

# **Town of Litchfield**

## **Connecticut**

### ***Inland Wetlands Commission***



### ***Inland Wetlands and Watercourses Regulations***

Adopted August 21, 1973,  
revised 6/89, 8/91, 12/94, 3/96, 2/97, 5/98, 4/99, 4/00, 3/05, 8/07, 7/13

*Town of Litchfield*  
*Inland Wetlands and Watercourses Regulations*

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## **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 and 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 an 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 adopted and may be amended, from time to time, in accordance with the provisions of 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 to 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 watercourse 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 application 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 permits.
- e. Connecticut General Statutes Section 16-235 allows the agency to regulate and restrict with respect to impact 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 for the Town of Litchfield.

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

"Clear-cutting" means the harvest of timber in a fashion which removes all trees down to a two inch 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 Energy and 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 waters of the state whether or not such substance causes pollution.

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

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

"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 sections 22a-36 to 22a-45, inclusive.

"Management Practice" means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practice 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.

"Marshes" are watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground

surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.

"Material" means any substance, solid 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 places where plants are grown for sale, transplanting or experimentation. .

"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 whom such permit has been issued.

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

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

"Prudent" means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent;

"Regulated Activity" means (i) 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. Regulation means the construction of or alteration of ponds, including 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" 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 aquatic plant or animal life and habitats, 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; or
4. Any activity which is likely to cause or has the potential to cause 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 which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or education value.

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

"Swamps" are areas with soils that exhibit aquatic 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 gradual invasion of marshes by woody species or directly, as in poorly drained depressions.

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

"Town" means the Town of Litchfield.

"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 (a) Contains water for a minimum of two months during the growing season, usually the spring, (b) occurs within a confined depression or basin that lacks permanent outlet streams, (c) lacks a fish population, (d) dries out

most years, usually by late summer, (e) serves as a habitat for one or more obligate species. (Obligate species shall include, but not be 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) below:

- 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.

"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.

1. 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 – 24 of said code.
2. Toxic waste includes substance 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 components, however small of groundwater outflow or infiltration, and (c) the presence of or ability to support eh growth of hydrophilic vegetation.

"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 posses 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 "Litchfield Water Resources" (adopted 2007 as part of the POCAD) 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 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 Litchfield Water Resources Map, may petition the Agency to change the designation in accordance with section 15, of these regulations. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with section 15 of these regulations may be required of the property owner when the agency requires 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 9 of these regulations.
- 3.4 All map amendments are subject to the public hearing process outlined in section 15 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 Energy and 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 (a) for which a building permit has been issued for (b) 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 22a-403 of the Connecticut General Statutes;
  - f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 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; and
  - g. withdrawals of water for fire emergency purposes.
- 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.
  - c. The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is not alternative access to a public water supply. For purposes of this section "dry hydrant" means a non-pressurized pipe system that; (a) is readily accessible to fire department apparatus from a proximate public road, (b) provides for the withdrawal of water by suction to such fire department apparatus, and (c) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

- 4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations, shall require a permit from the agency in accordance with section 6 of these regulations or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in shall accordance with section 12 of these regulations.
- 4.4 To carry out the purpose of this section, any person proposing a permitted operation and use or a non-regulated operation and use 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 and use is a regulated activity and that a permit is required.

### **Section 5**

#### ***Activities Regulated Exclusively by the Commissioner of Energy and Environmental Protection***

- 5.1 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 sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the General Statutes as amended.
- 5.3 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Energy and Environmental Protection under section 22a-402 of the General Statutes or a permit issued by the Commissioner of Energy Environmental Protection under section 22a-403 of the Connecticut General Statutes. Any person receiving a dam repair or removal order or permit shall not be required to obtain a permit from the municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act

### **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 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 14 of these regulations and any other remedies as provided by law.

## **Section 7**

### ***Application Requirements***

- 7.1 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 section 7.5 and, in the case of a significant activity, in subsection 7.6 of these regulations. Application forms may be obtained in the offices of the Inland Wetlands Commission.
- 7.2 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, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable of the Connecticut General Statutes, submit an application to the Inland Wetlands Commission, no later than the day the application is filed with such planning and zoning commission. 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.
- 7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the agency.
- 7.4 The prospective applicant may request the agency to determine whether or not a proposed activity 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 mailing address and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate officer's name, address and telephone number;
  - b. the owner's name, mailing address and telephone number and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed;
  - c. applicant's interest in the land;
  - d. the geographical location of the land which is the subject of the proposed activity 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 to (1) location map of the proposed activity, (2) a separate mapping of the wetlands as defined by these regulations from the site plan, and (3) 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

measures to (1) prevent or minimizing pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance, and create productive wetland or watercourse resources.

- f. alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be 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. 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, during the pendency of an application and for the life of the permit;
- k. a completed DEEP reporting form; the agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of the Energy and 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;
- m. submission of the appropriate filing fee based on the fee schedule established in section 19 of these regulations.
- n. 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.

