

Town of Litchfield
Connecticut



INLAND WETLANDS COMMISSION

Inland Wetlands and Watercourses
Regulations

Adopted August 21, 1973
Amended August 8, 2007

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1 Title and Authority	3
2 Definitions	5
3 Inventory of Regulated Areas	10
4 Permitted and Non-regulated Uses	11
5 Activities Regulated by the State	13
6 Regulated Activities to be Licensed	15
7 Application Requirements	16
8 Application Procedures	21
9 Public Hearings	23
10 Considerations for Decision	24
11 Decision Process and Permit	27
12 Action by Duly Authorized Agent	30
13 Bond and Insurance	31
14 Enforcement	32
15 Amendments	34
16 Appeals	37
17 Conflict and Severance	37
18 Other Permits	37
19 Application Fees	37
20 Records Retention and Disposition	40
21 Effective Date of Regulations	41

Section 1

Title and Authority

1.1 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 uses 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 the 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 of generations yet unborn.

1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Litchfield."

1.3 The Inland Wetlands Commission of the Town of Litchfield* was established in accordance with an ordinance adopted October 17, 2000, revised May 2002, and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Litchfield.

*Formally Conservation Commission of the Town of Litchfield adopted by Ordinance August 21, 1973.

- 1.4 These regulations have been prepared and adopted and may be amended, from time to time, in accordance with the provisions of the Sections 22a-36 through 22a-45 of the Connecticut General Statutes by The Litchfield Inland Wetlands Commission, as authorized by ordinance of the Town of Litchfield.
- 1.5 Pursuant to the General Statutes of the State of Connecticut the Agency shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall grant with conditions, or deny all regulated activities on inland wetlands and watercourses in the Town of Litchfield pursuant to sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- 1.6 Specific duties shall include:
 - a. To establish, change or repeal inland wetlands and watercourses regulations and boundaries of inland wetlands and watercourses.
 - b. To hear, consider and decide upon petitions for changes in the inland wetlands and watercourses regulations.
 - c. To hear, consider, and decide upon applications for regulated activities involving inland wetlands and watercourses and to determine whether proposed activities are exempt from or otherwise not subject to the regulations.
 - d. To take the appropriate actions to enforce the inland wetlands and watercourses regulations and conditions of permit.
 - e. Connecticut General Statutes 16-235 allows the agency to regulate and restrict with respect to impacts on inland wetlands and watercourses, the proposed location of any steam plant, gas plant, gas tank or holder, water tank, electric substation, antenna, tower of earth station receiver of any public service company NOT subject to the jurisdiction of the Connecticut Siting Council.

Section 2 Definitions

2.1 As used in these regulations:

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

"Agency" means the Inland Wetlands Commission, which is the designated Inland Wetlands and Watercourses Agency for the Town of Litchfield.

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

"Commission member" means a member of the Inland Wetlands Commission of the Town of Litchfield.

"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.

"Designated Agent" means an individual(s) designated by the agency to carry out its functions and purposes.

"Discharge" means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.

"Disturb the natural and indigenous character of the land" means that the activity will significantly alter the inland wetlands and watercourses by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

"Essential to the farming operation" means that the activity proposed is necessary and indispensable to sustain farming activities on a farm.

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

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

"License" means the whole or any part of any permit, certificate of approval or similar form of permission, which may be required of any person by the provisions of these regulations under the authority of the Inland Wetlands Commission.

"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; restriction 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 time when water flows are low and fish and wildlife will not be adversely affected.

"Material" means 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" means the Town of Litchfield.

"Nurseries" means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.

"Permit," means 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 under the authority of the Inland Wetlands Commission.

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

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

"Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state caused by but not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity, ground disturbance created by preliminary site work, or any waste or other material discharged or deposited therein by any public or private sewer or otherwise so as to directly or indirectly come into contact with an waters.

"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" (i) means any operation or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution of, such wetlands or watercourses, and (ii) any earth-moving, filling, construction, or clear-cutting of trees or installation of septic systems within one hundred (100) feet, measured horizontally from the boundary of the wetlands or one hundred fifty (150) feet, measured horizontally from the ordinary high water mark of watercourses or within 200 feet of watercourses as defined by a pond or lake with a surface area greater than 5 acres. Since the environmental impact of proposed activity may, in some instances, come from outside the physical boundaries of a wetland or watercourse, the intent of these regulations is to regulate these adjacent areas and thereby implement the statutory authority necessary to effectuate the legislative purpose set forth in the Connecticut General Statutes 22a-36 and regulation means the construction of or alteration of ponds, means any construction to alter or create a wetland, but shall not include the activities specified in Section 4 of these regulations. The agency may rule that any other activity located within such upland area or any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

"Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, drag-line 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 activity" means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system:

1. Any activity involving a 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; or
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife, or other biological life; or to prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions;
4. Any activity which causes substantial turbidity, siltation or sedimentation in a wetland or watercourse; or
5. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area; or
6. Any activity which causes or has the potential to cause pollution of a wetland or watercourse; or
7. Any activity that destroys a wetland or watercourse

"Soil Scientist" means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management;

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

"Town" means the Town of Litchfield.

