

TOWN OF CORNWALL
INLAND WETLANDS AND WATERCOURSES
REGULATIONS

Date Adopted: January 1, 1975

Revised: March 3, 1992

Effective: March 20, 1992

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SECTION 1 - TITLE AND AUTHORITY

Section 1.1 - Title

These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Cornwall."

Section 1.2 - Authority

These regulations have been prepared by the Inland Wetlands and Watercourses Agency in accordance with the provisions of Sections 22a-36 to 45 inclusive of the General Statutes, as amended, as authorized by Town Meeting of the Town of Cornwall in an ordinance adopted on May 7, 1974, amended through October 25, 1991.

Section 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 watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the State of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing 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, esthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and

mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

SECTION 2 - DEFINITIONS

Section 2 As used in these regulations:

1. "The Act" means Sections 22a-36 to 45 inclusive of the General Statutes, as amended;
2. "Agency" means the Inland Wetlands and Watercourses Agency of the Town of Cornwall.
3. "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit;
4. "Discharge" means the emission of any water, substance or material into waters of the Town of Cornwall whether or not such substance causes pollution;
5. "Essential to the farming operation" means that the activity proposed is necessary and indispensable to sustain farming activities on an existing farm.
6. "Farming" means use of land for the growing of crops, raising of livestock or other agricultural use. In determining, when necessary, whether or not the land is a farm, the Agency shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous.
7. "Farm pond" means a pond which is located on a farm and is used for purposes of farming.
8. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, sand, gravel, clay, bog, mud, debris, sand, refuse or waste;
9. "Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any wetlands or watercourse of the Town of Cornwall 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 wetlands or watercourses. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land-clearing or excavation activity.

10. "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, government agencies or sub-divisions thereof;
11. "Regulated activity" means any operation within or use of wetlands or watercourses involving removal or deposit of material, or any obstruction, construction, alteration or pollution of such wetlands or watercourses except for those operations and uses permitted under Section 4;
12. "Regulated area" means any wetlands or watercourse as defined in these regulations;
13. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, bulldoze, dragline or blast;
14. "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any of the wetlands or watercourses of the Town of Cornwall, including but not limited to change in color, odor, turbidity or taste;
15. "Significant impact or major effect" means
 - a. any activity involving a deposition of material which will or may have a substantial adverse effect on the regulated area or on another part of the inland wetlands or watercourse system or
 - b. any activity involving a removal of material which will or may have a substantial adverse effect on the regulated area or on another part of the inland wetland or watercourse system or
 - c. any activity which will or may substantially change the natural channel or may inhibit the natural dynamics of a watercourse system or
 - d. any activity which will or may substantially diminish the natural capacity of an inland wetland or watercourse to support desirable biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, and/or provide recreation and open space or
 - e. any activity which will or may decrease the minimum low flow of a watercourse during periods of drought or
 - f. any activity which may or will cause actual or potential pollution of an aquifer or watercourse or
 - g. any activity which may cause substantial turbidity, siltation or sedimentation in a watercourse or the destruction or impairment of an identified aquifer recharge area.

16. "Soil scientist" means an individual duly qualified in accordance with standards set by the United States Civil Service Commission;
17. "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses or waters of the Town of Cornwall.
18. "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water natural or artificial, public or private, which are contained within, flow through or border upon the Town of Cornwall or any portion thereof, not regulated pursuant to Sections 22a-28 to 27a-35, inclusive, of the General Statutes as amended;
19. "Wetlands" means land, including submerged land, not regulated pursuant to Sections 22a-28 to 22a-35, inclusive, of the General Statutes, as amended, 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 may be amended from time to time, of the Soil Conservation Service of the United States Department of Agriculture.

SECTION 3 - INVENTORY OF REGULATED AREAS

Section 3.1

The map entitled "Inland Wetlands and Watercourses Map, Cornwall 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 Inland Wetlands Agency. In all cases, the precise location of wetlands 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 field inspection and testing conducted by a soil scientist where soil classifications are required, or where watercourse determinations are required, by any individual qualified in hydrology.

Section 3.2

Any property owner who disputes the designation of or failure to designate any part of his or her land as a wetland or watercourse on the Inland Wetlands and Watercourses Map, may petition the Agency to change the designation IN ACCORDANCE WITH SECTION 7 OF THESE REGULATIONS. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with Section 7 of these regulations may be required of the property owner when the agency requires an accurate delineation of

wetlands or a watercourse.

