the cleaning of drainage ditches and the removal of sediment from catch basins. These activities are permitted as of right in the wetlands and watercourses, provided that they do not substantially alter wetlands or watercourses. The Agency shall be notified of the pendency and completion of such operations and, in the case of emergency maintenance activities, shall be notified upon completion. The agency may require a formal application be submitted for projects which it determines may be outside the scope of normal or routine maintenance.

§ 160-11. Nonregulated uses.

The following operations and uses shall be permitted as nonregulated uses in wetlands and watercourses, provided that 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 the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water-skiing, trapping, hunting, fishing and shell fishing and cross-country skiing where otherwise legally permitted and regulated.
- C. Any dredging, or any erection, placement, retention or maintenance of any structure, fill, obstruction or encroachment, or any work incidental to such activities, conducted by a state agency, which activity is regulated under Sections 22a-28 to 22a-35, inclusive, or Sections 22a-359b to 22a-363f, inclusive, shall not require any permit or approval under Sections 22a-36 to 22a-45, inclusive.⁴ [Added 7-5-2005]

§ 160-12. Permit required for activities not specifically permitted.

All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this article and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Article VI of these regulations.

§ 160-13. Notification of operation.

To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation or use, notify the 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 nonregulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than 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.

4. Editor's Note: References are to the Connecticut General Statutes.

ARTICLE V
Activities Regulated by State

§ 160-14. Enumeration of state-regulated activities.

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 C.G.S. §§ 22a-401 through 22a-411, as amended.

- B. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to C.G.S. §§ 22a-342 through 22a-349a, as amended.
- C. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to C.G.S. §§ 22a-359 through 22a-363 or in designated tidal wetlands pursuant to C.G.S. §§ 22a-28 through 22a-35, as amended.
- D. Diversion of water, including withdrawals of surface or groundwater in excess of 50,000 gallons per day or any piping, culverting, channelization, relocation, damming or other alteration of the location of flow of any surface waters of the state where the tributary watershed area above the point of such alteration is 100 acres or larger, pursuant to C.G.S. §§ 22a-365 through 22a-378a, as amended.
- E. Discharges into the waters of the state pursuant to C.G.S. § 22a-430, 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 United States Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

§ 160-15. Jurisdiction of Commissioner.

The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to C.G.S. § 22a-39 or 22a-45a.

§ 160-16. Exclusive jurisdiction of Commissioner over tidal wetlands.

The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to C.G.S. §§ 22a-28 through 22a-35, as amended.

§ 160-17. Exclusive jurisdiction of Commissioner over dam repair, removal or construction permits.

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 C.G.S. § 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under C.G.S. § 22a-403 or 22a-41. Any person receiving such dam repair or removal order or dam construction permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.

ARTICLE VI
Regulated Activities To Be Licensed

§ 160-18. Permit required.

No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Conservation Commission and Wetlands Agency of the Town of Norfolk, Connecticut.

§ 160-19. Noncompliance with permit requirement.

Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Article XIV of these regulations and any other remedies as provided by law.

ARTICLE VII
Application Requirements

§ 160-20. Application forms.

Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity shall apply for a permit on a form provided by the Agency. The application shall contain the information described in this section and any other information the Agency may reasonably require. Application forms may be obtained in the offices of the Norfolk Town Clerk or the Agency.

§ 160-21. Application for subdivision involving wetlands or watercourses.

If an application to the Town of Norfolk Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with C.G.S. § 8-3(g), 8-3c or 8-26, as applicable, submit an application for a permit to the Agency in accordance with this section, no later than the day the application is filed with such planning, zoning or planning and zoning commission.

§ 160-22. Required information.

The application shall contain such information as is necessary for a fair and informed determination thereon by the Agency.

§ 160-23. Predetermination of significant impact activity.

A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.

§ 160-24. Contents of application.

All applications shall include the following information in writing or on maps or drawings:

- A. The applicant's name, home and business mailing addresses and telephone numbers;
- B. 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;
- C. The applicant's interest in the land;
- D. The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s) and wetland vegetation;
- E. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity, including but not limited to measures to prevent or minimize pollution or other environmental damage; maintain or enhance existing environmental quality; or, in the following order of priority, restore, enhance and create productive wetland or watercourse resources;
- F. Alternatives considered and subsequently rejected by the applicant and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan or drawing;
- G. A site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- H. Names and mailing addresses of adjacent landowners;
- I. Statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- J. Authorization for the members and agents of the Agency to inspect the subject land, at reasonable times, both before and after a final decision has been issued;
- K. A completed DEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
- L. Any other information the Agency deems necessary to the understanding of what the applicant is proposing; and

- M. Submission of the appropriate filing fee based on the fee schedule established in Article XIX of these regulations.

