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Town of Winchester Inland Wetlands and Watercourses Regulations

TOWN OF WINCHESTER · CITY OF WINSTED
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TOWN OF WINCHESTER INLAND WETLANDS AND WATERCOURSES REGULATIONS

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Section 1

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 use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the states potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- 1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Winchester."
- 1.3 The Inland Wetlands Commission of the Town of Winchester was established in accordance with the Charter of the Town and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Winchester.
- 1.4 These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The Agency shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with modifications, and deny permits for all regulated activities on inland wetlands and watercourses in the Town of Winchester pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

Section 2 DEFINITIONS

2.1 As used in these regulations:

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

"Agency" means the Inland Wetlands and Watercourses Commission of the Town of Winchester.

"Alter" means the same as "Disturbing the natural and indigenous character of the wetland or watercourse," as defined below.

"Bogs" are areas distinguished by evergreen trees and shrubs underlain by peat deposits, 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 and Watercourses Commission of the Town of Winchester.

"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.

"Disturbing the natural and indigenous character of the wetland or watercourse" means to alter the inland wetlands or watercourses by reason of removal or deposition of material, clearing the land, clear cutting of trees, 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 an existing 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.

"Forest Practice" means any activity which may alter the physical or vegetative characteristics of any forest land which is undertaken in connection with the harvest of commercial forest products unless such harvest is undertaken pursuant to the conversion of forest land to other uses and such conversion has been approved by (A) the planning commission, zoning commission, or combined planning and zoning commission, and (B) if the forest land includes any wetlands or if the municipality within which the land is located regulates forest practices under section 23-65k, the inland wetlands agency of the municipality.

"Intermittent watercourses" are delineated by a defined permanent channel and bank and the occurrence of (2) two or more of the following characteristics: 1) evidence of scour or deposits of recent alluvium or detritus, 2) the presence of standing or flowing water for a duration longer than a particular storm incident, and 3) the presence of, hydrophytic vegetation.

"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 regulation 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 sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous streams flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

"Marshes" are areas with soils that exhibit aquatic 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 ground surface throughout the year, but seasonal water table fluctuations are encountered and areas of open water six inches or more in depth are common.

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

"Municipality" means the Town of Winchester, Litchfield County, Connecticut.

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

"Ordinary high water mark" means a mark on the land caused by the presence and action of water, which presence and action is so common and usual and so long continued in all ordinary years so as to mark upon the land a distinction between the abutting upland and the watercourse. Such mark may be found by examining the bed and bank of any watercourse and ascertaining thereon an abrupt change in the characteristics of soil or vegetation or slope of the land.

"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 Agency and the Act or other municipal, state, and federal law.

"Permittee" means the person to whom 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 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 resulting from any filling, land clearing or excavation activity.

"Prudent" means economically or 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 alternative is imprudent.

"Regulated activity" means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, and any earth moving, filling, construction, or clear cutting of trees within 75' of wetlands or 100' of watercourses, but shall not include the specified permitted activities in section 4 of these regulations. The location of any portion of any subsurface waste disposal system within 150 ft. of the mean waterline of any watercourses and 75' of all wetlands is deemed a regulated activity. The activities specified in section 4 of these regulations will or can require an uplands review if they are likely to impact or affect wetlands or watercourses. The Agency may also rule that any other activity located within the above described regulated areas, or any non-wetland or non-watercourse area, is likely to impact or affect wetlands or watercourses and is a regulated activity.

"Regulated area" means that area within 75ft. of any inland wetland or within 100ft. of any watercourse as defined in these regulations.

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

"Rendering unclean or impure" 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 any 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

6. Any activity likely to or having the potential to cause pollution of a wetland or watercourse; or
7. Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

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

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

"Swamps" are areas with soils that exhibit aquatic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.

"Town" means the Town of Winchester, Litchfield County, Connecticut.

"Vernal Pools" are small bodies of standing fresh water that are most obvious during the spring or fall of the year. They are usually temporary in nature, lacking permanent surface water connections with other wetlands or watercourses. They lack a permanent fish population but may support breeding and development of amphibian or invertebrate species such as, but not limited to, frogs and salamanders. (The presence of such amphibians or invertebrate species is not required for identification of a vernal pool under Connecticut Statutes.) Vernal pools must have the following physical characteristics: (1) contain water for approximately two months during the growing season (2) occur within a confined depression or basin that lacks a permanent outlet stream (3) dries out most years, usually in late summer.