Section 3.3

The Agency or its designated agent(s) shall inventory and maintain current records of all regulated areas within the town. The Agency may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and watercourses within the town. Such map amendments are subject to the public hearing process outlined in Section 7.6 of these regulations.

SECTION 4 - PERMITTED OPERATIONS AND USES

Section 4.1 - Uses Permitted as of Right

The following operations and uses shall be permitted in inland wetlands and watercourses as of right, but subject to the submission of a site plan, construction procedures and erosion and sedimentation control plans.

- a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation. The provisions of this subsection 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, clearcutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
- b. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning, or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to Subsection (b) of Section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987.

The individual claiming a use of wetlands permitted as a right under this subdivision shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his entitlement;

- c. Boat anchorage or mooring;

- d. Uses incidental to the enjoyment and maintenance of a residential property. 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 in Section 16-1, or by municipal water supply systems as provided for in Chapter 102 of the General Statutes, or dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies, except as provided in Sections 22a-401 and 22a-403 of the General Statutes, as amended.

Section 4.2 - Uses Permitted Where Indigenous Character of Land is Not Disturbed

The following operations and uses shall be permitted, as nonregulated uses in inland wetlands and watercourses, provided they do not disturb the natural and indigenous character of the land. "Disturbing the natural and indigenous character of the land" means that the activity will significantly disturb the inland wetland or watercourse by reason of removal or deposition of material, will cause the alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife;
- b. Outdoor recreation including play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.

SECTION 5 - ACTIVITIES REGULATED BY THE STATE

Section 5.1

In addition to any permit or approval required by the Agency, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:

- a. Construction or modification of any dam pursuant to Sections 22a-401 through 22a-410 of the General Statutes, as amended;
- b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to Sections 22a-342 through 22a-349 of the General Statutes, as amended;

- c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to Sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to Sections 22a-28 through 22a-35 of the General Statutes, as amended;
- d. Diversion of water including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day, or any change in the instantaneous flow of any surface waters of the state where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to Sections 22a-365 through 22a-378 of the General Statutes, as amended;
- e. Discharges into the waters of the state pursuant to Section 22a-430 of the General Statutes, as amended;
- f. Discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

Section 5.2

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, (1) after an advisory decision on such license or permit has been rendered to the commissioner by the wetlands agency of the municipality within which such wetland is located or (2) thirty-five days after receipt by the commissioner of such application, whichever occurs first.

Section 5.3

The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the General Statutes.

SECTION 6 - LICENSING OF REGULATED ACTIVITIES WITHIN REGULATED AREAS

Section 6.1 - Regulated Activities Require A Permit

No person shall conduct a regulated activity within a regulated area within the Town of Cornwall without first obtaining a permit for such activity from the Agency.

Section 6.2 - Map if Part of Regulations

The map entitled "Inland Wetlands and Watercourses map, Cornwall, Connecticut" is considered part of these Regulations. Facsimile maps are not official and are for convenience only.

Section 6.3

The Agency, its agent or any specialist hired by the Agency shall have the right of free access to any part of the property under consideration, except the private dwelling thereon, after the application is filed. The property owner's execution of the application shall be consent to such inspections. Upon request of property owner, reasonable identification shall be furnished by the inspecting person.

SECTION 7 - APPLICATION PROCEDURE

Section 7.1.a.

Any person wishing to carry out a regulated activity shall submit an application to the Agency. The application shall be deemed received the date of the next regularly scheduled meeting of the Agency provided such meeting is no less than three business days after receipt or thirty-five days after submission, whichever is sooner.

Section 7.1.b. - Complete Application

No application submitted to the Agency shall be deemed complete unless it shall be in such form and contain such information as the Agency deems necessary for a fair determination of the issues. The Agency shall inform all applicants of such necessary information. Incomplete applications may be denied.

Section 7.1.c.

Applications and supporting information and maps required by the Agency shall be submitted in duplicate.

Section 7.2 - Information Required on Applications

All applications to the Agency shall include the following information in writing and shall be on a form provided by the Agency and available at the Office of the Town Clerk:

- a. The applicant's name, home and business addresses, and telephone numbers.
- b. The owner's name (if applicant is not the owner of the property), home and business addresses, telephone numbers, and written consent to the proposed activity set forth in the application.

