

**INLAND WETLANDS AND WATERCOURSES REGULATIONS  
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**EFFECTIVE DATE:           January 30, 2020**

## Section 1. TITLE, AUTHORITY AND PURPOSE.

- 1.1 *Title:* These regulations shall be known as the “Inland Wetlands and Water Courses Regulations of the Town of Southbury, Connecticut.”
- 1.2 *Authority:* These regulations are adopted by the Southbury Inland Wetlands Agency in accordance with Sections 22a-36 through 22a-45 of the Connecticut General Statutes, as amended, and as authorized by an ordinance of the Town of Southbury adopted effective August 25, 1973. 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.
- 1.3 *Purpose:* The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and water courses 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 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 Town of Southbury. It is, therefore, the purpose of this Agency to protect the citizens of the Town of Southbury by making provisions for the protection, preservation, maintenance and the 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 Town of

Southbury's potable fresh water supplies from the danger of drought, overdraft, pollution, misuse and mismanagement, by providing an orderly process to balance the need for the economic growth of the Town of Southbury and the use of its land with the need to protect its environment and ecology.

- 1.4 *Regulation:* The Agency shall enforce all provisions of 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 Southbury pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## Section 2. DEFINITIONS.

- 2.1 *Definitions:* Certain words used in these regulations have the following meaning as described in alphabetic sequence:

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

*Agency* means the Inland Wetlands and Watercourses Agency (or Commission) of the Town of Southbury.

*Applicant* means any person as defined under section 2.1 wishing to undertake an activity regulated by the Inland Wetlands Agency of the Town of Southbury.

*Bogs* are usually 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.

*Clearing* means the removal of vegetation in a manner that significantly alters the natural or indigenous character of a regulated area.

*Commissioner* means the commissioner of the State of Connecticut Department of Energy and Environmental Protection.

*Conservation restriction* means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space use.

*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.

*Discharge* means emission of any water, substance or material into waters of the state whether or not such substance causes pollution.

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

*Designated agent* means an individual designated by the Agency to carry out its functions and purposes.

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

*Farming* means use of land for the growing of crops, raising of livestock or other agricultural use. See Appendix B

*Feasible* means able to be constructed or implemented consistent with sound engineering principles.

*Forestry* means the development, management and the harvesting or logging of trees for sale as Christmas trees, firewood, poles, lumber, chips, or mulch.

*Intermittent watercourses* are characterized by and shall be delineated by a defined, permanent channel and bank and 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/or (c) the presence of hydrophytic vegetation.

*License* means the whole or any part of any permit, certificate or approval or similar form of permission which may be required of any person by the provisions of the Inland Wetlands and Watercourses Act. (Sections 22a-36 to 22a-45, inclusive)

*Management practice* means a practice, procedure, activity structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel

spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

*Marshes* are watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.

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

*Municipality* means the Town of Southbury

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

*Permit* means the whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Inland Wetlands Agency.

*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 corporation, government agencies or subdivisions thereof.

*Pollution* means harmful thermal effect or the contamination or rendering unclean or impure any waters within the Town of Southbury 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 or excavation activity.

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

*Regulated activity* means 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 22a-40 of the Connecticut General Statutes (Section 4 of these regulations). Furthermore, any clearing, grubbing, filling, grading, paving, storage, excavating, constructing, depositing or removal of material and discharging of water on land within fifty (50) feet measured horizontally from the boundary of any wetland or watercourse or within one hundred (100) feet of: Bullet Hill Brook, Eight Mile Brook, Transylvania Brook, Pomperaug River, Shepaug River, Lake Lillinonah, Housatonic River, Lake Zoar is a regulated activity. The Agency may rule that any activity in any non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and therefore is a regulated activity.

*Regulated area* means any wetlands or watercourses as defined in these regulations. Upland review areas are only regulated in so far as activities therein impact wetlands and watercourses.

*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 the waters within the Town of Southbury, including but not limited to change in color, odor, turbidity or taste.

*Significant impact activity* means any activity, including, but not limited to, the following activities which may have a major effect:

1. Any activity involving deposition or removal of material which will or may have a substantial effect upon the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
3. 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.
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which damages or destroys unique wetland or watercourse areas of such 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.

*Swamp* means an area with a water table at or near the surface of the ground throughout most of the year and containing vegetation dominated by an association of wetlands trees and shrubs.

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

*Town* means the Town of Southbury.

*Upland Review Area* means the land within fifty (50) feet measured horizontally from the boundary of any wetlands or watercourse. Furthermore, the Commission may rule that activities on any land area where conditions, such as steep slopes, could have a physical impact on a wetlands or watercourses are subject to review.

*Vernal pool* means a watercourse consisting of a confined basin depression which contains a body of standing water, usually drying out for part of the year during warm weather. It can be natural or man-made, and lacks a permanent outlet or any fish population. Further, the occurrence of one or more of the obligatory species which include the fairy shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog, and eastern spadefoot toad are necessary to conclusively define the vernal pool.

*Waste* means sewage or any substance, liquid or gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters within the Town of Southbury.

*Watercourses* means river, 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 of the General Statutes, as amended. Intermittent watercourse shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits or recent alluvium or detritus (b) the presence of standing or flowing water for a duration longer than 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 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. IDENTIFICATION OF WETLANDS AND WATERCOURSES.

- 3.1 *Map of regulated area:* The map of regulated areas, entitled "Inland Wetlands and Watercourses Map, Southbury Connecticut," delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this are available for inspection in the office of the Inland Wetlands Agency. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types, and locations of watercourses. Such determinations shall be made by use of aerial photograph, remote sensing imagery, resource mapping, soils maps, field inspection and testing conducted by a soil scientist where soil classification are required, or where watercourse determinations are required, by other qualified individuals and other information in determining the location of the boundaries of wetlands and watercourses.

Wetlands and watercourses in the Town of Southbury are identified by conditions of land, water and vegetation as they exist in the field.

- 3.2 *Amendments:* After due notice and public hearing as required by law for adoption of these regulations, the Agency may amend the map of soil types, wetlands and watercourses, or adopt supplements thereto, so as to detail, update or correct regulated areas. (See Appendix A as per Connecticut General Statute Section 8-7d, as amended)
- 3.3 *Petitions:* Any person may submit a petition in writing, and in form prescribed by the Agency, requesting a change in the boundaries of wetlands and watercourses shown on the map of soil types, wetlands and watercourses. The Agency shall consider such petition at a public hearing in the same manner as required by law for adoption of these regulations within ninety (90) days after receipt and shall act on the changes requested in such petition within sixty (60) days after the hearing. The petitioner may consent to extension of the periods provided for hearing and action, or may withdraw such petition. It is the responsibility of the petitioner to provide reasonable proof, such as by field investigations done by a soil scientist or competent biologist, or ecologist, as to the boundaries of wetland and watercourses. The Agency may require a filing fee to be deposited with the Agency to defray the cost of publication of the notice required for a hearing. (See Appendix A as per Connecticut General Statute Section 8-7d )

### Section 4. PERMITTED USES AS OF RIGHT AND NONREGULATED USES.

- 4.1 *Permitted operations:* 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 (3) 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 section 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 cropland, 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 (A) for which a building permit has been issued or (B) 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 subdivision unless the building permit was obtained on or before July 1, 1987;
- 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 size 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 onto a wetland and 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 through 22a-403 of the Connecticut General Statutes.
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation.. For purposes of this subdivision,

“maintenance” means the removal of accumulated leaves, soil and other debris whether by hand or machine, while the pipe remains in place.

g. Withdrawals of water for fire emergency purposes.

4.2 *Additional permitted operations and nonregulated activities.* The following additional operations and uses are permitted in wetlands and watercourses as unregulated activities, provided that they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, by alteration or obstruction of water flow or by pollution thereof:

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, shellfishing where otherwise legally permitted and regulated.

c. The installation of a dry hydrant by or under the authority of a municipal fire department provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, “dry hydrant” means a non-pressurized pipe system that: (A) is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (c) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations 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 purposes of this section, any person proposing a permitted operation and use or nonregulated operation and use 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 a permitted or nonregulated 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 BY THE STATE.

- 5.1 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.1.3 Construction or placement of any structure or obstruction with the tidal, coastal or navigable waters of the state pursuant to sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to sections 22a-28 through 22a-35 of the General Statutes, as amended;
- 5.2 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.3 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Energy and Environmental Protection under section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Energy and 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 agency for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.
- 5.4 The Commission of Energy and Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

## Section 6. REGULATED ACTIVITIES.

- 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 Southbury.
- 6.2 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.

## Section 7. APPLICATION REQUIREMENTS AND REVIEW PROCEDURE.

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. 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 office of the Commission. The applicant shall submit the original and four copies of all application materials to comprise a complete application unless otherwise directed by the commission.