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

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

"Wetlands" means land, including submerged land as defined in this section, not regulated pursuant to 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 flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Soil Conservation Service of the U.S. Department of Agriculture USDA). Such areas may include filled, graded, or excavated sites which possess an aquatic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

Section 3 INVENTORY OF REGULATED AREAS

- 3.1. The most current map of regulated areas, entitled "Inland Wetlands and Watercourses Map, Winchester, Connecticut", to be found in the Town Inland Wetlands office, delineates the general

location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Inland Wetlands Agency Commission. In all cases, the precise location of regulated area shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses, regardless of whether the regulated area is shown on the map of regulated areas. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations, field inspection and testing conducted by a soil scientist where soil classifications are required, or where watercourse determinations are required, by any qualified individuals.

- 3.2 Any property owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map, may petition the Agency to change the designation in accordance with section 14 of these regulations. All petitions for a map 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 an accurate delineation of regulated areas.
- 3.3. The Agency or its designated agent(s) shall inventory and maintain current records of all regulated area within the town. The Agency may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the town. 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 & 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 provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
 - b. A residential home (i) for which a building permit has been issued or (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, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subsection unless the building permit was obtained on or before July 1, 1987. The individual claiming a use of wetlands permitted as a right under this subsection shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well

locations, septic system, driveway, approval dates or other necessary information.

- c. Boat anchorage or mooring, not to include dredging or dock construction,
- d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality (provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres) and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include cutting of trees, 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 Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-410 of the General Statutes.
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-401 through 22a-410 of the Connecticut General Statutes or July 1, 1994, 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 wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
- b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing and cross country skiing where otherwise legally permitted and regulated.

4.3. All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, clearing, grading, and excavation 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.

4.4 To carry out the purposes of this section, any person proposing to carry out a permitted or non-regulated operation or use of a wetland or watercourse, 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 scheduled meeting of the Agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time.

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-411 of the Connecticut General Statutes, as amended;
 - b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349a of the Connecticut 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 Connecticut General Statutes, as amended;
 - d. Diversion of water, including withdrawals of surface or ground water in excess of fifty thousand (50,000) gallons per day or any piping, culverting, channelization, relocation, damming or other alteration of the location of flow of any surface waters of the state where the tributary watershed area above the point of [such alteration] is 100 acres or larger, pursuant to Section 22a-365 through 22a -378a of the Connecticut General Statutes, as amended;
 - e. Discharges into the waters of the state pursuant to Section 22a-430 of the Connecticut 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 and other 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.
- 5.3. The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental

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

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 Winchester.
- 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 Town of Winchester Inland Wetlands Commission, 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 proposing to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse or renew or amend a permit to conduct such activity, shall apply for a permit on a form entitled "Town of Winchester Inland Wetlands and Watercourses Agency - Application for Permit." An application shall be filed with the inland wetlands agency of the town or towns wherein the wetland or watercourse in question is located. An application shall include an application form and such information as prescribed by Section 7.5 and, in the case of a significant activity, by Section 7.6 of these regulations, and any other information the Agency may reasonably require. Application forms may be obtained in the office of the Winchester Building, Zoning, and Wetlands Department.
- 7.2 If an application to the Town of Winchester Planning and Zoning Commission for subdivision or re-subdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3'g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Agency in accordance with this section, no later than the day the application is filed with such Planning and Zoning Commission.
- 7.3 All applications shall contain such information that is necessary for a fair and informed determination thereon by the Agency.
- 7.4 A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact 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;
- b. The owner's name, mailing address and telephone number and written consent of the land owner(s) 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 to be affected by the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s) and wetland vegetation; at the option of Agency, this information shall be shown on a site map prepared by a licensed soils scientist.
- e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- f. Alternatives considered and subsequently rejected by the applicant and why the alternative to alter wetlands set forth in the application was chosen. All such alternatives shall be diagrammed on a site plan or drawing;
- g. A site plan showing 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 and off site wetlands or watercourses.
- h. Names and mailing addresses of property owners within 300 ft ;
- 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. 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.
- k. A completed DEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
- l. Any other information the Commission 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. At any time during the hearing process, the Agency may require an applicant to pay a fee for reasonable costs and expenses for expert engineering and other consultant services such as, but not limited to, performing or verifying the accuracy of a resource area survey and delineation, analysis or resource area functions and characteristics, wildlife evaluations, hydro geologic and drainage analysis and environmental or land use law, deemed necessary to come to a final decision on the application.

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

- a. Site plans for the proposed activity or operation and the land which will be affected, which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and use of wetlands and watercourses,

and other pertinent features of the land and proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the State, or by such other qualified person;

- b. Engineering reports and analyses and additional drawings that fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;
- d. 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. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;
- f. Analysis of chemical or physical characteristics of any fill material;
- g. Management practices and other measures designed to mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which prevent or minimize pollution or other environmental damage, maintain or enhance existing environmental resources, or in the following order of priority, restore, enhance and create productive wetland or watercourses resources.

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 A reporting form shall be completed during the application process which 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 following information shall be provided by the applicant: name of applicant; location of the 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 the filing it in accordance with section 22A-39-14 of the inland wetlands and watercourses regulations of the Department of Environmental Protection.

7.9 To comprise a complete application, the original and copies of all application materials shall be submitted as directed, in writing, by the Agency.

7.10 Any application to renew or amend an existing permit shall be filed with the Agency in

accordance with section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under section 7 of these regulations provided:

- a. The application may incorporate the documentation and record of the original application;
- b. The application shall state the reason why the authorized activity was 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 use of the land for which the permit was issued;
- d. 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;
- e. 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;

7.11 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.

Section 8 APPLICATION PROCEDURES

8.1 All applications, petitions, requests or appeals shall be submitted to the Inland Wetlands Commission of the Town of Winchester.

8.2 When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within (500) five hundred feet of the boundary of Norfolk, Colebrook, New Hartford, Goshen, Barkhamsted, or Torrington, the applicant shall give written notice of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetlands agency on the same day of filing an inland wetland permit application with the Winchester Inland Wetlands Agency. Documentation of such notice shall be provided to the Winchester Inland Wetlands Agency in accordance with section 22a-42c of the Connecticut General Statutes.

8.3 The Agency shall, in accordance with Connecticut General Statutes section 8-7b(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 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.

- 8.4 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.
- 8.5 The date of receipt of any application, petition, 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 agent of such application, petition or appeal, or thirty-five days after such submission, whichever is sooner.
- 8.6 At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in Subsection 11.2 of these regulations.
- 8.7 All applications shall be open for public inspection.
- 8.8 Incomplete applications may be denied.

Section 9 PUBLIC HEARINGS

- 9.1 The Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses or a petition signed by at least twenty-five persons who are eighteen 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 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 holding a public hearing provided no petition provided for in this section is filed with the Agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard 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 a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 Notice of the public hearing shall be sent by certified mail to all owner(s) of record of land within 300 feet, no less than fifteen days prior to the day of the hearing.

- 9.4 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.

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. Reports from other agencies and commissions including but not limited to the Town of Winchester:
 - 1. Conservation Commission
 - 2. Planning and Zoning Commission
 - 3. Building Official
 - 4. Health Officer
 - d. The Agency may also consider comments on any application from the Litchfield County Soil and Water Conservation District, the Litchfield Council of Elected Officials or other regional organizations; 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.
 - 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 Criteria for Decision

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

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses;
- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.
- c. The relationship between the short term and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by 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 for issuing a permit for such activity, including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2)

maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;

- 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 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 less environmentally damaging feasible and prudent alternative does not exist. In making this finding, the Agency shall consider the facts and circumstances set forth in subsection 10.2 of this section. This finding and the reasons therefore shall be stated in the record of the decision, in writing, by the Agency.
- 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 propose regulated activity.
- 10.5 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

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.
- 11.2 No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. 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 for the holding of the hearing and for action on the holding of the hearing and for action on such application, provided the total extension of any such period shall not be for longer than 65 days or may withdraw such application. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. The Agency does not have the authority to table or reject an application for incompleteness. An application deemed incomplete by the Agency must either be withdrawn by the applicant or denied by the Agency. The Agency may in its discretion, for one occasion only, waive the application fee for a resubmitted application.

- 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 and shall, as applicable and in accordance with section 10 of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 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. 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.
- 11.5 If an activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, variance or special exception, under sections 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 Winchester Planning and Zoning Commission within fifteen days of the date of the decision thereon.
- 11.6 If the Agency denies the permit, or if it grants a permit with terms, conditions, limitations, or modifications, the applicant may attempt to modify the proposal to the Agency's satisfaction. The Agency shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Agency shall be equivalent to the denial of an application for the purposes of appeal.
- 11.7 If the Agency denies a permit, the application shall not be resubmitted unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial. Such submittal shall take the form of a new application.
- 11.8 Any permit issued by the Agency for the development of land for which an approval is required under section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years.
- 11.9 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.
- 11.10 General provisions in the issuance of all permits:
 - a. If the Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.

- b. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Winchester, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the property of activity.
- c. If the activity authorized by the inland wetland 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.
- e. No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.
- f. The Permittee shall be required to flag all wetlands and maintain siltation barriers to define the location of wetlands and watercourses for the duration of the permit.

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. Requests for such approval shall be made on a form provided by the Agency and shall contain the information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing of applications prescribed in Sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time.
- 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 a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Inland Wetland Agency within fifteen days after the publication date of the notice and the Inland Wetland 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. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal.

* Adopted and amended 10/3/89, effective 10/10/89.

Section 13
BOND AND INSURANCE

- 13.1 Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Agency, be required to file a bond with such a surety, rated at least A- by A. M. Best Co., 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 The Agency may require the applicant to submit written evidence 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 may occur within two (2) years of completion of such operations, in an amount commensurate with the regulated activity.

Section 14
ENFORCEMENT AND PENALTIES

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under Section 10.2 of these regulations.
- 14.2 The Inland Wetlands 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 a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44(b) of the Connecticut General Statutes, as amended.
 - b. suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or

- maintain a permit by certified mail within 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 or agent 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 and/or restoring, to the extent possible any disturbed area to the condition in which it was immediately prior to the violation . 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 14.3.a or other enforcement proceedings as provided by law. The penalty for violation of these Regulations includes but is not limited to issuance of a citation by the Enforcement Officer in the amount of one hundred and fifty dollars (\$150.00) for each violation, for each day such violation continues, as authorized under Connecticut Statute 22a-42g; or, ultimately, fines of one thousand dollars (\$1000) for each violation for each day such violation continues, plus court costs and Town expenses in accordance with Section 22a-44 of The Connecticut General statutes as amended.

Section 15 AMENDMENTS

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Winchester shall be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 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 decision of such agency with respect to such application shall not be required thereafter to comply with any change in Inland Wetlands Regulations, including changes to setbacks and buffers, taking effect on or after the date of such decision and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such decision. The provisions of this subsection shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3 These regulations and the Town of Winchester 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, at least thirty-five days before the public hearing on their adoption. Application forms and fee schedule shall be considered part of the Agency regulations.
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, of Winchester, Connecticut" shall contain at least the following information:

- a. The petitioner's name, mailing address and telephone number;
 - b. The address, or location, of the land affected by the petition;
 - c. The petitioner's interest in the land affected by the petition;
 - d. Map(s) showing the geographic location of the land involved in 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;
 - e. The reasons for the requested action; and
 - f. The names and addresses of adjacent property owners.
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Winchester, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include:
- a. The name, mailing address and telephone number of the owner(s) of such land and owner(s)' agent or other representative;
 - b. The names and mailing addresses of the owners of abutting land;
 - c. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
 - d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 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 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 such hearing. A copy of such proposed boundary change shall be filed in the office of the town clerk for public inspection at least ten days before such hearing.
- 15.8 Within ninety (90) days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Agency shall hold a public hearing to consider the petition. The Agency shall act upon the changes requested in such petition within sixty (60) days after the close of the hearing. The petitioner may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such petition. The failure of the Inland Wetland Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.9 The Agency shall make its decision and state, 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 Connecticut 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 among the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.
- 17.2 If there is a conflict between any provisions 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 Winchester, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

**Section 19
APPLICATION FEES**

- 19.1 Method of Payment. All fees required by these regulations shall be submitted to the Agency by certified check or money order payable to the Town of Winchester 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 non-profit.

"Other uses" means activities other than residential uses or commercial uses.

APPLICATION FEE SCHEDULE

19.5 FEE SCHEDULE: Application fees (which include a \$30.00 State surcharge) shall be based on the following schedule:

Activity	Fee
Basic Filing Fee	\$155.00
Permit Extension and/or Transfer Fee	\$85.00
Residential Subdivision: per lot	\$155.00 plus \$45.00
Each after-the-fact activity:	\$655.00
Multifamily Development: per unit	\$155.00 plus \$30.00
Commercial & Industrial Sites:	\$155.00 plus \$.01 per square foot of newly created impervious area proposed to be created (Gravel access ways, storage areas and parking lots are to be included in the calculation.)
Public Hearing Fee:	\$300.00
Agent Determinations per Section 12.1 of the Regulations:	\$155.00
Petition for map change:	\$200.00 plus \$.02 per linear foot of wetland boundary line, plus \$300.00 public hearing fee
A. Regulated Uses - (Section 6)	
Residential Uses	\$60.00 Plus: \$40.00/lot Plus: Fee from Schedule A Plus: \$30.00 State

	Surcharge
Commercial Uses & All Other Uses	\$100.00 Plus: Fee from Schedule A Plus: \$30.00 State Surcharge
B. Permitted and Non Regulated Uses – (Section 4)	
Permitted Uses as of Right – (Subsection 4.1)	NO CHARGE
Non Regulated Uses – (Subsection 4.2)	\$50.00 Plus: \$30.00 State Surcharge
C. Significant Activity Fee – (Section 2)	\$50.00 Plus: \$30.00 State Surcharge
D. Map Amendment Petitions – (Subsection 15.4)	\$200.00 Plus: Fee from Schedule B Plus: \$30.00 State Surcharge
E. Modification of Previous Approval – (Subsection 7.10)	\$30.00 Plus: \$30.00 State Surcharge
F. Special Permit – (Applicant requiring both IWC & P&Z permit)	\$35.00 Plus: \$30.00 State Surcharge

(There shall be no fee for correcting typographical or other errors)

SCHEDULE A. For the purpose of calculating the permit application fee, the regulated area in Schedule A is the total area of wetlands and watercourses upon which a regulated activity is proposed.

SQ. FT. REGULATED AREA
REGULATED AREA

FEE/1000 SQ. FT.

A. Less than 2,500	\$20.00
B. 2,500 – 50,000 “A” plus	\$15.00
C. More than 50,000 “B” plus	\$10.00

SCHEDULE B. For the purpose of calculating the map amendment petition fee, the

regulated area in schedule B is the total length of wetlands and watercourses boundary subject to the proposed boundary change.

LINEAR FEET REGULATED AREA	FEE/1000 LINEAR FT. REGULATED AREA
A. Less than 500	\$50.00
B. 500 to 1,000 "A" plus	\$20.00
C. More than 1,000 "B" plus	\$10.00

19.6 Exemption. Boards, commissions, councils and departments of the Town of Winchester are exempt from all fee requirements, as well as properties located within the Winchester Industrial Parks.

19.7 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 record 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 Winchester shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/disposition schedules set for 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:

<u>RECORD TITLE</u>	<u>MINIMUM RETENTION</u> <u>CLERK REQUIRED IN AGENCY</u>	<u>TOWN</u>
Applications (inc. supporting materials)	10 years	-
Decision Letters	10 years	Permanent

Approved Site plans	10 years	-
Legal Notices	10 years	Permanent
Staff and Public Written Testimony (hearing records)	10 years	-
Minutes of Meetings & Public Hearings	10 years	Permanent
Tapes, Audio - Inland Wetland Matters	4 years	-
Notices of Violations & Orders	10 years	-
Text of Changes Adopted In Regulations	Continuous Update & Permanent	-
General Correspondence Issued or Received	5 years	-

**Section 21
EFFECTIVE DATE OF REGULATIONS**

- 21.1. These regulations shall become effective 4/17/06 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 Winchester.