- c. Applicant's interest in the land.
- d. The geographical location of the property which is to be affected by the proposed activity, including a description of the land in sufficient detail to allow identification of the property on the Inland Wetlands and Watercourses map.
- e. Purpose and a description of the proposed activity and proposed erosion and sedimentation controls.
- f. Alternatives considered by the applicant and why the proposal to conduct the regulated activity set forth in the application was chosen. These alternatives shall be diagrammed on a site plan or drawing and submitted to the commission as part of the application.
- g. A site plan showing existing and proposed conditions in relation to wetlands and watercourses.
- h. Names of adjacent property owners.
- i. The agency may require additional information about the wetlands or watercourses and/or the proposed regulated activity.
- j. All applications shall be signed by owners of land and the applicant, if different from the owners.
- k. An application fee as set from time to time by the agency shall be paid.

Section 7.3 - Summary Ruling

The agency shall review the information set forth in Section 7.2 and the considerations set forth in Section 8.1. If the agency finds that the proposed regulated activity does not involve a significant impact or major effect on the inland-wetlands or watercourses as defined in Section 2 of these Regulations, it may allow the activity with or without conditions or limitations.

Section 7.4 - Plenary Rulings

If the Agency finds that the regulated activity applied for does or may involve a significant or major effect on the inland wetlands or watercourse, the Agency may request additional information which may include, but is not limited to:

- a. Site Plan - a map of the proposed use and the property which will be affected, drawn by a licensed surveyor, professional engineer, or professional architect registered in the State of Connecticut or in an adjoining state, or by such other person acceptable to the Agency. The map shall be at a scale to be determined by the Agency. Detailed information to be included on this site plan shall be requested by the Agency according to its evaluation requirements.

- b. Soil Sample Data - if the property lies within or partly within an area containing poorly drained, very poorly drained, alluvial, and/or floodplain soils, the data shall show precisely where each specific soil type is found. Soil types identified must be consistent with the categories established by the National Cooperative Soil Study of the U.S. Soil Conservation Service. The soil scientist shall certify all soil type boundary lines shown on the site plan and shall furnish a written report describing each wetland on the site plan.
- c. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions;
- d. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative, and a description of why each alternative considered was deemed neither feasible nor prudent;
- e. Watercourse characteristics - if the proposed activity may affect a watercourse lying within, partly within, or flowing through or adjacent to the affected property, the applicant may be required to submit information relative to the present character and the projected impact of the proposed activity upon the watercourse.
- f. Analysis of material to be deposited or removed - the applicant may be required to describe any materials to be deposited on or removed from the affected property in terms of volume, composition, and the possibility of erosion or leaching from deposited or removed materials. The applicant may also be required to estimate the probable environmental impact of the deposition or removal of materials on the affected wetland or watercourse.
- g. A description of the proposed construction or the erection of structures on the affected property, including engineering and architectural plans or designs. Such description should include the purposes of such construction or activity.
- h. A list of other property owners whose rights or interests may be or will be affected by the proposed activity.
- i. 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 General Statutes, the applicant shall

provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.

- j. The Agency shall submit one copy of the application to the Conservation Commission or Planning Commission in any municipality whose border lies within five hundred (500) feet of any wetland or watercourse that may be affected by the proposed activity. Such submission shall be made upon receipt of a complete application, but failure to receive a written reply shall not delay a public hearing or prejudice the final decision.

Section 7.5 - Public Hearings Shall be Held

If the Agency finds, on the basis of the evidence before it, that the proposed regulated activity may have a significant impact or major effect on the inland wetland or watercourse, the Agency shall docket such proposal for public hearing.