§ 160-25. Additional information for significant activities.

If the proposed activity involves a significant impact activity as determined by the Agency, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:

- A. Site plans for the proposed activity and the land which will be affected thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
- B. Engineering reports and analyses and additional drawings to fully describe the proposed activity, including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
- C. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the United States 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;
- D. A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
- E. A description of how the applicant will change, diminish or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative and a description of why each alternative considered was deemed neither feasible nor prudent;
- F. Analysis of chemical or physical characteristics of any fill material; and
- G. Management practices and other measures designed to mitigate the impact of the proposed activity.

§ 160-26. Required certifications.

The applicant shall certify whether:

- A. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- B. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;

- C. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or
- D. Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

§ 160-27. Number of copies of application materials.

Five copies of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed, in writing, by the Agency.

§ 160-28. Application for amendment, extension or renewal.

Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Article VIII of these regulations at least 65 days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under Article VII of these regulations, provided that:

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

§ 160-29. Granting of renewal.

Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided that no permit may be valid for more than 10 years.

ARTICLE VIII
Application Procedures

§ 160-30. Submission of application. [Amended 10-4-2004]

All applications (the term "application" shall include all petitions, requests or appeals) shall be submitted to the Conservation Commission and Wetlands Agency of the Town of Norfolk, Connecticut.

§ 160-31. Notification of adjoining municipalities.

When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within 500 feet of the boundary of another municipality, the applicant shall give written notice of the application, by certified mail, return receipt requested, on the same day to the Inland Wetlands Agency of such other municipality.

§ 160-32. Conditions requiring notification of adjacent municipalities. [Amended 10-4-2004]

- A. The Agency shall, in accordance with C.G.S. § 8-7d(f), notify the Clerk of any adjoining municipality of the pendency of any application concerning any project on any site in which:
- (1) Any portion of the property affected by a decision of the Agency is within 500 feet 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 on the site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or
 - (4) Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- B. 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.

§ 160-33. Notification of water company.

When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in C.G.S. § 16-1, the applicant shall provide written notice of the application to the water company, provided that such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven

days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.

§ 160-34. Date of receipt. [Amended 10-4-2004]

The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to such Agency or its agent, or 35 days after such submission, whichever is sooner.

§ 160-35. Additional information may be required; time limit not to be extended.

At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in § 160-48 of these regulations.

§ 160-36. Applications open for inspection.

All applications shall be open for public inspection.

§ 160-37. Denial of incomplete applications.

Incomplete applications may be denied.

ARTICLE IX
Public Hearings

§ 160-38. When required. [Amended 10-4-2004]

The 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 25 persons who are 18 years of age or older and who reside in the municipality in which the regulated activity is proposed requesting a hearing is filed with the Agency not later than 14 days after the date of receipt of such application or the Agency finds that a public hearing regarding such application would be in the public interest. Such hearing shall be held no later than 65 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 may appear and be heard and may be represented by an agent or by an attorney.

§ 160-39. Publication of notice.

Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than 15 days and not fewer than 10 days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.

§ 160-40. Mailing of notice to abutting landowners.

Notice of the public hearing shall be mailed to the owner(s) of record of abutting land no less than 15 days prior to the day of the hearing.

§ 160-41. Notification of clerks of adjoining municipalities.

In the case of any application which is subject to the notification provisions of § 160-32 of these regulations, a public hearing shall not be conducted until the Clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

ARTICLE X
Considerations for Decision

§ 160-42. Documentation, testimony, comments and reports to be considered.

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

- A. The application and its supporting documentation.
- B. Public comments, evidence and testimony.
- C. Reports from other agencies and commissions, including but not limited to the Town of Norfolk:
 - (1) Planning and Zoning Commission. [Amended 7-5-2005]
 - (2) Building Official.
 - (3) Health Officer.
- D. The Agency may also consider comments on any application from the Northwest Conservation District, the Regional Planning Agency 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. [Amended 7-5-2005]
- E. Nonreceipt of comments from agencies and commissions listed in Subsections C and D above within the prescribed time shall neither delay nor prejudice the decision of the Agency.
- F. In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or any other material not in the hearing record shall not be considered by the Agency in its decision. [Added 7-5-2005]
- G. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. [Added 7-5-2005]

- H. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes. [Added 7-5-2005]

§ 160-43. Criteria for decision.