"Waste" means sewage or any natural or man-made substance, liquid, gaseous, solid or radioactive, hazardous waste or toxic waste, which may pollute or tend to pollute any of the wetlands or watercourses of the Town of Litchfield.

- (i) Hazardous waste includes materials which may pose or present a potential hazard to human health or the environment including but without limitation hazardous waste identified and listed in the Code of Federal Regulations Part 261, 20 through 33, as amended or as superseded by subsequent regulation, or which meets the criteria outlined in Part 261, 20 through 24 of said Code.
- (ii) Toxic waste includes substances shown in scientific studies to have toxic, carcinogenic, mutagenic, or terratogenic effects on humans and other life forms.

"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 other portion thereof not regulated pursuant to sections 22a-28 through 22a-35, inclusive. Intermittent watercourse 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 or recent alluvium or detritus, (b) The presence of standing or flowing water for a duration longer than a particular storm incident. Ordinarily, the presence of water is supported by a component, however small of groundwater outflow or exfiltration, and (c) the presence of or ability to support the growth of hydrophytic vegetation.

- (i) "Bogs" are areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions
- (ii) "Marshes" are areas with soils that exhibit aquic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by 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.
- (iii) "Swamps" are areas with soils that exhibit aquic moisture regimes and are dominated by wetland trees and shrubs. Red Maple is the most characteristic tree of the wooded swamp, with black gum and black ash as frequent associates. A conspicuous shrubbery under story of high bush blueberry, spicebush, sweet pepperbush, clammy azalea and other wetland shrubs may be present and a rich diversity of wildflowers such as marsh-marigold, skunk cabbage, jewelweed, violets, and cardinal flower may also be present. Shrub swamps represent another swamp type, where alders, willows, button-bush, and other shrubs can form relatively pure or mixed stands. Occasionally trees may be associated with a shrub swamp. However, a high water table often favors certain shrubs, such as buttonbush, over trees. In swamps the underlying deposits are often

relatively shallow and usually highly organic. Swamps may develop through the gradual invasion of marshes by woody species or directly, as in poorly drained depressions.

(iv) "Vernal Pool" means small bodies of standing fresh water that are most obvious in the landscape during the spring of the year and must have the following characteristics:

1. Contains water for a minimum of two months during the growing season, usually the spring.
2. Occurs within a confined depression or basin that lacks permanent outlet streams.
3. Lacks a fish population
4. Dries out most years, usually by late summer.
5. Serves as a habitat for one or more obligate species. Obligate species shall include, but not limited to, fairy shrimp, spotted salamander, eastern spade foot toad, Jefferson salamander, marbled salamander and wood frog.

The regulatory boundary of a vernal pool is defined as the lower of (A) and B) or the elevation as defined by (C):

- A. A maximum elevation of a topographical depression that holds water for a minimum of two (2) continuous months.
- B. The maximum observed or recorded water level in a topographic depression.
- C. The maximum water elevation based on a theoretical one year storm of a total of 2.6 inches of water in 24 hours taking into account the ground water that the basin is holding at the beginning of spring amphibian breeding season.

"Wetlands" means land, including submerged land as defined in this section, not regulated pursuant to sections 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 floodplain by the National Cooperative Soil 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 which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey. A soil scientist, geologist, or ecologist shall delineate wetlands.

Section 3

Inventory of Regulated Areas

- 3.1 The map of regulated areas entitled "Inland Wetlands and Watercourses Map, Litchfield, Connecticut" 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 Office of The Inland Wetlands Commission. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types and 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.
- 3.2 Any property owner who disputes the designation of any part of his or her land as a regulated area in the Inland Wetlands and Watercourses Map, may petition the Agency to change the designation in accordance with section 15, of these regulations. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances, which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with section 14 of these regulations may be required of the property owner when the agency requires and accurate delineation of regulated areas.
- 3.3 The Inland Wetlands and Watercourse Commission /Agency or its designated agent(s) shall monitor and 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 section 14 of these regulations.