7.6 At the discretion of the Agency or its agent, or when the proposed activity involves a significant impact, as described in Section 2 of these regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:

- a. site 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, profession engineer, licensed land surveyor, architect or landscape architect licensed in the State of Connecticut or by such other qualified person;
- b. engineering reports and analyses and additional drawings to fully describe the proposed project and 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 U.S. Natural Resources Conservation Service the wetlands shall be delineated in the field by a soil scientist and that the field delineation 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,

- which would cause less or no environmental impact to wetlands or watercourses and a description of why which alternative considered was deemed neither feasible nor prudent;
- f. analysis of chemical or physical characteristics of any fill material;
  - g. 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.
  - h. 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 Energy and Environmental Protection's 2004 Connecticut Storm Water Management Quality Manual is available for reference.
  - i. 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.

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 3 copies of all application and site plan, filing fees and any other materials 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 an existing permit shall be filed with the Agency in accordance with Section 8 of these regulations at least sixty-five days prior to the expiration date for the permit. Any application to renew or amend such permit shall contain the information required under Section 7 of these regulations provided:

- a. the application may incorporate the documentation and record of the original 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;

7.10 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 shall be valid for more than ten years and further provided that any permit issued prior to July 1, 2011, that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.

7.11 For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:

- a. for purposes of this section, "conservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space.
- b. for purposes of this section, "preservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed will or other instrument executed by or on behalf of the owner of the land, including, but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.
- c. no person shall file a permit application, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of such existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction including, but not limited to, any state agency that holds such restriction not later than sixty days prior to the filing of the permit application.
- d. in lieu of such notice pursuant to subsection 7.11c, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.

7.12 Unless otherwise authorized by the Agency or designated agent, the site plan required under this section shall be prepared by a licensed land surveyor 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. 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 watercourse on the property thereof and the extent of proposed changes in their configuration.
- c. Regulated areas 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 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 description of all existing and proposed drainage features.
- f. Locations and descriptions of all proposed activities
- g. Locations of any soil boring 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) 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 petitions, applications, requests or appeals shall be submitted to the Inland Wetlands Commission, c/o the Land Use Office of the of the Town of Litchfield.
- 8.2 The Agency shall, in accordance with Connecticut General Statutes Section 8-7d(f), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
  - a.any portion of the property affected by a decision of the agency is 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.

Notice of the pendency 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, 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 wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 25-32a of the General Statutes, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said Commissioner, provided such water company or said commission 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 Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the agency.

- 8.4 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 the Agency or its agent of such petition, application, request, or appeal of thirty-five (35) days after such submission, whichever is sooner.
- 8.5 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 limitation as set forth in subsection 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection.
- 8.7 Incomplete applications may be denied.

## **Section 9**

### **Public Hearings**

- 9.1 The inland wetlands 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 or watercourses, a petition is 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 days (14) 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. 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 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.
- 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 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"letters)

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. 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 Marshal
- c. 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 in adjacent municipalities which may be affected by the proposed activity or other technical agencies or organization which may undertake additional studies or investigation as the agency deems necessary.
- d. Non-receipt of comments from state agencies and commissions listed in subdivisions 10.1.b and c above within the prescribed time shall neither delay nor prejudice the decision of the Agency.
- e. For an application for which a public hearing is held, public comments, evidence and testimony.

10.2 Criteria for Decision:

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.
- 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 Irrecoverable 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 section 10.2. 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 For 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 or occurs.
- 10.6 A municipal inland wetlands 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.
- 10.7 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.
- 10.8 In the case of an application where the applicant has provided written notice pursuant to subsection 7.11c of these regulations, the holder of the restriction may provide proof to the inland wetlands agency that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the term of such restriction, the inland wetlands agency shall not grant the permit approval.

- 10.9 In the case of an application where the applicant fails to comply with the provisions of subsections 7.11c or 7.11d of these regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulation of such agency relating to appeals. The inland wetlands agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall immediately reverse such permit approval if the commission of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.
- 10.10 Nothing in subsections 7.11c or 7.11d of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under terms of such conservation or preservation restriction.
- 10.11 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 15<sup>th</sup> to July 31 within the regulated area.
  - d. Work 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 within the regulated area.
  - h. The location of septic systems within 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 matured trees with the corridor.
  - l. Minimize soil disruption and stabilize the work area as soon as possible after disruption. Apply temporary controls within seven (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 one (1) year. Apply permanent soil stabilization with seven (7) days of

established final grade. Remove erosion controls within thirty (30) days of final site stabilization.

