Inland Wetlands and Watercourses Regulations
of the
Town and Borough
of
Newtown, Connecticut

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INLAND WETLANDS AND WATERCOURSES REGULATIONS OF THE TOWN AND BOROUGH OF NEWTOWN, CONNECTICUT

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INLAND WETLANDS AND WATERCOURSES REGULATIONS OF THE TOWN AND BOROUGH OF NEWTOWN, CONNECTICUT

SECTION 1 – Title and Authority

1.1 The Inland Wetlands and Watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life.

Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourse 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 watercourse 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 the benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town and Borough of Newtown, Connecticut".

1.3 The Inland Wetlands Commission, formerly know as the Conservation Commission of the Town of Newtown, Connecticut was established in accordance with the Town of Newtown ordinance 38 adopted May 22, 1973 and has been designated as the Inland Wetlands and Watercourses Agency to implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Newtown, Connecticut.

1.4 These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.

1.5 The Agency shall enforce the Inland Wetlands and Watercourse Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities effecting inland wetlands and watercourses in the Town and Borough of Newtown , Connecticut pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes as amended.

SECTION 2 - Definitions

2.1 As used in these regulations:

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

"Agency" means the Inland Wetlands Commission of the Town of Newtown, Connecticut acting as the Inland Wetlands and Watercourses Agency.

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

"Clear Cutting" means the harvest of timber in a fashion which removes all trees down to a two inch diameter at breast height.

"Commission Member" means a member of the Inland Wetlands Commission of the Town of Newtown, Connecticut.

"Commissioner of Environmental Protection" means the commissioner of the State of Connecticut Department of Environmental Protection.

"Continual Flow" means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

"Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit.

"Designated Agent" means an individual designated by the agency to carry out their functions and purposes.

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

"Disturb the Natural and Indigenous Character of the Wetland or Watercourse" means to alter the inland wetlands and watercourses by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.

"Essential to the Farming Operation" means that the proposed activity is necessary and indispensable to sustain farming activities on an existing farm.

"Farming" shall be consistent with the definition as noted in section 1-1(q), as amended, of the Connecticut General Statutes. (see Appendix A)

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

"Gardening" means the tilling of soil, planting, cultivating and harvesting of vegetable matter.

"Grazing" means using any tract of land to feed or supply farm animals with grass or pasture, to tend farm animals, or feeding or growing silage and herbage.

"Harvesting of Crops" means gathering plants or animals or plant or animal products which have been grown to be harvested.

"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 may be amended from time to time..

"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 fluctuations are encountered.

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

"Municipality" means the Town and Borough of Newtown , Connecticut.

"Nurseries" means places where plants are grown for sale, transplanting, or experimentation.

"Ordinary High Water Mark" means a mark on the land caused by the presence and action of water, which presence and action is so common and usual and so long continued in all ordinary years so as to mark upon the land a distinction between the abutting upland and the watercourse.

"Percent Slope" means shortest straight line transect from any wetland or watercourse boundary to the highest up gradient point on the land to be developed, the transect shall show the steepest slope to the wetlands or watercourse boundary.

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

"Permittee" means the person to whom a permit has been issued.

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

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

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

"Regulated Activity" means any operation within or use of wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution of said wetland or watercourses, but shall not include specific activities in Section 22a-40 of the Connecticut General Statutes. Furthermore any clearing, grubbing, filling, grading, paving, excavating, construction, depositing or removal of material and discharging of storm water in the following areas is a regulated activity:

1. within two hundred (200) feet measured horizontally from the ordinary high water mark of Taunton Pond, Lake Zoar, or Lake Lillinonah, and

2. on the land within one hundred (100) feet measured horizontally from the boundary of any wetland or watercourse.

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

"Regulated Area" means any wetlands or watercourses as defined in these Regulations.

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

"Rendering Unclean or Impure" means any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.

"Significant Impact Activity" means any activity, including, but not limited to, the following activities which may have a major effect or significant impact.

1. Any activity involving deposition or removal of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system.

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 desirable fisheries, wildlife, or other biological life; 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 regulated area.

6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.

7. Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

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

"Swamps" are watercourses that are distinguished by the dominance of wetland trees and shrubs.

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

"Town" means the Town and Borough of Newtown, Connecticut.

"Upland Review Area" Any area where an activity is likely to have an adverse impact on adjacent wetland or watercourse.

"Vernal Pool" Vernal Pool means watercourse consisting of a confined basin depression which contains a small body of standing water, usually drying out for a part of the year, and may or may not contain standing water 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 shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog and eastern space foot toad are necessary to conclusively define the vernal pool.

"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.

"Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to sections 22a-28 through 22a-35 inclusive, of the Connecticut General Statutes. Intermittent 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 of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, or (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 floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, by the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic soil moisture regime as defined by the USDA Cooperative Soil Survey.

SECTION 3 – Inventory of Inland Wetlands and Watercourses

3.1 The map of regulated areas entitled "Inland Wetlands and Watercourses Map, Newtown, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Town Clerk or the 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. The Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.

3.2 Any person may petition the Agency 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 Agency may require such an owner to provide an accurate delineation of regulated areas in accordance with section 15 of these regulations.

3.3 The Agency shall maintain a current inventory of regulated areas within the town. The Agency may amend its map as more accurate information becomes available.

3.4 <u>All</u> map amendments are subject to the public hearing process outlined in section 15 of these regulations.

SECTION 4 – Permitted Uses as of Right and Non-Regulated Uses

4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:

a. Grazing, farming (Appendix A), 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 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 crop land, or the mining of topsoil, 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, of the CT General Statues 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 proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his or her right hereunder;

c. Boat anchorage or mooring, not to include dredging or dock construction;

d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality and containing a residence. 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 or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-410 of the Connecticut General Statutes.

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

4.2 The following operations and uses shall be permitted as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife.

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

4.3 All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, clearing or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Agency in accordance with section 6 of these regulations, 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 to carry out a permitted or non-regulated operation or use of a wetland or watercourse shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of the wetland or watercourse. The Agency or its designated agent shall rule that the proposed operation or use is a permitted or a non-regulated use or operation or that a permit is required.

SECTION 5 – Activities Regulated 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, 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 Statues.

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 agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.

5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.

SECTION 6 – Regulated Activities to be Licensed

6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Commission of the Town of Newtown, Connecticut.

6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 14 of these regulations and any other remedies as provided by law.

SECTION 7 – Application Requirement

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 the form provided by the Agency. The application shall contain the information prescribed in this section and any other information the Agency may reasonably require. Application forms may be obtained in the Land Use office of the Town of Newtown or the Agency.

7.2 If an application to the Town of Newtown Planning, Zoning, or Planning and Zoning Commission for the subdivision or re-subdivision of land involves land containing a wetland or a watercourse, the applicant shall, in accordance with section 8-3(g), 8-3(c), 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, zoning, or planning and zoning commission.

7.3 All applications shall contain such information that is necessary for a fair and informed determination of the issues.

7.4 A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.

7.5 All applications shall include the following information in writing or on maps or drawings:

a. The applicant's name, home and business mailing 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 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 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) 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, or 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 alternatives shall be diagramed on a site plan or drawing.

g. A site plan showing existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;

h. The name and address of all abutting land 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 Commissioners and agents of the Agency to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;

k. A completed DEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit said 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 Agency 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. Applicant must locate in the field all activities proposed in or near wetland or watercourses. This includes road centerlines, all proposed structures and the telephone pole numbers in or adjacent to the parcel associated with application.

o. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at minimum include a report by a soil scientist, depicting the location of wetland soils on the land and a map of the said land indicating the flag locations as set by the soil scientist and defining the boundaries of wetland soil types. These flags should be numbered and noted on the above wetland and watercourse boundaries map

p. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries. The Soils Scientist who performed the field flagging must certify, by signing the map, that the map has been inspected and the map depicts the actual condition of the land as was found at the time of the flagging.

7.6 At the discretion of the Agency 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 licensed surveyor, professional engineer or landscape architect licensed by the state or by such other qualified person;

b. Engineering reports and analysis 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. Soil 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 activities 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 or prudent;

f. Analysis of chemical or physical characteristics of any fill material; and

g. Management practices and other measures designed to mitigate the impact of the proposed activity.

h. The name and address of all abutting land owners along with a signed statement indicating that all abutters have in fact been notified of the proposed regulated activities on the subject land . The commission may waive this requirement at its discretion if it determines that the proposed regulated actions are minor in scope and would not affect or likely affect the adjoining land.

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 Three (3) copies, including the original, 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, extend or amend an existing permit shall be filed with the Agency in accordance with Section 8 of these Regulations at least sixty-five (65) days prior to the expiration date for the permit. Any application to renew or amend such an existing permit shall contain the information under section 7 of these regulations provided:

a. The application may incorporate, by reference, the documentation and record of the original application;

b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;

c. The application shall state the reason why the authorized activity or 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 the land for which the permit was issued;

e. The Agency may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity;

7.10 Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.

SECTION 8 – Application Procedures

8.1 All applications shall be submitted to a Land Use Administrator or a Conservation Official of the Town of Newtown.

8.2 When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within five hundred feet of the boundary of another municipality, the applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the inland wetlands agency of such other municipality.

8.3 The Agency shall in accordance with Connecticut General Statutes Section 8-7d(f), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:

a. Any portion of the property affected by a decision of the agency is within 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 adjoining municipality.

Notice of the pendency of such application shall be made by Certified Mail, return receipt requested, and shall be mailed within seven (7) days of the date of receipt of the application.

8.4 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 16-1 of the Connecticut General Statues, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the Inland Wetlands Agency of such municipality. Such notice shall be made by Certified Mail, return receipt requested, and shall be mailed within seven (7) days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.

8.5 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Agency, immediately following the day of submission to such Agency, or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.

8.6 At any time during the review period, the applicant shall provide additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.

8.7 All applications shall be open for public inspection.

8.8 Incomplete applications may be denied.

8.9 In the event that the Commission determines that the application could or would have a significant impact to the wetland or watercourses, the applicant may be asked to fund an independent technical assessment of the activity by a consultant selected by the Commission. This assessment shall be received by the Commission prior to the completion of the public hearing section of the application review. See fee schedule Section 9.5.

SECTION 9 – Public Hearings

9.1 The Inland Wetland Agency shall not hold a public hearing on an application unless the Inland Wetland Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the agency not later than fourteen days after the date of submission of such application or the Agency finds that a public hearing regarding such application would be in the public interest. The agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the agency on or before the fourteenth day after the receipt of such application. Such

hearing shall be held no later than sixty-five days after the receipt of such application. All applications, maps and documents relating thereto shall be open for public inspection. At such hearing any persons may appear and be heard and may be represented by agent or by attorney.

9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days and the last not less than two (2) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetlands or watercourses are located.

9.3 Notice to Adjacent Property Owners: The applicant shall notify all adjacent property owners of its submission of an application for a license to conduct a regulated activity, on a form provided by the Agency, by certified mail, return receipt requested, within five (5) business days of the date of a determination by the Agency that a public hearing will be held. Adjacent property owners shall refer to all property owners located in whole or in part within five hundred (500) feet of all boundary lines of the applicant's property. The applicant or its designated agent shall provide the Agency with a copy of the form of such notice and its affidavit on a form provided by the Agency within ten (10) days of the date of the applications acceptance. The Agency may deny the application for failure to comply with the provisions of this section.

9.4 In the case of any application which is subject to the notification provisions of subsection 8.3 of these Regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record by the applicant.

SECTION 10 – Considerations for Decision

10.1 The Agency may consider the following in making its decision on an application:

a. The application and its supporting documentation;

b. For an application for which a public hearing is held, which my include public comments, evidence and testimony;

c. Reports from other agencies and commissions including but not limited to the Town of Newtown:

1. Conservation Commission and/or its agent(s)
2. Planning and Zoning Commission and/or its agent(s)
3. Building Official
4. Health Officer
5. Town Engineer
6. First Selectman and/or his/her agent(s)

d. The Agency may also consider comments on any application from the Northwestern Soil and Water Conservation District, the Housatonic Council of Elected Officials and other regional organization agencies, agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations;

e. Non-receipt of comments from agencies and commissions listed in sub-sections 10.1(c) and (d) above within the prescribed time shall neither delay nor prejudice the decision of the Agency.

10.2 Criteria for Decision. In carrying out the purposes and policies of sections 22a-36 to 22a-45 of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing 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 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 or priority: restore, enhance and create productive wetland or watercourse resources:

e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and

f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

10.3 In the case of an application which received a public hearing pursuant to section 9 a finding by the Inland Wetland Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commissioners find on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Commissioners shall consider the facts and circumstances set forth in subsection 10.2. The finding and the reasons therefore shall be stated on the record in writing.

10.4 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourse, the Commissioners 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 & watercourse" 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 wetland 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 demonstration that his application is consistent with the purposes and policies of these regulation and sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

SECTION 11 – Decision Process and Permit

11.1 The Agency, or its duly authorized agent acting pursuant to section 12 of these regulation, 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 or activities which are designed to carry out the purposes and policy of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.

11.2 No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by any agent 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 period shall not be for longer than sixty-five (65) days, or may withdraw such application. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.

11.3 The Agency shall state upon its record the reasons and bases for its decision.

11.4 The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.

11.5 If any activity authorized by the inland wetland permit also involves an activity which requires zoning or subdivision approval, special zoning permit, variance or special exception, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statues, the Agency shall file a copy of the decision and report on the application with the Town of Newtown Planning and Zoning Commission within fifteen (15) days of the date of the decision thereon.

11.6 Any permit issued by the Agency for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years.

11.7 No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency or its Agent.

11.8 If a bond or insurance is required in accordance with section 13 of these regulations, the Agency may withhold issuing the permit until such bond or insurance is provided.

11.9 General provisions in the issuance of all permits:

a. The Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.

b. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Newtown, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.

c. If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statues, 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. Permits are not transferable without the prior written consent of the Agency or its Agent.

SECTION 12 – Action by Duly Authorized Agent

12.1 The Agency may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under section 7.5 of these regulations and any other information the Agency 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 extent such an activity at any time.

12.2 Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen (15) days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three (3) business days after receipt by such Agency or its agent of such appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with section 7 of these regulations.

SECTION 13 – Bond and Insurance

13.1 Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Agency, be required to file a bond with such surety in such amount and in a form approved by the Agency.

13.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitation established in the permit.

13.3 The Agency may require the applicant to certify that it has public liability insurance against liability which might result from the proposed activities or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such activities, in an amount commensurate with the activity.

SECTION 14 - Enforcement

14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these Regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.

14.2 The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.

14.3 If the Agency or its designated agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:

a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order, the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44b of the Connecticut General Statutes, as amended.

b. Suspend or revoke a permit if it finds that the Permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the Permittee by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the Permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The Permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of suspension or revocation in a newspaper having general circulation in the municipality.

c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work to the wetlands and watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subdivision 14.3.a or other enforcement proceedings as provided by law.

d. Any person who commits, takes part in, or assists in any violation of any provision of sections 22a-36 to 22a-45, inclusive, including regulations adopted by the Commissioner and ordinances and regulations promulgated by municipalities or districts pursuant to the grant of authority herein contained shall be assessed a civil penalty of not more than one thousand dollars ($1,000.00) for each offense. Each violation of said sections shall be separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The superior court, in an action brought by the Commissioner, municipality, district or any person, shall have jurisdiction to a continuing violation of said sections, to issue orders direction that the violations be corrected or removed and to assess civil penalties pursuant to this section. All costs, fees and expenses in connection with such action shall be assessed as damages against the violator together with reasonable attorney's fees which may be allowed. All of which shall be awarded to the Commissioner, municipality, district or person which brought such action. The moneys collected pursuant to this section shall be used by the Commissioner of Environmental Protection to restore the affected wetlands or watercourses to their condition prior to the violation, wherever possible. Any person who willfully or knowingly violates any provision of sections 22a-36 to 22a-45, inclusive, shall be fined not more than one thousand dollars ($1,000.00) for each day during which such violation continues or be imprisoned not more than six (6) months, or both. For a subsequent violation, such person shall be fined not more than two thousand dollars ($2,000.00) for each day during which such violation continues or be imprisoned not more than one (1) year, or both. For the purposes of this subsection, "person" shall be construed to include any responsible corporate officer.

SECTION 15 - Amendments

15.1 These regulations and the Inland Wetlands and Watercourses Map Newtown, Connecticut, may be amended, from time to time by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

15.2 An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands regulations or boundaries, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this subdivision 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 Inland Wetlands and Watercourses Map, Newtown, Connecticut, shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five (35) days before the public hearing on their adoption. Fee schedules shall be adopted as Agency regulations or as otherwise provided by municipal ordinance.

15.4 Petitions requesting changes or amendments to the Inland Wetlands and Watercourse Map, Newtown, 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 and supporting such proposed boundary locations; and

e. The reasons for the requested action;

f. The names and addresses of adjacent property owners;

g. A map showing any proposed development of the land.

15.5 Any person who submits a petition to amend the Inland Wetland and Watercourses Map, Newtown, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping or other information acceptable to the Agency. If such person is the owner, developer, or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 14.3, 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 minimum include a report by a soil scientist, depicting the location of wetland soils on the land and a map of the said land indicating the flag locations as set by the soil scientist and defining the boundaries of wetland soil types. These flags should be numbered and noted on the above wetland and watercourse boundaries map

d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries. The soil scientist who performed the field flagging must certify, by signing the map, that the map has been inspected and the map depicts the actual condition of the land as was found at the time of the flagging.

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 Regulations and Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having general circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor 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 Agency shall hold a public hearing on a petition to amend the regulations and the Inland Wetland and Watercourses map within sixty-five (65) days after receipt of such petition. The hearing shall be complete within thirty-five (35) days after commencement. The Agency shall act upon the changes requested in such petition within sixty-five (65) days after the completion of such hearing. At such hearing the, 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 period specified in this subsection, provided that all extension of all such period shall not be for longer than sixty-five (65) days or may withdraw such petition. Failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

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

SECTION 16 - Appeals

16.1 Appeal on actions of the Agency shall be made in accordance with the provisions of section 22a-43 of the Connecticut General Statutes, as amended.

16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

SECTION 17 – Conflict and Severance

17.1 If there is a conflict among the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

17.2 If there as 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 Newtown, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

SECTION 19 – Application Fees

19.1 Method of Payment. All fees required by these regulations shall be submitted to the Agency by person check, certified check, or money order payable to the Town of Newtown at the time the application is filed with the Agency.

19.2 No application shall be granted or approved by the Agency unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to subsection 19.7 of these regulations.

19.3 The application fee is not refundable.

19.4 The Commission shall collect these fees to help defray the costs and expenses of carrying out its duties.

19.5 A schedule of fees will be established annually by the Agency in December. The fees will be effective for the following calendar year. A filing fee as specified in the schedule of fees is payable at the time an application is filed. An additional application fee may be required at the discretion of the Agency when it finds that the nature of the application requires an unusual degree of monitoring and inspection. Upon the discovery of permit violations, the Agency may also require an additional application fee to cover monitoring.

19.6 If an activity has occurred prior to the submission of an application, the Agency may require a filing fee to cover Agency costs including but not limited to field inspections, public hearings, public notices and consultants.

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

19.8 Waiver. The applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Agency may waiver all or part of the application fee if the Agency determines that:

a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or

b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.

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

SECTION 20 – Effective Date of Regulations

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

APPENDIX

APPENDIX A

Connecticut General Statutes Section 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 for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other 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 storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoop houses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

INLAND WETLANDS AND WATERCOURSES REGULATIONS
OF THE TOWN AND BOROUGH OF NEWTOWN, CONNECTICUT

APPENDIX B

SCHEDULE OF FEES

Each applicant shall pay the minimum filing fee, and where appropriate, the additional fees indicated at the time of an application being filed.

An additional DEP State Filing Fee of **$60.00** to be paid on all new applications at time of application.

Type of Activity	Minimum Fee	Additional Fee*
Subdivision, site plan, five (5) lots or greater in size	$3,500	$200
Subdivision, site plan, less than five (5) lots	$1,500	$200
Condominium or attached unit development, 20 units or greater	$3,500	$200
Condominium or attached unit development, less than 20 units	$1,500	$200
All other commercial, educational, institutional or non-residential activities not covered	$1,500	$200
Single family residence	$1,000	$200
Residential additions with greater than 50% footprint expansion	$500	$100
Residential additions with less than 50% footprint expansion, pool, tennis court, pond dredging, septic system work, pond or river docks.	$350	$75
Violations Removal	Five (5) Times Standard Fee	$200
Decks, pools, and all other minor activities	$250	$50
Review of permitted activities and non-regulated uses issued under Section 4.4	$200	$25
Modifications of existing permits (subject to additional fee if noted by agent)	$200	
Inland Wetlands Agent Permit Application (Short Form)	$75	
Wetlands Regulations (Hard Copy)	$20	

**Additional fees based upon each additional lot, unit, and disturbed acre over one acre of disturbed wetlands and watercourses on the property.*

Fees Valid October 1, 2009

APPENDIX C

Alphabetical Identification of Permit Conditions

A. Erosion and sediment controls as illustrated on the plan and where deemed necessary by the Conservation Official will be installed prior to construction and maintained until directed by the Conservation Official.

B. The Conservation Official must be notified in writing one week prior to commencement of the permitted activity and again upon completion of the activity.

C. A copy of the approved plans will be on site at all times.

D. The Conservation Official must inspect and approve the marked limits of disturbance on the site prior to any site activity.

E. No alterations of the site plans are allowed for this permit, unless a modification is requested and granted by the commission or its agent.

F. No site activities shall occur beyond the proposed site location of the Erosion and Sedimentation controls as depicted on the approved site plans.

G. The conservation easement approved by the Conservation Official, is to be filed at the office of the Town Clerk, on the title deed, and the Land Use Office.

H. Any proposed easement areas and open space shall be marked on the entire site prior to any site activity, with permanent markers approved by the Conservation Official.

I. The applicant will provide a bond in accordance with the Newtown Wetlands Regulation Fee Schedule and section 13.1 of said regulations. The amount is to be approved by the Conservation Official.

J. File an A-2 survey with the town clerk delineating the property boundaries, watercourses, wetland boundaries, and easements along with all the elements normally associated with a plot plan.

K. Upon completion of the project, an "As-Built" Plan, prepared by a professional engineer registered in the State of Connecticut, will be submitted to the Commission showing the septic layout, structure location (s), wetland boundaries and watercourses.

L. An environmental management consultant will be retained by the licensee to implement and maintain the certified erosion and sediment control plan for the duration of the construction until completion. The consultant's contractual arrangement with the licensee will be approved by the Conservation Official prior to site work beginning and includes a minimum weekly monitoring of all necessary materials, equipment and labor necessary to execute and maintenance of the erosion & sediment plan. Weekly activities reports will be submitted to the Conservation Official.

M. Submission of revised plans and the approval of the plans by signature of the Conservation Official must be received prior to any site activities.

N. The inland wetland permit conditions shall be recorded, and shown on, the official recorded map for the Town Clerk.

INLAND WETLANDS AND WATERCOURSES REGULATIONS
OF THE TOWN AND BOROUGH OF NEWTOWN, CONNECTICUT

APPENDIX D

Permit / Permit Modification Application Form

(Please note: Failure to provide all of the information requested may result in your application being considered incomplete and rejected without prejudice by the Commission.)

□ **Permit, or**

□ **Permit Modification** (existing permit application # _____ **or**

□ **Request for Extension** (existing permit application # _____

1. Name of Applicant: _____

   Address: _____

   Phone: (Home) _____ (Business) _____

2. Owner's Name: _____

   Address: _____

   Phone: (Home) _____ (Business) _____

Note: *If applicant is not the property owner, the owner's written consent to the application* ***must*** *be attached to this application form.*

3. Project Location: _____

   Map _____ Block _____ Lot _____ Newtown Tax Account # _____

   a. Is project located in the Aquifer Protection District? Yes____ No____

      If yes then the applicant must notify CTDPH as defined in P.A. 06-53

   b. Is the project located within a public water supply watershed? Yes____ No____

      If yes then the applicant must notify CTDPH as defined in P.A. 06-53

   c. Is the project located within 500 feet of the border with an adjoining municipality? Yes____ No____

   d. List the current zoned use for which the proposed activity is to occur and present use:

      _____

      _____

      _____

      _____

INLAND WETLANDS AND WATERCOURSES REGULATIONS
OF THE TOWN AND BOROUGH OF NEWTOWN, CONNECTICUT

4. Quantitative Information:

   a. Wetland Soil Type (s): _____

   b. Upland Soil Type (s): _____

   a. Amount of wetlands proposed for alteration: _____

   b. Amount in linear feet of stream proposed for alteration: _____

   c. Amount of total area proposed for alteration: _____

   d. Amount of material to be removed or deposited in wetlands or watercourse: _____

   e. Amount of total material to be removed or deposited: _____

5. Describe the proposed activity and estimated time for completion of the project: _____

_____

_____

_____

4. Describe the purpose of the proposed activity: _____

_____

_____

_____

PLEASE NOTE: The Commission may require additional data, information, or reports as it deems necessary in order to adequately evaluate the application. Signature of the applicant is a release for access to the parcel for all persons necessary to the determination of said application.

I have personally examined the information submitted in this document and certify that the information is true, accurate, and complete to the best of my knowledge. I understand that providing false information MAY BE PUNISHABLE AS A CRIMINAL OFFENSE in accordance with Section 22a-6 of the Connecticut General Statutes.

Submitted By: _____ _____ _____

Printed *Signature* *Date*

- - - -

APPENDIX E

Public Notice Form

Dear: _____

Be advised that _____

has applied for _____
(*Name of Applicant*)

at the following address: _____
(*Street Name & Number*)

_____/_____/_____
(*Map*) (*Block*) (*Lot*)

The proposal is for: _____

_____

_____

_____

The Inland Wetlands Commission will conduct a public hearing on this proposal.

Date: _____ Time: _____

Location: _____

You are being notified because your property is within 500 feet of the proposed application.

The application is on file at the following location:
Land Use Office
Newtown Municipal Center
3 Primrose Street
Newtown, CT 06470

INLAND WETLANDS AND WATERCOURSES REGULATIONS
OF THE TOWN AND BOROUGH OF NEWTOWN, CONNECTICUT

AFFIDAVIT FORM

Application of: _____

Application Description:

_____

_____

_____

The undersigned, being duly sworn, deposes and says:

1. I have mailed, by certified mail, **RETURN RECEIPT REQUESTED,** a notice of the time and place of the public hearing scheduled for the subject application, as required by the Town of Newtown Inland Wetlands Commission to persons who are owners of land which is included in or within 500 feet of the land which is the subject of the hearing.

2. The date of the mailing of such notice was _____20_____

3. The names and addresses of the required property owners were determined by reference to the records of the Newtown Tax Assessor.

_____
Applicant or Designated Agent

Sworn to and subscribed before me this _____day of _____20_____

_____
Commissioner of the Superior Court
Notary Public

My Commission Expires _____