Section 4

Permitted Uses as of Right and Non-regulated Uses

- 4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming 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 provision 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, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purpose of sale.
 - b. A residential home (i) for which a building permit has been issued for (ii) 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 promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, which ever 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 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 entitlement;
 - c. Boat anchorage or mooring, not to include dredging or dock construction;
 - d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or similar 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 substantial amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse.
 - e. Construction and operation, by water companies as defined by section 16-1 of the 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 221-410 of the General Statutes.

- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22-42a or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

4.2 The following operations and uses shall be permitted as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetlands or watercourses 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.

4.3 All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Agency in accordance with section 6 of these regulations.

4.4 To carry out the purpose of this section, any person proposing to carry out a permitted or non-regulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a non-regulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly schedule 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.

Section 5

Activities Regulated by the State

- 5.1 In addition to any permit or approval required by the Agency, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- a. Construction or modification of any dam pursuant to sections 22a-401 through 22a-410 of the General Statutes, as amended. Any person receiving a dam repair or removal order from the Commissioner of DEP under section 22a-402 of the General Statutes shall not be required to obtain a permit from the municipal wetlands agency for any action necessary to comply with such order pursuant to Public Act 92-162;
 - b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to sections 22a-342 through 22a-349 of the General Statutes, as amended;
 - c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to sections 22a-28 through 22a-35 of the General Statutes, as amended;
 - d. Diversion of water including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day, or any change in the instantaneous flow of any surface waters of the state where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to sections 22a-365 through 22a-378 of the General Statutes, as amended;
 - e. Discharges into the waters of the state pursuant to section 22a-430 of the General Statutes, as amended;
 - f. Discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.
- 5.2 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, (1) after an advisory decision on such license or permit has been rendered to the commissioner by the wetland agency of the municipality within which such wetland is located or (2) thirty-five days after the receipt by the commissioner of such application, whichever occurs first.

5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands of designated and regulated pursuant to sections 22a-28 through 22a-35 of the General Statutes as amended by Public Act 91-308.

Section 6

Regulated Activities to be licensed

- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Commission of the Town of Litchfield.
- 6.2 The Agency shall regulate any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses and any other regulated activity, unless such operation or use is permitted or non-regulated pursuant to section 4 of these regulations.
- 6.3 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 13 of these regulations and any other remedies as provided by law.

Section 7

Application Requirements

- 7.1 Any person wishing to undertake a regulated activity shall apply for a permit on a form provided by the Agency. An application shall include an application form, such number of site plans as required by the Agency, and such information as prescribed by subsection 7.5 and, in the case of a significant activity, by subsection 7.6 of these regulations. Application forms may be obtained in the offices of the Litchfield Town Clerk or the Inland Wetlands Commission.
- 7.2 No such application shall be deemed complete unless it shall be in such form and contains such information, as the Agency deems necessary for a fair and informed determination of the issue including fees as established by the schedule in section 18 of these regulations. The Agency shall inform the applicant of such necessary information.
- 7.3 If an application to the Town of Litchfield Planning and Zoning Commission for subdivision or re-subdivision of land involves land containing a wetland or watercourse, as defined in Section 2 of these regulations, the applicant shall submit an application to the Inland Wetlands Commission, in accordance with this section, no later than the day the application is filed for the subdivision or re-subdivision. No decision may be made on the planning and zoning application until the wetlands and watercourses agency has submitted a report with its final decision to the planning and zoning commission.
- 7.4 The Agency and the applicant may hold a pre-application meeting to determine whether or not the proposed application involves a significant activity.
- 7.5 All applications shall include the following information in writing or on maps or drawings:
- a. The applicant's name, home and business address and telephone numbers;
 - b. The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application;
 - c. Applicant's interest in the land;
 - d. The geographical location of the property which is to be affected by the proposed activity ~~and~~ including 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. This shall include but not limited by a (i) location map the proposed activity, (ii) a separate mapping of the wetlands as defined by these regulations from the site plan, and (iii) soils mapping.
 - 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 activities including, but not limited to (1) prevent or minimizing pollution or other environmental damage, (2) maintain or enhance environmental quality, (3) in the following order of priority: restore, enhance, and create productive wetland or watercourse resources.