In carrying out the purposes and policies of C.G.S. §§ 22a-36 to 22a-45, inclusive, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:

- A. The environmental impact of the proposed regulated activity on wetlands or watercourses;
- B. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity, which alternatives would cause less or no environmental impact to wetlands or watercourses;
- C. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- D. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such act 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 prevent or minimize pollution or other environmental damage; maintain or enhance existing environmental quality; or, in the following order of priority, restore, enhance and create productive wetland or watercourse resources;
- E. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
- F. Impacts of proposed activity.
 - (1) 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 proposed regulated activity and which may have an impact on wetlands or watercourses.
 - (2) The Agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses. [Added 7-5-2005]
 - (3) For purposes of this section, "wetlands or watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and "habitats" means areas or

environments in which an organism or biological population normally lives or occurs. [Added 7-5-2005]

§ 160-44. Issuance of permit for applications which received public hearing.

In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in § 160-43 of this section. The finding and the reasons therefor shall be stated on the record, in writing.

§ 160-45. Denied applications; alternatives to be suggested.

In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record, in writing, the types of alternatives which the applicant may investigate, provided that this section shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.

§ 160-46. Basis for decision.

In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and C.G.S. §§ 22a-36 to 22a-45, inclusive.

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**ARTICLE XI
Decision Process and Permit Issuance**

§ 160-47. Agency options.

The Agency, or its duly authorized agent acting pursuant to Article XII of these regulations, may, in accordance with Article X 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.

§ 160-48. Time limits for hearings and actions. [Amended 10-4-2004]

No later than 65 days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing, any person or persons may appear and be heard and may be represented by an agent or attorney. The hearing shall be completed within 35 days of its commencement. Action shall be taken on applications 35 days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within 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 section, provided that the total extension of all such periods shall not be for longer than 65 days, or may withdraw such application. Failure of the Agency to act within any time period specified in this section, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.

§ 160-49. Statement of reasons and basis for decision.

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 fully on the record of such hearing and shall be in writing and shall, as applicable and in accordance with Article X of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.

§ 160-50. Notification of decision; publication.

The Agency shall notify the applicant and any person entitled to such notice of its decision within 15 days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within 10 days thereafter.

§ 160-51. Copy of decision and report to Planning and Zoning Commission.

If an activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under C.G.S. § 8-3(g), 8-3c or 8-26, the Agency shall file a copy of the decision and report on the application with the Town of Norfolk, Connecticut Planning, Zoning or Planning and Zoning Commission within 15 days of the date of the decision thereon.

§ 160-52. Duration of permit validity.

Any permit issued by the Agency for the development of land for which an approval is required under C.G.S. § 8-3, 8-25 or 8-26 shall be valid for five years, provided that the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years.

§ 160-53. Assignment and transferability.

No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.

§ 160-54. Bond or insurance.

If a bond or insurance is required in accordance with Article XIII of these regulations, the Agency may withhold issuing the permit until such bond or insurance is provided.

§ 160-55. General provisions pertaining to issuance of permits.

General provisions in the issuance of all permits:

- A. The Agency has relied in whole or in part on information provided by the applicant and, if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
- B. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Norfolk, Connecticut, 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 subject land or activity.
- C. If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under C.G.S. § 8-3(g), 8-3c or 8-26, no work pursuant to the wetland permit may begin until such approval is obtained.
 - D. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control stormwater discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
 - E. Permits are not transferable without the prior written consent of the Agency.
 - F. The agency or its designated agent will be notified before the permitted activity commences.

ARTICLE XII

Action by Duly Authorized Agent

§ 160-56. Authority to extend activity.

The Agency may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses, provided that such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to C.G.S. § 22a-39. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under § 160-24 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Articles VIII, IX and XI of these regulations, such agent may approve or extend such an activity at any time.

§ 160-57. Publication of approval notice; appeal.

Any person receiving such approval from such agent shall, within 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 Agency within 15 days after the publication date of the notice, and the Agency shall consider such appeal at its next regularly scheduled meeting, provided that such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter or reject the decision of its agent or require an application for a permit in accordance with Article VII of these regulations.

ARTICLE XIII
Bond and Insurance

§ 160-58. Bond may be required.

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

§ 160-59. Conditions.

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

§ 160-60. Liability insurance.

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

ARTICLE XIV
Enforcement

§ 160-61. Appointment of agent.

The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under § 160-43 of these regulations.

§ 160-62. Inspections.

The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.

§ 160-63. Agency options in case of violations.

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 Act or these regulations, the Agency or its duly authorized agent may:

- A. Issue a written order, by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease

such activity or to correct such facility or condition. Within 10 calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within 10 days of the completion of the hearing notify the person, by certified mail, that the original order remains in effect, that a revised order is in effect or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to C.G.S. § 22a-44(b), as amended.