7.1.1 *Submission:* The application shall be accompanied by the appropriate fee see Section 19 and shall be submitted to the Agency at the office of the Agency in Southbury Town Hall

7.2 If an application to the of Southbury Planning or 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 Agency in accordance with this section, no later than the day the application is filed with such planning and zoning commission

7.3 The application 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 address and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate officer's name, address, and telephone number;
- b. and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed; the owner's name, mailing address and telephone number
- c. the applicant's interest in the land;
- d. the geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), and wetland vegetation

- e. the purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) present 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 diagrammed on a site plan or drawing;
- g. a site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- h. names and mailing addresses of adjacent land owners;
- l. 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 DEEP reporting form; the Commission shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Energy and Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
- j. 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.

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 show existing and proposed conditions,

wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person. The map shall be at a scale of not less than 1" = 100' and shall include an inset parcel location map and north arrow. Contours, both existing and proposed, shall be shown at five-foot intervals or less.

- 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. Soil boundaries shall be indicated by flag numbers (in field as well as on site development plan).
- d. a description of the ecological communities and functions of the wetlands of watercourse 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 wetland or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent.
- f. full disclosure of all fill materials deposited within the upland review area or beyond the regulated area where potential sediment erosion could impact a watercourse or wetlands. The applicant shall provide a log of any fill material brought onto the site indicating the location of where the fill is being obtained, date of delivery and the amount of material being trucked in. The applicant may further be required to submit a chemical analysis performed by a State certified laboratory of fill materials should the commission have reason to believe that based on the location from which the fill has been obtained, the fill may contain certain industrial, commercial or agricultural contaminants potentially harmful to a wetlands or watercourse. The Inland Wetlands Agent shall be notified prior to the date of the material sample collection to be available on site to observe who is collecting the samples and where the materials are being taken from.

- g. management practices and other measures designed to mitigate the impact of the proposed activity.
- h. Hydrology study: The applicant shall submit in full the following:
  - 1. Pre and post development hydraulic calculations based on maximum storm frequencies of ten, twenty-five and fifty-year intervals and all stream channels, ponds and detention basins with a watershed above fifty (50) acres should be designed on a fifty and one-hundred-year storm frequency.
  - 2. Map of drainage areas utilized in the in the design.
  - 3. End treatment of storm sewer outlets if discharged velocities exceed 3 cfs, including construction details, cross sections and profiles of affected areas including road layout profile.
  - 4. Projected effect of activity upon entire watershed.

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

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) dates 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 work completed at the time of filing and the schedule for completing the activities authorized in the permit;
  - c. the application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
  - d. the application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
  - e. the 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 shall be valid for more than ten years, and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.
- 7.11 For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:
- a. for purposes of this section, “conservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open c
  - b. for purposes of this section, “preservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land including, but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.
  - c. no person shall file a permit application, other than for interior work in an existing building or for exterior work on existing building that does not expand or alter the footprint of such existing building,

relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including but not limited to, any state agency that holds such restriction, not later than sixty (60) days prior to the filing of the permit application.

- d. in lieu of such notice pursuant to subsection 7.11c, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.

## Section 8 APPLICATION PROCEDURES

- 8.1 All petitions, applications, requests or appeals shall be submitted to the Land Use Inspector of the Town of Southbury who shall act as the agent of the Inland Wetlands 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 an adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
  - a. any portion of the property affected by a decision of the agency is within 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 25-32a, the applicant shall provide written notice of application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner provided such water company or aid commissioner has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the Inland Wetlands Commission of such municipality. Such notice shall be made by certified mail; return receipt requested and shall be mailed not later than seven days after the date of the application. The water company and the

Commissioner of Public Health through representative, may appear and be heard at any hearing on the application.

- 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 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 Agency shall not hold a public hearing on an application unless the Inland Wetlands Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, 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 Inland Wetlands Agency not later than fourteen days after the date of receipt of such application, or the Inland Wetlands Agency finds that a public hearing regarding such application would be in the public interest. The Inland Wetlands Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the Inland Wetlands 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.
- 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.

## Section 10 CONSIDERATION 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. Reports for other agencies and commissions including but not limited to the Town of Southbury;
  - 1. Conservation Commission
  - 2. Planning Commission
  - 3. Zoning Commission
  - 4. Pomperaug Health District
- c. The Agency may also consider comments on any application from the Northwest County Soil and Water Conservation District, the Regional Planning Agency, the Pomperaug River Watershed Coalition; 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.
- 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 Agency.
- e. For an application for which a public hearing is held, public comments, evidence and testimony.

10.2 Criteria for Decision. In carrying out the purposes and policies of sections 22a-36 to 22a-45, 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, including but not limited to:

- a. the environmental impact of the proposed regulated activity on wetlands or watercourses;
- b. the applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.
- c. the relationship between the short term and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered 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 Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in subsection 10.2 of this section. The finding and the reasons therefore shall be stated on the record in writing.

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

10.5 For purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.

10.6 A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.

10.7 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the 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.

- 10.8 In the case of an application where the applicant has provided written notice pursuant to subsection 7.11c of these regulations, the holder of the restriction may provide proof to the Inland Wetlands Commission that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the Inland Wetlands Commission shall not grant the permit approval.
- 10.9 In the case of an application where the applicant fails to comply with the provisions of subsections 7.11c or 7.11d of these regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen (15) days after receipt of actual notice of permit approval, file an appeal with the Inland Wetlands Commission, subject to the rules and regulations of such commission relating to appeals. The Inland Wetlands Commission shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency that holds such restriction may, not later than thirty (30) days after receipt of actual notice of permit approval, file an appeal with the Inland Wetlands Commission, subject to the rules and regulations of such commission relating to appeals. The Inland Wetlands Commission shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.
- 10.10 Nothing in subsections 7.11c or 7.11d of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

## 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. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the Commission, or its agent, determines that such restrictions are necessary to carry out the

- policy of sections 22a-26 to 22a-45, inclusive, of the Connecticut General Statutes.
- 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 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 bases 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 (10) 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, 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 Southbury Planning, Zoning and Zoning Board of Appeals within fifteen (15) days of the date of the decision.
- 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. Any permit issued by the Commission prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.

- 11.7 No permit issued by the 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:
- a. The Commission 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 Commission are subject to and do not derogate any present or future rights or powers of the commission or the Town of Southbury, 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 regulates pertinent to the subject land or activity.
  - c. If the activity authorized by the Commission's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
  - d. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
  - e. Additional erosion control measures as may be required or directed by the commission or its agent during the construction sequence to address site degradation resulting from unusually severe weather conditions, uncontrolled or unexpected erosion and sedimentation, exposed steep slopes and over-winter permanent stabilization of steep slopes and other factors threatening wetlands or watercourses shall be applied.
  - f. Prior to constructing the authorized activities, the permittee shall advise the Commission that necessary erosion and sedimentation controls are in place and ready for inspection by the Commission or its agent.
  - g. The applicant shall comply with posting of permanent wetlands markers provided by the IWC agent and as directed by the IWC prior to full release of a posted bond. A site walk shall be scheduled to confirm compliance.
  - h. Permits are not transferable without the prior written consent of the Commission and acknowledgement from the new permit holder that they understand and will comply with the conditions of the permit. Transferring a permit does not constitute transfer of outstanding bond should one exist.

## Section 12 Action by Duly Authorized Agent

- 12.1 The Commission may delegate to its duly authorized agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7.5 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing 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 Agency shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within fifteen (15) days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission 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 regu

## Section 13 BOND AND INSURANCE

- 13.1 The Commission may require as a permit condition the filing of a bond with such surety in such amount and in a form approved by the commission.
- 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 A cash performance bond, in form and amount acceptable to the Agency and town counsel to guaranty: a) compliance with all provisions of these regulations and conditions imposed by the Agency in connection with approval of the activity, b) conduct of the activity and completion of work in accordance with representations and plans submitted by the applicant, c) restoration and maintenance of the regulated area in the event of noncompliance, and d) setting of permanent 4" x 4" wooden posts (markers) delineating the wetland setback boundary as shown of final plans.

## Section 14 ENFORCEMENT

- 14.1 The Commission may appoint an agent or agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.
- 14.2 The Commission or its agent may take regular inspections, at reasonable hours, of all regulated activities for which permits have been issued with consent of the property owner or the authorized agent of the owner during the life of the permit.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Commission or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 If the Commission or its duly authorized 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 Commission 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 Commission 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 commission 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 commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission 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. issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourse. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Section 14.3a or other enforcement proceedings as provided by law.

- 14.5 The Commission may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Commission 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 commission 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 Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

## Section 15 AMENDMENTS

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Southbury may be amended, from time to time, by the commission 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 become available.
- 15.2 An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such

Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

- 15.3 These regulations and the Town of Southbury Inland Wetlands and Watercourses Map shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Energy and Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.

(Note: Application fee schedules shall be adopted as Commission regulations or as otherwise provided by town ordinance.)

- 15.4 Petitions requesting changes or amendments to the “Inland Wetlands and Watercourses Map, Southbury, Connecticut”, shall contain at least the following information:

- a. the petitioner’s name, mailing address and telephone number;
- b. the address, or location, of the land affected by the petition;
- c. the petitioner’s interest in the land affected by the petition
- d. map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
- e. the reasons for the requested action.

- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Southbury, 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 imager, resource mapping, soils mapping, or other information acceptable to the commission. 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 a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days, not less than ten (10) days, and the last not less than two (2) days, before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.
- 15.8 The Commission shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any periods shall not be for longer than sixty-five (65) days or may withdraw such petition. 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 petition.
- 15.9 The Commission 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 Commission 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 Commission and the Commissioner of Energy and Environmental Protection.

## Section 17 CONFLICT AND SEVERENCE

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

Section 19. FEES: An application fee must accompany each application. Issuance of a permit is subject to payment of the application fee and all other fees noted below. All fees are non-refundable unless otherwise noted.

The following shall be payable to the Town of Southbury:

State Surcharge	\$ 60.00
Application Form "A" (Maintenance and Restoration)	\$190.00
• Forestry	
Less than 25 acres	\$190.00
More that 25 Acres	\$190.00 + \$10.00 per each additional acre over 25
• Activities, other than construction of buildings, on public lands or conservation/ preservation properties, including properties held by not-for-profit entities, for the purpose of maintaining those properties or facilitating public use/access	
Application Form "B"	\$375.00
Construction of one, single family residence property	
Addition/alteration to single family residence property	\$190.00

"Residence" means properly developed for permanent housing. This does not include property developed for industry, commerce, trade, recreation or business being developed to be occupied for such purposes, for profit or non-profit.

Subdivision and Resubdivision, per lot	\$375.00 per lot + \$375.00 per Form B
Commercial Activity, Development or Construction	
Greater than 5 acres	\$750.00
Less than 5 acres	\$580.00

Residential Properties	
Less than 5 dwelling units	\$580.00
Any additional dwelling units	\$145.00 per unit
Renewal Application	\$ 75.00
Permit Modification	\$280.00
Minimal Activity Application	\$ 50.00
Public Hearing Fee	\$375.00
Each Public Hearing Continuance	\$280.00
After Fact Activity (Depending upon activity could be up to 3X the fee)	Initial fee to include State and base fee for applications  A&B with additional fee determined by the Commission
Permitted Activity Application	-0-
Disturbance in Wetland Areas requiring mitigation\	
Residential	\$ 3.00 per sq. ft.
Commercial	\$10.00 per sq. ft.

(This fee is not an authorization activity and shall apply whenever the work or activity in a regulated has been conducted by a property owner or an agent of the owner without prior authorization or a permit.

(Commission may require bonding and/or pre-payment for outside services- estimate of all consultant fees shall be paid in advance in order to proceed with the consultant review procedures.)

Waivers and Refunds: The Agency may waive or refund the application fee for: a) a re-submission of an application withdrawn by the applicant before the net Commission meeting; b) the submission of a revision of an approved application when the revision is not of such magnitude as to require a new application; c) an application submitted by the Town of Southbury or the school district; d) activities for the purpose of maintaining for the preservation of natural resources.

“Outside consultants” means all services by anyone other than the Enforcement Officer or the Agency itself to perform periodic inspections, wetland delineations/inspections, engineers, attorneys, and any other consultants the Agency deems appropriate. The Agency may require bonding or pre-payment of expected costs. If the applicant does

not wish to pay for these services, the application must be withdrawn prior to the costs being incurred; fees will not be refunded once costs are incurred. Once the Agency has indicated outside consultants will be retained, continued prosecution of, or failure to withdraw, the application constitutes the applicant's agreement to pay the costs of the outside consultants.

## Section 20 EFFECTIVE DATE

20.1 These regulations are effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Southbury.

APPENDIX A accompanying the inland wetlands and watercourses regulations of the Town of Southbury, Connecticut as per Connecticut General Statute Section 8-7d, as amended.

## APPENDIX B Definition of Agriculture

Connecticut General Statutes, Sec. 1-1 (q) Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring from training ad management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting or mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoop houses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish oysters, clams, mussels and other molluscan shellfish, on leased, franchised and pubic underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

## APPENDIX C Guidelines, Upland Review Area Regulations Connecticut Inland Wetlands & Watercourses Act