- f. Alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen. These alternatives shall be diagrammed on a site plan or drawing;
- 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 addresses of adjacent property owners;
- i. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- j. Certification of the present flow of storm water for a 50-year storm and the flow, which would result from the proposed activity. In addition, the Agency may require certification of existing flows and determination of flow, which would result from the proposed activity associated with a 2,5,10,25, and 100-year storm event.
- k. Authorization for the commissioners and agents of the Agency to inspect the property, at reasonable times, both before and after a final decision has been issued;
- l. Any other information the Agency deems necessary to the understanding of what the applicant is proposing;
- m. Submission of the appropriate filing fee based on the fee schedule established in section 18 of these regulations.

7.6 If the proposed activity involves a significant activity as determined by the Agency and defined in Section 2 of these regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:

- a. Location Map of the proposed site. Applicant must locate in the field all activities proposed in the regulated area. This includes road centerlines, all proposed structures and telephone pole numbers in or adjacent to the parcel associated with the application.
- b. Site plans for the proposed use or operation and the property which will be affected 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 development drawn by a licensed

surveyor, professional engineer or landscape architect registered in the State of Connecticut or by such other qualified person;

- c. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
- d. Separate Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service (the Agency may require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated onto the site plans);
- e. 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;
- f. 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 which alternative considered was deemed neither feasible nor prudent;
- g. Analysis of chemical or physical characteristics of any fill material;
- h. Measures, which would mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland to 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.
- i. A storm water management plan to minimize runoff. The goal of the plan shall be to provide no increase in peak rate of storm water runoff. The Connecticut Department of Environmental Protections 2004 Connecticut Storm water Management Quality Manual is available for reference.

7.7 The applicant shall certify whether:

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

- 7.8 The original and 9 copies of the application and site plan, filing fees and any other materials as may be required by the Agency shall be submitted to comprise a complete application unless otherwise directed in writing by the Agency.
- 7.9 Any application to renew or extend the expiration date of a previously issued permit or amend an existing permit shall be filed with the Agency prior to the expiration date for the permit in accordance with Section 8 of these regulations. 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 no permit may be valid for more than ten years. Any application for amendment, renewal or extension shall be made in accordance with this subsection provided:
- a. The application may incorporate by reference the documentation and record of the original application;
 - b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
 - c. 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;
 - d. The Agency may 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 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; 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;
 - e. The Agency shall evaluate the application pursuant to section 10 of these regulations and grant the application as filed, grant is with any terms or limitations, or deny it.
- 7.10 A reporting form shall be completed during the application process that provides the Commissioner of the Department of Environmental Protection with information necessary to properly monitor the inventory of State wetlands. The reporting form shall be part of the application and the applicant shall provide the following information: name of applicant; location and name of project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered. The Agency shall be responsible for the remaining information and any corrections on the form and for filing it in accordance with section 22a-39-14 of the Inland Wetlands and Watercourses Regulations of the Department of Environmental Protection.

Unless otherwise authorized by the Agency or designated agent, the site plan required under this section shall be prepared by a licensed land survey/or professional engineer or architect

registered in the State of Connecticut. It shall be drawn at a scale, which, in the opinion of the Agency, is adequate to show the information required to evaluate the proposed activity and its environmental impact. It shall be accompanied by the completed Site Storm water Management Plan Checklist located at the end of this application.

- 7.11 The site plan shall include but shall not be limited to the following:
- a. Boundary lines, dimensions, and the areas of the property
 - b. Locations of ALL wetlands and watercourses on the property thereof and the extent of proposed changes in their configuration.
 - c. Regulated area shall be indicated.
 - d. Elevations at one (1) foot contour intervals in all areas of the property that are within one hundred (100) feet of the wetland or one hundred and fifty (150) feet of a watercourse and at five (5) foot contour intervals throughout the remainder of the property. If deposition or removal of earth materials is proposed, resulting elevations shall be shown by one (1) foot contour intervals.
 - e. Locations and descriptions of all existing and proposed drainage features.
 - f. Locations and descriptions of all proposed activities.
 - g. Locations of any soil borings or test holes.
 - h. Quantities and descriptions of materials to be removed. The requirement for contour information may be waived or modified by the Agency if it determines such information is NOT necessary to properly evaluate the impact of the proposed activity.
 - i. Official signoff authorization must be located in the lower left-hand corner of the official site plan of record (Mylar record drawings) with the wording as follows and filed with the Town of Litchfield Land Records.

Approved by the Litchfield Inland Wetlands Commission

_____ with the following conditions _____no conditions

Date: _____ Permit Number _____ Signature of Chairperson _____

Section 8

Application Procedures

- 8.1 All applications shall be submitted to the Land Use Office, the office of the Inland Wetlands Commission of the Town of Litchfield.
- 8.2 The Agency shall, in accordance with Connecticut General Statutes in lieu thereof Section 8-7d(f), notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:
- 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. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or,
 - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
 - e. Notice of the pendency and a copy of such application shall be made by certified mail, return receipt requested and shall be mailed within seven (7) days of the date of receipt of the application. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request, or plan.
- 8.3 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetlands or watercourse, any portion of which is within the watershed of a water company as defined in section 25-32a, the applicant shall provide written notice of the application to the water company and the Commission of Public Health in a format prescribed by said Commissioner, provided such water company or said commissioner 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 not later than seven days after the date of the application. The water company and the commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application.
- 8.4 Pursuant to the provisions of Section 8-7d(c) of the Connecticut General Statutes, the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the agency, immediately following the day of submission to such agency

or its agents of such petition, application, request, or appeal or thirty-five (35) days after such submission, whichever is sooner.

8.5 At any time during the review period, the Agency may require the applicant to provide additional information about the regulated area or regulated activity that is the subject of the application, or the wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitation as set forth in subsection 11.2 of these regulations

8.6 If a public hearing is to be held on any application for a permit, all documentary evidence in support of the application shall be filed with the Agency and available for public inspection no less than ten (10) days prior to the day of the hearing or any reconvening thereof.

8.7 All applications shall be open for public inspection.

8.8 Incomplete applications may be denied.

8.9 As according to Town Ordinance: When the actual cost of processing an application exceeds the minimum fee established in Section 18, the Agency shall bill the applicant for the actual excess amount based on the Commission's actual expenditures for outside technical review. The expenses for such outside consultants may be established by the Agency upon the receipt of the application and this reasonable estimate together with the appropriate application fee shall be paid forthwith, and the application shall be deemed incomplete until these fees have been submitted. Any fees outside consultant fees not expended on the project shall be rebated to the applicant upon conclusion. In the event that outside consultant's costs are in excess of the original estimates paid the agency shall bill the applicant such additional costs.

Section 9 Public Hearings

- 9.1 The Agency shall not hold a public hearing on an application unless the inland wetland agency determines that the proposed activity may have a significant impact on wetlands and watercourses, a petition signed by at least twenty five (25) persons who are eighteen (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 fourteen (14) days after the date of receipt of such application, or the agency finds that a public hearing regarding such petition would be of public interest. The agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the agency on or before the fourteenth (14) day after the date of receipt of the application. Such hearing shall be held no later than sixty five (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 or persons may appear and be heard and may be represented by agent or by attorney.
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having general circulation in each town where the affected wetland and watercourse is located. Notification must also be made to persons who own or occupy land that is adjacent to the property that is subject to hearing by certified mail. Notifications shall be made by the applicant.
- 9.3 In the case of any application, which is subject to the notification provisions of subsection 8.3 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.
- 9.4 The Agency may require signage to indicate a pending significant activity. A sign or signs must be posted on the premises which is the subject of the application at least fifteen (15) days before the hearing or any reconvening thereof and must be removed within ten (10) days after completion of the hearing or any rehearing thereof. The sign shall be so located on the property so as to be visible and readable from the street or highway (s) that the property fronts. The sign must be no more than five (5) feet off the street line and must be readable for the full time of the required posting. The sign shall be a four (4) feet by four (4) feet. Printed lettering shall be black on a yellow background. The wording and size of lettering shall be as follows:
- | | |
|--|-------------|
| NOTICE OF HEARING | (3"letters) |
| INLAND WETLANDS APPLICATION | (3"letters) |
| PLACE: Litchfield Town Hall Annex, 80 Doyle Road | (2"letters) |
| DATE: | (2"letter) |

The sign must be legible in block letters. The sign shall be prepared and erected by the applicant at a cost to be borne by the applicant.

Section 10

Considerations for Decision

10.1 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. Comments and reports from other agencies and commissions requested on any application including but not limited to the following:
 1. Town of Litchfield Planning and Zoning Commission;
 2. Town of Litchfield Board of Selectmen including the Building Division;
 3. Town of Litchfield Sewer Commission;
 4. Torrington Area Health District;
 5. Litchfield Public Works Department/Town Engineer
 6. Office of the Fire Marshall
- d. The Agency may also consider comments on any application from the Litchfield County Soil and Water Conservation District, the Litchfield Hills Council of Elected Officials and any other regional organizations or agencies or agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations as the Agency deems necessary.
- e. Non-receipt of comments from agencies and commissions listed in subdivisions 10.1.c and d above within the prescribed time shall neither delay nor prejudice the decision of the Agency.

10.2 Factors for Consideration: Finding of No Feasible and Prudent Alternative.

In carrying out the purposes and policies of sections 22a-36 to 22a-45 of the General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the agency shall take into consideration all relevant facts and circumstances, including but not limited to:

- 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; NOTE: These shall be of less impact than the proposed activity as set in the application.
- c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;

- d. Irreversible and Irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
 - 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 the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.
- 10.3 In the case of an application, which received a public hearing pursuant to a finding by the Inland Wetlands Agency, that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the agency shall consider the facts and circumstances set forth in subsection The finding and the reasons therefore shall be stated on the record in writing
- 10.4 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 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.
- 10.5 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the records 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 the Inland Wetlands and Watercourses Regulations of the Town of Litchfield and of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes
- 10.6 For the purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives.
- 10.7 A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourse 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

- 10.8 For development of the regulated area in and around a vernal pool, the Commission will consider the following:
- a. The vernal pool depression shall remain undisturbed. There shall be no cutting, heavy equipment operation, grading, or clearing in the vernal depression at any time of the year.
 - b. Disturbance of the regulated area around the vernal pool shall be limited to no more than twenty-five (25%) percent of the area.
 - c. Work around the pool shall be restricted from February 15th to July 31 within the regulated area.
 - d. Clearing around the pool shall be restricted to the average height of the surrounding trees to maintain the closed canopy stand of trees and brush around the pool to provide shade, deep un-compacted litter, and woody debris around the pool.
 - e. Maintain overland and groundwater flows to the basin. The water supply to the pool shall not be drastically impacted.
 - f. Direct storm water discharges to the vernal pool are prohibited without proper treatment.
 - g. Minimize the use of fertilizers and prohibit the use of pesticides without written approval of the Commission with the regulated area.
 - h. The location of septic systems with the regulated area, the septic tank shall be beyond fifty (50) feet from a vernal pool and the soil absorption field shall be beyond the regulated area.
 - i. Detention facilities shall be 100' beyond the pool or designed for vernal pool habitat.
 - j. Maintain a shaded forest floor without ruts or sources of sedimentation or erosion.
 - k. If multiple pools are present, development of an undisturbed conservation area connecting the pools is strongly recommended. The minimum width of the conservation corridor should be twice the average height of the mature trees within the corridor.
 - l. Minimize soil disruption and stabilization the work area as soon as possible after disruption. Apply temporary controls within (7) days after the suspension of grading work in disturbed areas where the suspension of work is expected to be more than thirty (30) days but less than (1) year. Apply permanent soil stabilization with seven (7) days of establishing final grade. Remove erosion controls within thirty (30) days of final site stabilization.

Section 11

Decision Process and Permit

- 11.1 In granting a permit the inland wetlands agency, or its duly authorized agent, may grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive, of the General Statutes. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2 No later than sixty five (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 agent or attorney. The hearing shall be completed within thirty five (35) days of its commencement. Action shall be taken on applications within (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 subdivision, provided the total extension of all such periods shall not be for longer than sixty five (65) days, or may withdraw the application. The failure of the Agency to act within any time period in this subdivision, 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.
- 11.3 The Agency shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing.
- 11.4 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 and watercourses, the Agency shall propose on the record, in writing, the types of alternatives, which the applicant may investigate. The requirement shall not be construed to shift the burden from the applicant to prove that he/she is entitled to the permit or to present alternatives to the proposed regulated activity.
- 11.5 The Agency 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 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. A copy of all Agency decisions shall be forwarded to the Commissioner of Environmental Protection in such a form as prescribed by the Commissioner. 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.

- 11.6 If an activity authorized by the inland wetland permit also involves an activity or project, which requires zoning or subdivision approval, a zoning permit, variance or special exception, a copy of the decision and report on the application shall be to the respective Commission-
- 11.7 If the agency grants a permit with terms, condition, limitations or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for purposes of appeal.
- 11.8 The duration of any permit issued under this section for the development of property for which an approval is required such as subdivision or site plan shall be valid for five (5) years, provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued under this section for any other activity shall be valid for not less than two (2) years and not more than five (5) years. Any such permit shall be renewed 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 no permit may be valid for more than ten (10) years.
- 11.9 If the agency denies a permit, the application may be resubmitted if there has been a material change in the plan or other facts or circumstances to warrant consideration.
- 11.10 All permit conditions shall be the responsibility of the original applicant unless the permit is assigned, transferred, sublet or sold. If the permit is assigned, transferred, sublet, or sold, the Agency or its duly authorized agent(s) shall be notified no later than seven (7) calendar days after such transfer. Such notification shall include:
- a. The name, home, and business address and telephone numbers of the party to whom the permit has been or will be transferred, assigned, sublet, or sold.
 - b. Certification that such party is aware with the information provided in the permit requirements and conditions imposed by the permit.
- All conditions and requirements of the permit shall be the responsibility of the new applicant as well as any other requirements of the Regulations.
- 11.11 If a bond or insurance is required in accordance with Section 13 of these regulations, no permit shall be issued until such bond or insurance is provided.
- 11.12 General provisions in the issuance of all permits:

