

**TOWN OF  
Scotland CONNECTICUT**

**INLAND WETLANDS  
AND  
WATERCOURSES REGULATIONS**

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INLAND WETLANDS AND WATERCOURSES REGULATIONS

TOWN OF SCOTLAND, CONNECTICUT

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## PREAMBLE

### WETLAND PROTECTION IN CONNECTICUT

Connecticut's Inland Wetland and Watercourses Act of 1989 recognized that wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water, hydrological stability and control of flooding and erosion, and the recharge and purification of ground water, as well as to the existence of many forms of animal, aquatic and plant life. In the act, the Legislature declared, "The preservation and protection of wetlands and water courses from random, unnecessary, undesirable and unregulated uses, disturbances or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state."

Approximately 20-25% of Connecticut's acreage is classified as 'wetland.' Increased public awareness of the vital role these wetlands perform in protecting our welfare led to the passage of the Inland Wetlands and Watercourses Act by the Connecticut General Assembly in 1989. Wetland protection is important for two fundamental reasons:

Wetlands perform many valuable functions for society when left in their natural state;  
and  
Wetlands present certain hazards to those who misuse this valuable resource.

Thanks to forward-sighted citizens and our State Legislature, Connecticut is in the forefront of wetland protection in this country.

Wetlands are lands where saturation with water is the dominant factor determining the nature of soil development and the types of plant and animal communities living in the soil and on its surface. Marshes, swamps, and bogs have been well known features on the landscape for centuries, but only relatively recently have attempts been made to group these landscape units under the single term 'wetlands.'

Historically, wetlands have been considered to be wastelands of little value to society and have been subject to dumping, filling and draining with little thought given to the consequences. Only relatively recently has the role of the wetlands in maintaining and improving environmental quality become more fully understood. The benefits that wetlands provide will become more significant as development intensifies in Connecticut. With increased development, the demand for clean water supplies, flood protection, wildlife and recreation also increases.

## 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 deposition, filling, removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has, and will continue to imperil, the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the State for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the State. It is, therefore, the purpose of these regulations to protect the citizens of the State by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by Federal, State, or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the State's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the State and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the State, the safety of such natural resources for their benefit and 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 Scotland."
- 1.3 The Inland Wetlands and Watercourses Commission of the Town of Scotland was established in accordance with an ordinance adopted in 1974 and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Scotland.
- 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 Commission 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 Scotland pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.
  
- 1.6 The Town of Scotland, Connecticut is part of the Shetucket River watershed basin, which includes Merrick Brook, Beaver Brook, Waldo Brook, and the headwaters of the Little River, which are significant wetlands in the town of Scotland and, as such, are areas of special concern deserving of additional protection. It is a goal of these regulations to protect, preserve and maintain the quality of Scotland's inland wetlands and watercourses and associated areas so as to minimize their disturbance and pollution; maintain and improve water quality; prevent damage from erosion, turbidity or siltation; prevent loss of fish and other aquatic organisms, wildlife habitats, and vegetation; and both potential and current potable fresh water supplies so as to guarantee the people of Scotland and future generations the safety, enjoyment and benefit of such natural resources.

## SECTION 2 DEFINITIONS

- 2.1 Definitions as used in these regulations:
  
- 2.2 ACT – means the Inland Wetlands and Watercourses Act, sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.
  
- 2.3 COMMISSION – means the Inland Wetlands and Watercourses Commission of the Town of Scotland. (a.k.a.: Inland Wetlands and Watercourses Commission, IWWC)
  
- 2.4 BOGS – means area watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
  
- 2.5 CLEAR-CUTTING – means the harvest of timber in a fashion which substantially removes all trees down to a two inch diameter at breast height.
  
- 2.6 COMMISSION MEMBER – means a member of the Inland Wetlands and Watercourses Commission of the Town of Scotland.
  
- 2.7 COMMISSIONER OF ENVIRONMENTAL PROTECTION – means the commissioner of the State of Connecticut Department of Environmental Protection.