## **Section 11**

### **Decision Process and Permit**

- 11.1 The Agency, or its duly authorized agent, acting pursuant to Section 12 of these regulations, may in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted provided the agency, or its agent, determines that such restrictions are necessary to carry out the policy of sections 22a-36 to 22a-45, inclusive of the Connecticut General Statutes.
- 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 person 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 thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection provided the total extension of all such periods shall not be for longer than sixty five (65) days, or may withdraw 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.
- 11.4 The Agency shall notify the applicant and any person entitled to such notice 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 decision shall be forwarded to the Commissioner of Environmental Protection in such a form as prescribed by the Commission. In any case in which such notice is not published within such fifteen-day (15) period, the applicant may provide for the publication of such notice within ten days thereafter.
- 11.5 If an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, special zoning permit, variance or special exception, under section 8-3(g), 8-3c or 8-26 of the Connecticut General Statutes, the Agency shall file a copy of the decision and report on the application with the Town of Litchfield Planning and Zoning Commission within fifteen days of the date of the decision thereon.

- 11.6 Any permit issued by the Agency for the development of land for which an approval is required under Chapter 124, 124b, 126 or 126a of the Connecticut General Statutes shall be valid until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued by the agency for any activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two (2) years and not more than five (5) years.
- 11.6.1 Notwithstanding the provisions of Section 11.6 of these regulations, any permit issued by the agency prior to July 1, 2011, that was in effect and did not expire prior to May 9, 2011, shall be valid for a period not less than nine years after the date of such approval.
- 11.7 No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency. 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 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.
  - c. All conditions and requirements of the permit shall be the responsibility of the new applicant as well as any other requirements of the regulations.
- 11.8 If a bond or insurance is required in accordance with Section 13 of these regulations, the Agency may withhold issuing the permit until such bond or insurance is provided.
- 11.9 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 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 sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, 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 storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses in accordance with the *2002 Connecticut Guidelines for Soil Erosion and Sediment Control* and the *2004 Connecticut Storm water Quality Manual as amended*.
  - e. Permits are not transferable without the prior written consent of the Agency.

## **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 Energy and Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7.5 of these regulations and any other information the Agency may reasonably require. 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. 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 Section 7 of these regulations.

## **Section 13**

### **Bond and Insurance**

- 13.1 The Agency may require as a permit condition, the filing of 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 of 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 water compliance division of the Department of Energy and 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 certify that it has 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 an agent or agents to act in its behalf with the authority to 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 Section 10.2 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 with the consent of the property owner or the authorized agent of the owner during the life of the permit.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Agency or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 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 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 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 Connecticut General Statutes, as amended.
  - b. 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 section 14.4a or other enforcement proceedings as provided by law.

- 14.5 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 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.

## **Section 15** **Amendments**

- 15.1 These regulations and the Litchfield Water Resources 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 Connecticut Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 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 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 Litchfield Water Resources 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 Energy and Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five (35) days before the public hearing on their adoption. Application fee schedules shall be adopted as Agency regulations or as otherwise provided by municipal ordinance.
- 15.4 Petitions requesting changes or amendments to the Litchfield Water Resources Map, Litchfield, 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. Petitioner's interest in the land affected by the petition;
- d. 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;
- e. The reasons for the requested actions.

15.5 Any person who submits a petition to amend the Litchfield Water Resources 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 15.4, the petition shall include:

- a. The name address and telephone number of the owner(s) of such land and owner(s) agent or other representative
- b. The names and addresses of the owners abutting land
- c. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall, at a minimum, include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist defining the boundaries of wetland soils and;
- d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourses 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 Litchfield Water Resources Map. Notice of the hearing shall be published in a newspaper having general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last, not less than two days before the date set for such hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

15.8 The Agency shall hold a public hearing on a petition to amend the regulations and 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) after completion of the hearing. At such hearing any person or person may appear and be heard and may be represented by an agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection provided the total extension of any such period 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 petition.

15.9 The Agency shall make its decision and state, in writing, the reasons why the change in the Litchfield Water Resources 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 Connecticut General Statutes, as amended.
- 16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Energy and Environmental Protection.

## **Section 17**

### **Conflict and Severance**

- 17.1 If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, 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 Energy and Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is 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.

19.5 Fee Schedule. Application fees shall be based on the following schedule:

(1)	Per 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 and or dwelling unit and;	\$150.00
	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	\$200.00
	and, per acre or part thereof	\$ 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 application shall be subject to the current State of Connecticut DEEP Environmental Quality Fund Fee in addition to the municipal fees.**

19.6 **Complex Application fee** – The Inland Wetlands Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not be limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts. The Agency or the duly authorized agent shall estimate the complex application fee which shall be paid pursuant to section 19.1 of these regulations within 10 days of the applicant's receipt or notice of such estimate. Any portion of the complex application fee in excess of the actual cost shall be refunded to the applicant no later than 30 days after publication of the agency's decision.

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

19.8 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.
- c. The applicant has shown good cause.

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

## ***Section 20***

### ***Effective Date of Regulations***

- 21.1 These regulations shall become 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 Litchfield.