Section 7.6 - Public Hearings

- a. No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. The hearing shall be completed within forty-five (45) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total extension of any such period shall not be for longer than the original period as specified in this subsection, or may withdraw such application. The failure of the Inland Wetlands 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 must either be withdrawn by the applicant, returned as incomplete, or denied by the Agency.
- b. 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

PROPOSED AMENDMENT TO THE CORNWALL INLAND WETLANDS AND WATERCOURSES REGULATIONS

The inland wetlands and watercourses regulations of the town of Cornwall are proposed to be amended by adding the following provision thereto:

7.5 If the proposed activity involves the crossing of a watercourse(s) or the installation of a structure(s) intended to equalize hydraulic pressures then, in that event, the application submitted to the Agency shall include the following additional information:

- a. Engineering reports and analyses and additional drawings fully describing all bridges, culverts, pipes, etc. greater than 24 inches in diameter or having greater than 3.2 square feet of waterway opening. The Commission may require verification of information by a professional engineer licensed to practice in the State of Connecticut.
- b. Scale is to be adequate to show all necessary detail, in no case less than a 20 scale (1"=20').
- c. These reports and drawings shall show the aforesaid structures (1) plan view (looking from above for a minimum of 100 feet from either side of structures), (2) elevations or profile of watercourse for a minimum of 100 feet from either side of structure and (3) typical cross-sections of all the aforesaid structures where they connect to other structures such as, but not limited to, the manner in which steel is connected to concrete.

d. Storm design criteria- The “Q” (the volume and or quantity of water that can flow through the aforesaid structures) or waterway opening shall be sized in accordance with the following unless otherwise approved by the Agency:

1. Minor structures- Minor structures have a drainage area of less than one square mile in which there is no established watercourse. They shall be designed to pass the 25-year frequency discharge.

2. Small structures- Small structures have a drainage area of less than one square mile in which there is an established watercourse. They shall be designed to pass the 50 year frequency discharge.

3. Intermediate structures- Intermediate structures have a drainage area greater than one square mile and less than ten square miles. They shall be designed to pass the 100-year frequency discharge with reasonable underclearance.

4. Large Structures- Large structures have a drainage area greater than ten square miles and less than 1,000 square miles. They shall be designed to pass the 100-year frequency discharge with an underclearance of not less than two feet.

5. Monumental Structures- Monumental structures have a drainage area greater than 1,000 square miles. They shall be designed to meet the requirements of the Connecticut Department of Environmental Protection, U.S. Army Corps of Engineers, and the U.S. Coast Guard.

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, or any part thereof, is located.

The applicant shall send notice of the public hearing by certified mail, return receipt requested, to the owner(s) of record of abutting land no less than fifteen days prior to the day of the hearing. The return receipts shall be submitted to the clerk prior to the hearing.

In the case of any application which is within 500 feet of another municipality, a public hearing shall not be conducted until the clerk of the adjoining municipality(ies) has received notice that such an application is pending. Proof of such notification shall be entered into the hearing record. All applications, maps and documents relating to this hearing shall be open for public inspection in the Office of the Town Clerk. Notices of hearings shall be sent to the applicant, adjacent and other known affected property owners, all known interested parties and groups, and to the Department of Environmental Protection.

SECTION 8 - RENDERING DECISIONS

Section 8.1 - Considerations for a Decision

The Agency shall consider the following in making its final decision on a permit application:

- a. All evidence offered at any public hearing;
- b. Any reports from other commissions and/or federal or state agencies, including the Soil and Water Conservation District, the Conservation Commission of the Town of Cornwall, and/or the Connecticut Department of Environmental Protection;
- c. Additional requested information;
- d. All relevant facts and circumstances, including but not limited to the following:
 - (i) The environmental impact of the proposed action, including its effect on the inland wetland's and water course's natural capacity to support desirable biological life, to prevent flooding, to supply water, to control sediment, to facilitate drainage, and to promote public health and safety.
 - (ii) The alternatives to the proposed action, including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity.

- This should include but is not limited to the alternative of taking no action, or postponing action pending further study; the alternative of requiring actions of a different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity;
- (iii) The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses future options.
 - (iv) Irreversible and irretrievable commitments of resources which would be involved in the proposed activity. This requires recognition that the inland wetlands and watercourses of the Town of Cornwall are an indispensable and irreplaceable but fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion or obstruction of waterflow, and by the erection of structures and other uses.
 - (v) The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which would be caused or threatened. This includes potential damage from erosion, turbidity or siltation, loss of fish or other beneficial aquatic organisms, and damage to wildlife and vegetation; the dangers of flooding and pollution; destruction of the economic, esthetic, recreational and other public and private uses and values of wetlands and watercourses.
 - (vi) The suitability of such action to the area for which it is proposed. This requires the Agency to balance the need for the economic growth of the Town and the use of its land, with the need to protect its environment and ecology for the people of the Town and for future generations.
- e. Measures which would mitigate the impact of the proposed activity and may be imposed as conditions of the permit. Such measures may include further technical improvements or safeguards which could feasibly be added to the plan or action to avoid the reduction of the wetland's or water course's natural capacity to support desirable biological life, prevent flooding, supply water, control sedimentation and/or prevent erosion, assimilate wastes, facilitate drainage, promote general health and safety, and

provide recreation and open space.

- f. In the case of any application which received a public hearing, a permit shall not be issued unless the Agency finds that the proposed alteration or destruction of wetlands or watercourses is unavoidable and that a feasible and prudent alternative to the alteration or destruction of wetlands or watercourses does not exist. In making this finding, the Agency shall consider the facts and circumstances set forth in this section. This finding and the reasons therefore shall be stated in the record of the decision by the Agency.

Section 8.2 - When the Agency Must Render a Decision

a. When No Public Hearing is Held

In the absence of a public hearing, the Agency shall render a final decision within sixty-five (65) days from the receipt of a complete application. The Agency shall notify the applicant by certified mail of its decision within fifteen (15) days of the date of the decision and the Agency shall cause notice of its decision to be published in a newspaper having general circulation in the Town of Cornwall.

b. When a Public Hearing is Held

A decision shall be made on all applications requiring a public hearing within thirty-five (35) days after completion of the public hearing. The Agency shall inform the applicant of its decision in granting with or without conditions, limitations, or modifications, or in denying a permit, by certified mail within fifteen (15) days of the date of such decision. A copy of such notice shall be sent by certified mail to the Commissioner of Environmental Protection within fifteen (15) days of the date of such decision. The Agency shall cause notice of the granting or denial of the application to be published in a daily newspaper having a general circulation in the Town of Cornwall. 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.

SECTION 9 - THE PERMIT

Section 9.1 - Written Statement Required

At the time of granting a permit, granting a permit with conditions or limitations, or denying a permit following a public hearing, the Agency shall issue a written statement presenting its reasons.

Section 9.2 - Modification and Resubmission of Denied Application

If an application is denied, the applicant may modify, amend or correct his proposal. The rejection of a modified proposal shall be equivalent to the denial of an application for the purposes of Section 12 of these regulations.

Section 9.3 - Modification of Application Granted with Conditions

If a permit is granted with conditions or limitations, and the applicant disputes such conditions or limitations, he may modify, amend or correct his proposal. Rejection of a modified, amended or corrected proposal shall be equivalent to the denial of an application for the purposes of Section 12 of these regulations.

Section 9.4 - Validity of Permit

A permit shall be void one year after the date of approval unless the regulated activity has begun and is being diligently pursued to completion. Extensions may be granted upon petition to the Agency for circumstances beyond the control of the applicant.

Section 9.5 - Assignments of Permits

No permit may be assigned or transferred without the written consent of the Agency.

SECTION 10 - OTHER PERMITS AND LICENSES

Section 10

Nothing in these regulations shall obviate any requirement for the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, or the State of Connecticut, or any political subdivision thereof. The obtaining of such assents, permits, or licenses is solely the responsibility of the applicant.

SECTION 11 - ENFORCEMENT

Section 11.1 - Enforcement Agent

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 those regulations.

Section 10.5 of the IWWMR is deleted and replaced with the following:

10.5 For purposes of this section, (1) "wetlands or 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.

A new section 10.6 of the IWWMR is added to read as follows:

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.

A new section 10.7 of the IWWMR is added to read identical to the language of the prior section 10.5 of the IWWMR as follows:

10.7 In reaching its decision on any application after 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.

Public Hearing 3/1/05
Adopted 3/1/05
Effective 3/4/05

Section 11.2 - Entrance onto Private Property

In the performance of its duties under the Act, and under Section 22a-5(d) of the General Statutes, the Agency or its designated agent may enter at all reasonable times upon any public or private property, except a private dwelling, for the purpose of inspection and investigation with respect to an application or permit, or when it has probable cause to believe that there may be a violation of these regulations.

Section 11.3 - Penalties for Violation of Regulations

- a. 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 of these regulations, it may issue a written order by certified mail to such person to correct such facility or condition. Within ten days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and to show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing, and within ten days of the completion of the hearing shall notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order had 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 shall not delay or bar an action pursuant to Section 11.2.d. of these regulations.
- b. If the Agency determines that any person has not complied with the conditions or limitations placed on his permit or has exceeded the scope of the work as set forth in the application, or has obtained a permit through deception or through inaccurate information as to either the activity or its environmental impact, it may revoke or suspend such permit. Before making a decision to revoke or suspend a permit, the Agency shall give notice to the applicant of the facts or conduct which warrant the intended action and at a hearing shall afford the applicant opportunity to show compliance with all lawful requirements for retention of the permit. If the Agency proceeds to revoke or suspend the permit, it shall so notify the applicant within fifteen (15) days of the date of its decision, and it shall cause notice of its order of revocation or suspension to be published in a newspaper having general circulation in the Town of Cornwall.
- c. If the Agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, it may order summary suspension of a permit pending

proceedings for revocation or other action.

- d. Any person who commits, takes part in, or assists in any violation of any provision of these regulations shall be subject to the penalties provided in Section 22a-44(b) of the General Statutes, as amended, and to such other penalties as the law may provide. The Agency may bring a court action against such person in accordance with the above-cited section of the General Statutes.

SECTION 12 - APPEALS

Section 12 - Appeals

Any person aggrieved by any regulation, order, decision or action made by the Agency pursuant to these regulations and/or the general statutes may appeal to the Superior Court of the Judicial District where the land affected is located within fifteen (15) days after publication of such regulation, order, decision or action. All appeals shall follow the procedure outlined in Section 22a-43 of the General Statutes, as amended. The Agency shall notify the Department of Environmental Protection of any such appeals, and enclose a copy of the regulation, order, decision or action upon which it is based.

SECTION 13 - BOND AND INSURANCE

Section 13.1 - Bond May Be Rendered

The applicant, as a condition for the issuance of a permit, and at the discretion of the Agency, may be required to file a performance bond or other adequate security in an amount and with sureties and in a form approved by the Agency and subject to current Town procedures.

Section 13.2 - Condition for Bond

The bond and sureties shall be conditioned on substantial compliance with all provisions of these regulations and conditions imposed by the permit.

Section 13.3 - Public Insurance

The applicant may be required to certify that he has public insurance against liability which might result from the proposed operation or use covering any and all damage which might occur within three (3) years of completion of such operations, in an amount to be determined by the Agency commensurate with the projected operation.

SECTION 14 - CONFLICT AND SEVERANCE

Section 14.1 - Conflict with Other Regulations

Where there is a conflict between the provisions of these regulations and those of any other applicable statute, ordinance or regulation, the provisions of the statute, ordinance or regulation which imposes the most stringent standards for the use of the wetland or watercourse shall govern.

Section 14.2 - Invalidity of Certain Parts of Regulations

The invalidity of any word, clause, sentence, section part 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.

SECTION 15 - CONFORMITY WITH STATE REGULATIONS

Section 15.1

All regulations, including boundary maps, and all amendments or corrections of the regulations, shall be submitted to the Commissioner of Environmental Protection (hereafter the "Commissioner") within ten (10) days of their effective date.

Section 15.2

The enforcement of these regulations, or any part thereof, including maps and amendments, shall be suspended upon receipt of notice from the Department of Environmental Protection that such regulations are not in conformity with the regulations promulgated by the Commissioner pursuant to Section 22a-39(f) of the General Statutes, as amended. Only the operation of such nonconforming section or sections shall be suspended.

Section 15.3

The Agency shall initiate proceedings to amend such nonconforming regulations within twenty (20) days of the receipt of a notice of nonconformance, pursuant to the amendment procedures of Section 22a-42(c) of the General Statutes as amended.

SECTION 16 - AMENDMENTS

Section 16

The Agency may amend these regulations and the inland wetlands boundaries in accordance with Section 22a-42(c) of the General Statutes, as amended.

SECTION 17 - EFFECTIVE DATE

Section 17

The regulations shall become effective ten (10) days after filing with the Office of the Town Clerk.

Filed with Town Clerk	March 4, 1992
Effective	March 20, 1992

AMENDMENT TO INLAND WETLANDS REGULATIONS ADOPTED 5-3-94

Section 9.4 Validity of Permit

A permit shall be valid for five years, except that any regulated activity approved by the Agency shall be completed within one year from commencement, unless a shorter completion period has been specifically established. Both time periods may be extended by the Agency.