- 2.8 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.
- 2.9 DEPOSIT – includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.
- 2.10 DISCHARGE – means emission of any water, substance, or material into waters of the state whether or not such substance causes pollution.
- 2.11 ESSENTIAL TO THE FARMING OPERATION – means that the proposed activity is necessary and indispensable to sustain activities on the farm.
- 2.12 FARMING – shall be consistent with the definition as noted in section 1-1(q) of the Connecticut General Statutes. (see Appendix A)
- 2.13 FEASIBLE - means able to be constructed or implemented consistent with sound engineering principles.
- 2.14 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, of the Connecticut General Statutes, as amended.
- 2.15 MANAGEMENT PRACTICE - means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.
- 2.16 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.
- 2.17 MATERIAL – means any substance, solid or liquid, organic or inorganic, including, but not limited to soil, sediment, aggregate, sand, gravel, clay, bog, mud, debris, sand, refuse or waste.
- 2.18 MUNICIPALITY – means the Town of Scotland.
- 2.19 NURSERIES – means places where plants are grown for sale, transplanting, or experimentation.

- 2.20 ORDINARY HIGH WATER MARK – means the elevation marking the highest water level which has been maintained for a sufficient time to leave evidence upon the landscape by its presence and action or flow and indicates a distinction between the abutting upland and the watercourse and may indicate an abrupt change in the characteristics of soil or vegetation, slope of the land, or other easily recognizable characteristic.
- 2.21 PERMIT – see License.
- 2.22 PERMITTEE – means the person to whom a license has been issued.
- 2.23 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.
- 2.24 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.
- 2.25 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.
- 2.26 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, but shall not include the specified activities in Section 4 of these Regulations.. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water on the land within the following upland review areas is a regulated activity:
- a. Within 200 feet measured horizontally from the ordinary high water mark of the Shetucket River
  - b. Within 150 feet measured horizontally from the boundary of any wetlands designated in section 1.6;
  - c. Within 100 feet measured horizontally from the boundary of any other wetland or watercourse.
  - d. A Regulated Activity shall be further defined by and increased in the distance from the activity to the wetlands by the length of the horizontal area with slopes greater than 20% within 100 feet of wetlands or watercourses , provided that when there are slopes greater than 20% within 100' of a wetlands or watercourse the regulated area shall be no less than 150' or greater than 200 feet.

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

- 2.27 REMOVE – includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub; clear cut timber; bulldoze, dragline or blast.
- 2.28 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.
- 2.29 SIGNIFICANT IMPACT – means any activity, including, but not limited to, the following activities which may have a major effect:
- a. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
  - b. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
  - c. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
  - d. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
  - e. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
  - f. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
  - g. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value
- 2.30 SOIL SCIENTIST – means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.
- 2.31 SWAMPS – are watercourses that are distinguished by the dominance of wetland trees and shrubs.
- 2.32 SUBMERGED LANDS – means those lands which are inundated by water on a seasonal or more frequent basis.
- 2.33 TOWN – means the Town of Scotland.

- 2.34 UPLAND REVIEW AREA – means the distance of 100 feet measured horizontally from the boundary of any wetland or watercourse, 200 feet measured horizontally from the Shetucket River (section 2.26), 150 feet measured horizontally from any area of special concern identified in section 1.6 of the IWWC regulations and an increase of distance in the upland review area on slopes in excess of 20% within 100 feet of a wetlands or watercourse (see section 2.26(4) of these regulations.
- 2.35 WASTE – means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.
- 2.36 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 to 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.
- 2.37 WETLANDS – means land, including submerged land as defined in this section, not regulated pursuant to Sections 22a-28 to 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 Soils Survey, as it may be amended from time to time, of the National Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

### SECTION 3

#### INVENTORY OF WETLANDS AND WATERCOURSES

- 3.1 The map of wetlands and watercourses entitled “Inland Wetlands and Watercourses Map, Scotland, Connecticut” delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the Office of the Town Clerk or the Commission. In all cases, the precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and locations of watercourses. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.
- 3.2 Any person may petition the Commission for an amendment to the map. 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 bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to aerial photography, remote sensing imagery, resource mapping or other available information. The Commission may require such person to provide an accurate delineation of regulated areas in accordance with section 15 of these regulations.