- B. Suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application, including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke or maintain a permit by certified mail within 15 days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.
- C. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency and prescribing the necessary action and steps to correct the violation, including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Subsection A or other enforcement proceedings as provided by law.

ARTICLE XV Amendments

§ 160-64. Changes authorized.

These regulations and the Inland Wetlands and Watercourses Map for the Town of Norfolk, Connecticut may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

§ 160-65. Subsequent nonconformity.

An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt, and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply to the establishment, amendment or change of boundaries of inland wetlands or watercourses or to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

§ 160-66. Manner of making amendments.

These regulations and the Town of Norfolk Inland Wetlands and Watercourses Map shall be amended in the manner specified in C.G.S. § 22a-42a, 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 map amendments, at least 35 days before the public hearing on their adoption. (NOTE: Application fee schedules shall be adopted as Agency regulations or as otherwise provided by Town ordinance.)

§ 160-67. Petition to amend map; information required.

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

- A. The petitioner's name, mailing address and telephone number;
- B. The address or location of the land affected by the petition;
- C. The petitioner's interest in the land affected by the petition;
- D. Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
- E. The reasons for the requested action.

§ 160-68. Applicant to bear burden of proof for map amendments.

Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Norfolk, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner,

developer or purchaser, in addition to the information required in § 160-67, the petition shall include:

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

§ 160-69. Delineation of watercourses.

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

§ 160-70. Public hearing required; publication of notice. [Amended 10-4-2004]

A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having 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 15 days nor less than 10 days, and the last not less than two days, before the date set for the hearing. All materials, including maps and documents relating to the petition, shall be open for public inspection.

§ 160-71. Time limits for hearings and actions. [Amended 10-4-2004]

The Agency shall hold a public hearing on a petition to amend the regulations and the Inland Wetland and Watercourses Map within 65 days after the receipt of such petition. The hearing shall be completed within 35 days after commencement. The Agency shall act upon the changes requested in such petition within 65 days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by an agent or attorney. 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 that the total extension of all such periods shall not be for longer than 65 days, or may withdraw such petition. Failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

§ 160-72. Documentation of decision.

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

ARTICLE XVI
Appeals

§ 160-73. Compliance with statute.

Appeal on actions of the Agency shall be made in accordance with the provisions of C.G.S. § 22a-43, as amended.

§ 160-74. Notice of appeal.

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

ARTICLE XVII
Conflict and Severability

§ 160-75. More stringent standards to apply; severability.

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

§ 160-76. Provisions of Act to govern.

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

ARTICLE XVIII
Other Permits

§ 160-77. Other permits and requirements applicable.

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

ARTICLE XIX

Fees

§ 160-78. Method of payment.

All fees required by these regulations shall be submitted to the Agency by certified check or money order payable to the Town of Norfolk, Connecticut, at the time the application is filed with the Agency.

§ 160-79. Fee to be paid prior to approval.

No application shall be granted or approved by the Agency unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to § 160-84 of these regulations.

§ 160-80. Nonrefundability.

The application fee is not refundable.

§ 160-81. Definitions.

As used in this article, the following words shall have the meanings indicated:

COMMERCIAL USES — Activities carried out on property developed for industry, commerce, trade, recreation or business or being developed to be occupied for such purposes, for profit or nonprofit.

OTHER USES — Activities other than residential uses or commercial uses.

RESIDENTIAL USES — Activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

§ 160-82. Fee Schedule.⁴

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

- (1) Permitted and unregulated uses (Article IV of these regulations).
 - (a) Permitted uses as of right (§ 160-10): no charge.
 - (b) Nonregulated uses (§ 160-11): \$45.
- (2) Regulated uses (Article VI of these regulations).
 - (a) Residential uses: \$60, plus \$25 per lot or \$45 per acre of wetland on the property, whichever is more.
 - (b) Commercial uses: \$60, plus the fee from Subsection B of this schedule.

4. Editor's Note: See also Ch. 84, Fees, Art. I, Municipal Land Use Applications.

- (c) All other uses: \$60.
 - (3) Significant impact activity fee (§ 160-25 of these regulations): \$175. *#275.00 05/07/19*
 - (4) Map amendments petitions (§ 160-67 of these regulations): \$175, plus the fee from Subsection C of this schedule.
 - (5) Modification of previous approval (§ 160-55 of these regulations): \$25. There shall be no fee for correcting typographical or other errors.
- B. Calculation of regulated area for permit application fee. For the purpose of calculating the permit application fee, the regulated area in Schedule A is the total area of wetlands and watercourses upon which a regulated activity is proposed.

Schedule A	
Regulated Area (square feet)	Fee per 1,000 Square Feet of Regulated Area
Less than 2,500	\$18
2,500 to 50,000	\$12
More than 50,000	\$6

- C. Calculation of regulated area for map amendment petition fee. For the purpose of calculating the map amendment petition fee, the regulated area in Schedule B is the total area of wetlands and watercourses boundary subject to the proposed boundary change.

Schedule B	
Regulated Area (linear feet)	Fee per 1,000 Linear Feet of Regulated Area
Less than 500	\$20
500 to 1,000	\$15
More than 1,000	\$8

- D. Sample fee calculations. Sample fee calculations are as follows:
- (1) For a ten-lot residential subdivision of 11 acres comprised of two acres of wetlands and watercourse, the fee is greater of the following: $\$60 + (2 \times \$45) = \$150$; or $\$60 + (10 \times \$25) = \$310$. Add \$175 if the proposed activity is a significant activity.
 - (2) For residential development of a single two-and-eight-tenths-acre building lot comprised of 1.28 acres of wetlands and watercourses, the fee is the greater of the following: $\$60 + (1.3 \times \$45) = \$118.50$; or $\$60 + (1 \times \$25) = \$85$. Add \$175 if the proposed activity is a significant activity.
 - (3) For the commercial development of a retail complex involving alteration and/or filling of 37,000 square feet of wetlands and watercourses, which proposed activity

is a significant activity, the application fee is $\$60 + (2.5 \times \$18)$ or \$105 for the first 2,500 square feet + $(34.5 \times \$12)$ or \$414 + the significant activity fee of \$175. The total application fee is $\$105 + \$414 + \$175 = \694 .

- (4) For a petition for a map amendment involving 3,450 linear feet of wetland or watercourse boundary, the filing fee is $(5 \times \$20)$ or \$100 for the first 500 feet + $10 \times \$15$ or \$150 for the next 1,000 feet + $19.5 \times \$8$ or \$156 for the last 1,950 feet = a total filing fee of \$406.
- E. The fees set forth above are the minimum application fees required. In certain cases, a processing fee may also be required. Pursuant to the Town of Norfolk ordinance establishing fees for processing land use applications (see Chapter 84 of the Code of the Town of Norfolk), when the actual cost of processing an application exceeds the minimum application fee due to the need for outside consultant services, the Town shall charge the applicant a processing fee to fund the actual costs of processing the application, as follows: **[Added 10-4-2004]**
- (1) The expenses for such outside consultants may be estimated by the Agency upon receipt of the application, based upon the projected expenses of reviewing, evaluating and processing the application. This reasonable estimate, together with the appropriate application fee given above, shall be paid forthwith, and the application shall be deemed incomplete until these fees have been submitted.
 - (2) Any portion of the processing fee not expended by the Town on the project shall be rebated to the applicant upon completion of the review, evaluation and processing of the application.
 - (3) The Agency shall bill the applicant for any costs incurred by the Town in processing the application in excess of the processing fee paid by the applicant. This bill shall be paid by the applicant prior to the issuance of any permits.

§ 160-83. Exemption.

Boards, commissions, councils and departments of the Town of Norfolk are exempt from all fee requirements.

§ 160-84. Waiver.

- A. The applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this section. The Agency may waive all or part of the application fee if the Agency determines that:
- (1) The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee; or

- (2) The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.
- B. The Agency shall state upon its record the basis for all actions under this section.

**ARTICLE XX
Records Retention and Disposition**

§ 160-85. Authority. [Amended 7-5-2005]

The Agency for the Town of Norfolk, Connecticut, shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/disposition schedule established by the Connecticut Public Records Administration. The schedule, most recently amended in 1998, appears below in § 160-86.

§ 160-86. Records schedules. [Amended 7-5-2005]

The records retention/disposition schedule is as follows:

Record	Minimum Retention Required
Applications (includes supporting materials for site plan, surveys, site layouts)	
Approved	10 years after issuance of decision
Denied	2 year after denial
Staff and public written testimony	10 years after decision
Decision letters (includes site plan and survey)	10 years after issuance of decision
General comesepondence issued or received	5 years
Legal notices	1 year after decision
Minutes of public meetings (including hearings)	Permanent
Tapes, audio, inland wetlands matters	1 year after minutes are approved unless pending appeal, then retain 1 year after appeal period

**ARTICLE XXI
Effective Date of Regulations**

§ 160-87. When effective.

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 Norfolk, Connecticut.