- a. If the Agency relied in whole or in part on information provided 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 Litchfield, 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 re regulations pertinent to the property or activity.
- c. If the activity authorized by the inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.
- c. The Permittee shall employ construction management practices, consistent with the terms and conditions of the permit to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses in accordance with the 'Connecticut Guidelines for Soil Erosion and Sediment Control' prepared by the Connecticut Council on Soil and Water Conservation, which plan shall be submitted to and approved by the Agency or its designated agent(s) prior to the initiation of any activity. The disturbed area shall be revegetated within a period of time determined by the Agency.

11.13 The Agency or its duly authorized agent(s) shall compare permits issued by the Agency to those issued by the building department or any other city agency, department or commission to monitor compliance.

11.14 Notice of the permit and its conditions or stipulations with a Mylar site plan shall be filed on the land records of the Town of Litchfield.

Section 12

Action by Duly Authorized Agent

- 12.1 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 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. Notwithstanding the provision for receipt and processing applications prescribed in Sections 8, 9, and 11 of these regulations such agent may approve or extend an activity anytime.
- 12.2 Any person receiving such approval from such agent shall, within ten days of the date of such approval publish, at the applicant's expense, notice of the approval in a newspaper having general circulation in the Town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the agency within fifteen days after the publication date of the notice and the agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such agency or its agent of such appeal. The agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.

Section 13

Bond and Insurance

- 13.1 Upon approval of the application 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.
- 13.2 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.
- 13.3 In determining the necessity and amount of any bond or security, the Agency may consider criteria which include:
- a. Guaranteeing the structural integrity of any man-made structures designed to control the flow, amount, or retention of water such as detention ponds, dams, berms, swales. Etc.
 - b. Any activity involving the deposition of or the removal of 100 cubic yards or more of material within a regulated area or any deposition that will have a substantial adverse effect on the regulated area or on another part of the wetlands or watercourses;
 - c. Any activity, which may substantially change the natural channel of a watercourse system.
 - d. Any activity which may diminish substantially the natural capacity a watercourse or an inland wetland to support desirable biological life, prevent flooding, supply water, and/or facilitate drainage and/or;
 - e. Any activity which may result in degrading a watercourse, surface water, ground water or an inland wetland, such degradation to be measured by standards of the water compliance division of the Department of Environmental Protection where applicable.
- 13.4 On any construction site involving a regulated activity the bond shall not be released until it has been inspected and approved by the Agency or its duly appointed agent.
- 13.5 The Agency may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount commensurate with the regulated activity.

Section 14 Enforcement

- 14.1 The Agency may appoint a certified agent or agents to act in its behalf with the authority to inspect property except a private residence, and issues notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations.
- 14.2 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.
- 14.3 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 ten (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 ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that revised order is on 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 its order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to sections 22a-44(b) of the General Statutes, as amended.
 - b. The Agency 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 Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct that 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 Agency shall consider the facts presented at the hearing and the Permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (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 subdivision 13.3.a or other enforcement proceedings as provided by law.

Section 15 Amendments

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Litchfield may be amended, from time to time, by the Agency 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 and watercourses becomes available by majority vote of the inland wetland agency after a public hearing. No regulations of an inland wetlands agency including boundaries of inland wetlands and watercourse areas shall become effective or be established until after a public hearing in relation thereto is held by the inland wetland agency. Any such hearing shall be held in accordance with the provisions of section 8.7d, as amended by this act.
- 15.2 An application filed with an inland wetlands 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 upland review areas/buffers, taking effect on or after the date of such receipt of 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 (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of this chapter as of the date of such receipt.
- 15.3 These regulations and the Town of Litchfield Inland Wetlands and Watercourses map shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments pursuant to subsection 14.3 of this section, at least thirty-five (35) days before the public hearing on their adoption. (Fee schedules shall be adopted as Agency regulations or as otherwise provided by municipal ordinance.)
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Litchfield, Connecticut" shall contain at least the following information:
1. The petitioner's name, mailing 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 geographical 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
 5. The reasons for the requested actions.
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Litchfield, 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 that is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 14.3, 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 and said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of the 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 soils; and
 4. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6 Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 15.7 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the time and place of the hearing shall be published in a newspaper having substantial circulation in the municipality at least twice at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last not less than two days, before the date set of such hearing. Any such hearing shall be held in accordance with the provisions of Section 8-7d as amended of the Connecticut General Statutes. A copy of such proposed boundary changes shall be filed in the office of the town clerk for public inspection at least ten days before such hearing.
- 15.8 The agency shall hold a public hearing on a petition to amend the regulations and/or the inland wetlands and watercourses map within sixty-five (65) days after receipt of a petition. The hearing shall be completed within thirty-five (35) days after commencement of said hearing. The agency shall act upon the changes requested in such petition within sixty-five (65) days after the close of the 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 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. The failure of the inland wetlands commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the commission.

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

Section 16 Appeals

- 16.1 Appeal on actions of the Agency shall be made in accordance with the provisions of section 22a-43 of the General Statutes, as amended.
- 16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

Section 17 Conflict and Severance

- 17.1 If there is a conflict between the provisions of these regulations, the provision that 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 that can be given effect without such valid part or parts.
- 17.2 If there is a conflict between any provision of these regulations and the provisions of the Act, the provisions of the Act shall govern.

Section 18 Other Permits

- 18.1 Nothing in these regulations shall obviate the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Litchfield, 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 are the sole responsibility of the applicant.

Section 19 Application Fees

- 19.1 Method of Payment. All fees required by these regulations shall be submitted to the Agency by cash, check or money order payable to the Town of Litchfield at the time the application is filed with the Agency.
- 19.2 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 subsection 19.7 of these Regulations.

19.3 The application fee is not refundable.

19.4 Definitions. As used in this section:

"Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

"Commercial Uses" means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.

"Other Uses" means activities other than residential uses or commercial uses. Fee Schedule. Application fees (which include a \$10.00 State surcharge) shall be based on the following schedule:

(1)	Each activity	\$80.00
(2)	New ponds, per acre or part thereof	\$90.00
(3)	Pond maintenance	\$80.00
(4)	Subdivision with no wetlands or regulated activities	\$60.00
(5)	Subdivision of two lots with regulated activities, per activity	\$80.00
	Activity and or dwelling unit and, per acre or part thereof	\$25.00
(6)	Subdivision of more than two lots with regulated activities, per activity	\$150.00
	Activity and or dwelling unit and, per acre or part thereof	\$25.00
(7)	Application requiring a public hearing, according to section 9.1 of the Litchfield Inland Wetland Regulations	\$250.00
(8)	Commercial, industrial and nonresident development, per activity and, per acre or part thereof	\$200.00 \$25.00
(9)	Permit extensions	\$70.00
(10)	Petition for map change amendment	\$125.00
(11)	After-the-fact activity, per activity	\$180.00
(12)	As of right activity according to Section 4 of the Litchfield Inland Wetland Regulations	\$60.00
(13)	All permit applications shall be subject the current State fee in \$--.00 (\$28.00/2005) addition to The Municipal fee.	

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

18.6 Waiver. 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 subsection. The Agency may waive all or part of the application fee if the Agency determines that:

- a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or
- b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.

The Agency shall state upon its records the basis for all actions under this subsection

Section 20

Records Retention and Disposition

20.1 The Agency and the Town Clerk for the Town of Litchfield shall retain complete administration records of Agency actions and dispose of such records in accordance with the retention/disposition schedules set forth in subsection 20.2

20.2 The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands Agencies effective April 24, 1989;

RECORD TITLE	MINIMUM RETENTION REQUIRED	DISPOSITION
Applications (inc. supporting materials)		
Approved	10 years	
Denied or withdrawn	2 years	Destroy
Decision Letters	10 years	Destroy
General Correspondence Issued or Received	5 years	Destroy
Legal Notices	1 year	Destroy
Minutes of Meetings & Public Hearings	Permanent	Permanent
Tapes, Audio-Inland Wetland Matters	1 year after minutes are approved	Destroy
Text of Changes Adopted In Regulations	Continuous Update/Permanent	Permanent
Enforcement Actions	10 years after correction of violation	Destroy
Communications/Public Relations	4 years	Destroy

Section 21

Effective Date of Regulations

21.1 These regulations including the Inland Wetlands and Watercourses Map, application forms, fee schedule and amendments thereto, shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Litchfield.