- 3.3 The Commission shall maintain a current inventory of regulated areas within the Town. The Commission may amend its map as more accurate information becomes available.
- 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 & NONREGULATED 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 timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purpose 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, 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. Any person claiming a use of wetlands permitted as a right under this subdivision shall document the validity of said right by providing a certified copy of the building permit and a site plan showing existing and proposed topographic contours, house and well locations, septic system, driveway, approval dates and or other necessary information to document his or her rights hereunder.
  - c. Boat anchorage or mooring;

- 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. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or into a wetland or watercourse, or diversion or alteration of a watercourse;
- e. Construction and operation, by water companies as defined by Section 16-1 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 and;
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

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;
- b. Outdoor recreation including play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated.

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 Commission 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 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 shall, prior to commencement of such operation and use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is

permitted or non-regulated use of the wetland or watercourse. The Commission shall rule that the proposed operation and use or portion of it is a permitted or nonregulated operation and use or that the proposed operation and use is a regulated activity and a permit is required.

## SECTION 5

### ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF 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, Commission or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 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.
- 5.3 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 of the Connecticut General Statutes or a permit issued by the Commissioner of Environmental Protection under sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands Commission for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.

## 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 and Watercourses Commission of the Town of Scotland.

- 6.2 The Commission shall regulate any operation within 100 feet of a wetland or watercourse, within 150 feet of an area of special concern (see section 1.6), and within 200 feet of the Shetucket River 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 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.
- 6.4 The Commission shall regulate any activity that occurs in non-wetland upland or non-watercourse areas that are likely to impact or affect inland wetlands or watercourses.
- 6.5 The Commission and or it's agent or any specialist hired by the Commission to evaluate permit applications under these regulations shall have the right of access to any part of the property under consideration. The property owner may require prior approval and a letter of authorization from the Chairman or secretary of the Commission prior to permitting such access

## 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 Commission entitled "Town of Scotland Inland Wetlands and Watercourses Commission – Application For Permit." The application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained in the offices of the Scotland Town Clerk or the Commission.
- 7.2 If an application to the Town of Scotland Planning, Zoning, or Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Commission in accordance with this section, no later than the day the application is filed with such planning, zoning, or planning and zoning commission.
- 7.3 The applications shall contain such information as is necessary for a fair and informed determination thereon by the Commission.
- 7.4 A prospective applicant may request the Commission 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 addresses 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 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 types(s) and wetland vegetation;
- e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (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 which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan or drawing;
- g. A site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- h. Names and mailing addresses of adjacent 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 Commission to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;

- k. A completed DEP reporting form; the Commission 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; and
- m. Submission of the appropriate filing fee based on the fee schedule established in Section 19 of these regulations.
- n. The Commission may require that the applicant provide the following notice(s) to adjacent property owners when the commission determines it is in the public's best interest and/or if the impact from the proposed regulated activity has potential to impact neighboring properties. Notice of the Wetlands Meeting shall be mailed to the owner(s) of record of abutting land by the applicant, certified receipt requested, no less than fifteen (15) days prior to the Wetlands Meeting. The notice must be mailed to persons who own land that is adjacent to the land that is the subject of the applicants request for a wetlands permit and if required by the Commission, notice to be additionally provided by posting a sign on the land that is the subject of the wetlands application. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. All applications and maps and documents relating thereto shall be open for public inspection. Proof of such notification shall be provided to the commission by the applicant prior to the meeting The commission may choose to increase the extent or reach of the notice to subsequent adjacent property owners to be notified by the Applicant, certified receipt requested, should the commission determine it is in the public's best interest.

7.6 At the discretion of the Commission or its agent, or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required:

- a. Site plans for the proposed activity and the land which will be affected thereby which shows existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the State or by such other qualified persons;
- b. Engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic

modifications to watercourses and the proposed erosion and sedimentation control plan;

- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the 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. 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 each alternative considered was deemed neither feasible nor prudent;
- f. Analysis of chemical or physical characteristics of any fill material; and
- g. Management practices and other measures designated to mitigate the impact of the proposed activity.

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 Nine (9) copies of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed by the Commission or its agent

7.9 Any application to renew or amend an existing permit shall be filed with the Commission 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 prior application;
  - b. The application shall describe the extent of the 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 activities were 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 Commission 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 judgement, 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 Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.

## SECTION 8

### APPLICATION PROCEDURES

- 8.1 All petitions, applications, requests or appeals shall be submitted to the Inland Wetlands and Watercourses Commission of the Town of Scotland or to the clerk of the Town of Scotland who shall act as agent of the Inland Wetlands and Watercourses Commission for the receipt of such petition, application, request or appeal.
- 8.2 The Commission 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 Commission is within five hundred 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 on the site will flow through and significantly impact the drainage or sewerage 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.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, 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 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 Commission of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.
- 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 Commission, immediately following the day of submission to the Commission or its agent of such petition, application, request or appeal or thirty-five (35) days after such submission, whichever is sooner.
- 8.5 At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in Subsection 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 Commission shall not hold a public hearing on an application unless the inland wetlands Commission determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition requesting a hearing signed by at least twenty-five persons who are at least eighteen years of age and who reside in the municipality in which the regulated activity is proposed, is filed with the inland wetlands Commission not later than fourteen days after the date of receipt of such application, or the inland wetlands Commission finds that a public hearing regarding such application would be in the public interest. The inland wetlands Commission may issue a permit without a public hearing

provided no petition provided for in this section is filed with the inland wetlands Commission on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard and may be represented by an agent and or by an 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 Any significant changes to a current application shall be submitted to the Inland Wetlands and Watercourses Commission of the Town of Scotland at least ten (10) calendar days prior to the next scheduled hearing date or may be submitted less than ten (10) days at the discretion of the Commission, Chairman or it's agent
- 9.4 Notice of the Public Hearing shall be mailed by the applicant to the owner(s) of record of the abutting land no less than fifteen days prior to the day of the Hearing. Notice to be by certified mail return receipt requested, a copy of the return receipt(s) to be provided to the Commission. . The commission may choose to increase the extent or reach of the notice to subsequent adjacent property owners to be notified by the Applicant, certified receipt requested, should the commission determine it is in the best public interest. The commission may require that the owner of record post a sign(s) on the property providing notice of the hearing and the nature of the application

## SECTION 10

### CONSIDERATIONS FOR DECISION

- 10.1 The Commission may consider the following in making its decision on an application:
- a. The application and its supporting documentation;
  - b. Reports from other agencies and commissions including, but not limited to, the Town of Scotland:
    1. Conservation Commission
    2. Planning, Zoning, or Planning and Zoning Commissions
    3. Building Official
    4. Health Officer
  - c. The Commission may also consider comments on any application from the Windham County Soil and Water Conservation District, the Windham Regional Planning Commission, or other regional organizations (i.e.: Council of Elected Officials);

agencies in the adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations.

- d. Non-receipt of comments from state agencies and commissions listed in subdivision 10.1b and c above within the prescribed time shall neither delay nor prejudice the decision of the Commission.
- 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, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission 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 and watercourses. The environmental impact of the proposed regulated activity on wetlands and watercourses capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities and to promote public health and safety
- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.
- c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- 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 and watercourses.

- 10.3 In the case of an application which received a public hearing pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Commission shall consider the facts and circumstances set forth in Subsection 10.2 of this section. This 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 Commission 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 Commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its decision.

## SECTION 11

### DECISION PROCESS AND PERMIT

- 11.1 The Commission, 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 Commission may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. 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 Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission shall be withdrawn by the applicant or denied by the Commission.
- 11.3 The Commission shall state upon its record the reasons and basis for its decision.
- 11.4 The Commission 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 Commission 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 the inland wetland permit also involves an activity which requires zoning or subdivision approval, special zoning permit, or variance or special exception, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Commission shall file a copy of the decision and report on the application with the Town of Scotland Planning, Zoning, or Planning and Zoning Commission within fifteen days of the date of the decision thereon.
- 11.6 Any permit issued by the Commission 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 Commission may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Commission for any other activity shall be valid for not less than two years and not more than five years.
- 11.7 No permit issued by the Commission shall be assigned or transferred without the written permission of the Commission.
- 11.8 If a bond or insurance is required in accordance with section 13 of these regulations, the Commission may withhold issuing the permit until such bond or insurance is provided.
- 11.9 General provisions in the issuance of all permits: