

**TOWN OF EAST LYME  
CONNECTICUT  
INLAND WETLANDS AND WATERCOURSES  
REGULATIONS**



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## **Section 1 - Title and Authority**

- 1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- 1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of East Lyme."
- 1.3 The East Lyme Inland Wetland Agency (name changed from Conservation Commission effective July 1, 2008) of the Town of East Lyme was established in accordance with an ordinance adopted June 20, 1966, and shall implement the purposes and provisions of these regulations and the Ordinance Concerning Inland Wetlands and Watercourses in the Town of East Lyme.
- 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 Watercourses Act and shall issue, issue with terms, conditions, limitations, or modifications, or deny permits for all regulated activities in the Town of East Lyme pursuant to sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

- 1.6 These regulations have been revised to be consistent with all amendments to the Inland Wetlands and Watercourses Act through December 31, 2004. They contain all the changes the Connecticut Department of Energy and Environmental Protection (DEEP) has made to the model as noted in their Legislation and Regulations Advisories up to and including their 2004 Legislation and Regulations Advisory dated November 29, 2004.

## **Section 2 - Definitions**

### **As used in these regulations:**

- 2.1 Act:** Means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- 2.2 Agency:** Means the Inland Wetlands Agency of the Town of East Lyme.
- 2.3 Agency member:** Means the means a member of the Inland Wetlands Agency of the Town of East Lyme
- 2.4 Bogs:** Are watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
- 2.5 Calendar Days:** Includes holidays and weekend days, if the deadline for some act or action to occur falls on a holiday or weekend, the deadline is extended to the next business day.
- 2.6 Clear-cutting:** means the harvest of timber in a fashion which removes all trees down to a two-inch diameter at breast height or removal of vegetation in a manner which significantly alters the natural or indigenous character of the regulated area.
- 2.7 Commission:** Means the Inland Wetlands Agency of the Town of East Lyme.
- 2.8 Commission Member** means a member of the Inland Wetlands Agency of the Town of East Lyme.
- 2.9 Commissioner of Energy and Environmental Protection:** Means the Commissioner of the State of Connecticut Department of Energy and Environmental Protection (CT DEEP).
- 2.10 Continual Flow:** Means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.
- 2.11 Days:** are calendar days, except as otherwise noted.
- 2.12 Deposit:** Includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
- 2.13 Designated Agent:** Means an individual(s) designated by the Commission to carry out specific functions and purposes subject to the Commission's review.
- 2.14 Disturb the Natural and Indigenous Character of the Land:** Means that the activity will significantly alter regulated areas by removal or deposition of material, clearcutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.
- 2.15 Emergency:** Pertains to an event, circumstance or condition which, in the opinion of the Commission or its designated agent, endangers the public health and safety or the health and safety of one or more residents of the Town of East Lyme, as certified in writing by one or more of the following Town agencies: the Department of Environmental Affairs, the Department of Public Works, the Department of Environmental Health, the Police Department or the Fire Department

- 2.16 Discharge:** Means emission of any water, substance, or material into waters of the state whether or not such substance causes pollution.
- 2.17 Essential to the farming operation:** Means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.
- 2.18 Farming:** Means use of property for the purpose of raising or harvesting any agricultural or horticultural commodity that is subject to and previously documented by the filing of a farm business declaration with the Internal Revenue Service of the federal government and shall be consistent with the definition as noted in Section 1-1(q) of the Connecticut General Statutes. (See Appendix A)
- 2.19 Feasible:** Means able to be constructed or implemented consistent with sound engineering principles and practical execution.
- 2.20 Grubbing:** Means the digging out and uprooting of stumps, roots, and other below ground vegetative material.
- 2.21 Intermittent Watercourse:** means those waterways which are characterized by non-persistent flow. For purposes of these regulations, intermittent watercourses are delineated by a defined permanent channel and banks and two or more of the following characteristics:
- 2.21a.** Evidence of scour or deposits of recent alluvium or detritus.
  - 2.21b** The presence of standing or flowing water for a duration longer than a particular storm incident. Ordinarily, the presence of water is supported by a component, however small, of groundwater outflow or exfiltration.
  - 2.21c.** The presence of hydrophytic vegetation
- 2.22 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.
- 2.23 Management Practice:** Means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.
- 2.24 Marshes:** Are watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.
- 2.25 Material:** Means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste.
- 2.26 Municipality:** Means the Town of East Lyme, New London County, Connecticut.

- 2.27 Nurseries:** Means places where plants are grown for sale, transplanting, or experimentation.
- 2.28 Permit:** see License.
- 2.29 Permittee:** Means the person to whom a license has been issued.
- 2.30 Person:** Means any person, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.
- 2.31 Pollution:** Means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.
- 2.32 Prudent:** means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.
- 2.33 Regulated Activity"** means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 4 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging storm water on the land within 300-feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Agency may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area that is likely to impact or affect wetlands or watercourses is a regulated activity.
- 2.34 Regulated Activities:** Are considered Minor, Intermediate, and Significant as defined below:
- 2.34(a) Minor Regulated Activity"** means those activities which would result in no greater than a minimal impact on any wetland or watercourse. Additionally, the following shall apply:
- i.** No activity shall be considered Minor Regulated Activity unless it occurs solely within the regulated area exclusive of a wetland or watercourse.
  - ii.** No septic installation or activity requiring the deposition or removal of more than 100 cubic yards (cy) of material shall be considered a Minor Regulated Activity.
- 2.34(b) Intermediate Regulated Activity:** means any operation within or use of a wetland, watercourse, or regulated area within the Town of East Lyme involving removal or deposition of less than 100 cubic yards of materials, placement of any obstruction, construction, alteration or pollution of such wetlands, watercourses or regulated area, but shall not include the activities specified in Section 4 of these regulations. Additionally, the following shall apply:

- i. Locating any waste disposal system or any portion thereof including, without limitation, curtain drains, berms and fill within regulated areas;
- ii. Permanent outdoor or underground storage of petroleum-based products in excess of 100-gallons for residential, commercial or industrial uses within the regulated areas; and
- iii. Clearcutting or grubbing in a wetland or regulated area, except as permitted in Section 4 of these Regulations.

**2.34(c) Significant Regulated Activity:** Means any activity including, but not limited to, the following activities, which may have a substantial effect on any regulated area.

- i. Any activity involving a deposition or removal of material which will or may have a substantial effect on any regulated area, inland wetland or watercourse. Any activity involving more than 100 cubic yards of material will be considered a Significant Regulated Activity. In cases where excavation is proposed for the purpose of constructing a foundation, the applicant shall only consider 50% of the excavated volume for portions of the foundation more than 25 feet from a wetland and/or 50 feet from a watercourse; or
- ii. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system; or
- iii. Any activity which substantially diminishes the natural capacity of an inland wetland, watercourse, or regulated area to provide flood control, to support desirable fisheries, wildlife, or other biological life; or to supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions; or
- iv. Any activity which causes substantial turbidity, siltation or sedimentation, and or thermal pollution in a wetland, watercourse or regulated area; or
- v. Any activity which causes a substantial change of flow of a natural watercourse or the groundwater levels of the regulated area; or
- vi. Any activity which causes or has the potential to cause pollution of a wetland, watercourse or regulated area; or
- vii. Any activity which destroys unique wetlands, watercourses, or regulated areas having demonstrable scientific or educational value.



**2.35 Regulated Area: Means any wetland, watercourse, or area, as defined herein:**

- i. All wetlands and watercourses in the Town of East Lyme as defined in these regulations;
- ii. Area immediately adjoining wetlands and watercourses in the Town of East Lyme as this area is needed to provide protection from the adverse impacts of unregulated land uses. The minimum distance is three hundred (300) feet from wetlands, and three hundred (300) feet from the edge of watercourses.
- iii. These distances may be expanded at the commission's discretion when activities beyond these minimum distances may impact or affect the wetland or watercourse;
- iv. All slopes or portions thereof, with a grade in excess of 20% within 100 feet of a wetland or within 100 feet from a watercourse. This regulated area includes all land measuring from the toe of the slope to the point on the slope where the grade drops to 10% or less for a distance of at least fifty (50) feet.

**2.36 Remove:** Includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, bulldoze, dragline or blast.

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

**2.38 Riparian Buffer:** Means a vegetated area near a water course or body that helps protect the water from the impact of adjacent land uses, that mitigates the effects of development. They should be encouraged where no wooded buffer exists. An acceptable conservation easement instrument shall ensure perpetual perfection of the proposed area, they shall be comprised of native trees, shrubs, perennials and ground cover species. Managed grasses are not permitted. Periodic maintenance shall include the removal of dead, diseased, or damaged plant materials, as well as the removal of invasive species.

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

- i. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
- ii. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
- iii. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
- iv. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
- v. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
- vi. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.

- vii. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.
- 2.40 **Soil scientist:** Means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.
- 2.41 **Swamps:** Are watercourses that are distinguished by the dominance of wetland trees and shrubs.
- 2.42 **Submerged Lands:** Means those lands which are inundated by water on a seasonal or more frequent basis.
- 2.43 **Substantial:** Means of considerable importance, size, amount, or worth.
- 2.44 **Town:** Means the Town of East Lyme, New London County, Connecticut.
- 2.45 **Upland Review Area (URA):** Means any area, as defined herein:
  - i. Area immediately adjoining wetlands and watercourses in the Town of East Lyme as this area is needed to provide protection from the adverse impacts of unregulated land uses. The minimum distance is three hundred (300) feet from wetlands, and three hundred (300) feet from the edge of watercourses. These distances may be expanded at the commission's discretion when activities beyond these minimum distances may impact or affect the wetland or watercourse;
  - ii. All slopes or portions thereof, with a grade in excess of 20% within 100-feet of a wetland or within 100-feet from a watercourse. This regulated area includes all land measuring from the toe of the slope to the point on the slope where the grade drops to 10% or less for a distance of at least fifty (50) feet.
- 2.46 **Vegetative Buffer:** Means area(s) of natural or undisturbed vegetation intended to slow runoff and trap sediments, nutrients, pesticides and other materials for the purpose of protecting adjacent areas from the effects of development. The purposes of a vegetated buffer includes but is not limited to the following: 1) Improves environmental quality by decreasing or reversing air, noise, heat and/or chemical pollution by creating microclimates including canopy trees, shrubs, perennials and ground covers. Those plantings should mimic the naturally occurring indigenous species; 2) Screens the visual aspects of adjacent areas; 3) Conserves natural resources; 4) Decreases runoff by absorbing negative effects from surrounding land uses; and 5) Links areas of migration of animals, birds, insects and other wildlife between core areas, while providing stabilization of soils from winds and storms with high rainfalls.
- 2.47 **Vernal:** Means appearing in or occurring in the spring.
- 2.48 **Vernal Pool:** Means a seasonal or permanent watercourse in a defined depression or basin that lacks a fish population and supports or is capable of supporting breeding and development of amphibian or invertebrate species recognized as obligate to such watercourses.
- 2.49 **Waste:** Means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands and watercourses of the Town.

- 2.50 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. Examples of bog, marsh, and swamp species are listed in the booklet entitled "Inland Wetland Plants of Connecticut," W.A. Niering and R.H. Goodwin (May 1983), The Connecticut Arboretum, Connecticut College, New London, CT, on file in the office of this Commission. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation. For the purposes of this section, "watercourses" include aquatic, plant or animal life, and habitats, in watercourses.
- 2.51 Watershed:** Means the area of land that drains or sheds water into a specific receiving waterbody, such as a pond, lake, stream, or river. As rainwater or melted snow runs downhill in the watershed, it collects and transports sediment and other materials and deposits them into the receiving waterbody.
- 2.52 Watershed Management:** Means the process of implementation of land use and practices to protect and improve the quality of the water and other natural resources according to a comprehensive plan.
- 2.53 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, of 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 (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey. For the purposes of this section, "wetlands" include aquatic, plant or animal life, and habitats, in watercourses. A certified soils scientist licensed in the State of Connecticut shall delineate any wetlands or watercourses boundary.
- 2.54 Wetlands Enforcement Officer (WEO)** means the individual(s) designated by the Commission to carry out specific functions and purposes subject to the Commission's review. More specifically, the individual who carries out the

### **Section 3 - Inventory of Inland Wetlands and Watercourses**

- 3.1** The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, East Lyme, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Agency. Said map shall be considered a guide. In all cases and for the purpose of submitting an application to conduct regulated activities or receiving a declaratory ruling, The precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. Such determinations shall be made by field inspection and testing conducted by a Certified Soil Scientist licensed in the State of Connecticut where soil classifications are required. Where watercourse determinations are required, such determination may be made by any other qualified individual. 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 who disputes the designation of land as a wetland, watercourse, or regulated area on the Inland Wetlands and Watercourses Map, may petition the Agency for an amendment to the map to change the designation in accordance with Section 15 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 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 person to provide an accurate delineation of regulated areas in accordance with Section 3.1 and Section 15 of these regulations.
- 3.3** The Agency or its designated agent(s) shall inventory and maintain a current inventory of all wetlands, watercourses, and regulated areas within the town. The Agency may amend its map as more accurate information becomes available. Such map amendments are subject to the public hearing process outlined in Section 15 of these regulations.

## **Section 4 - Permitted Uses as of Right & Nonregulated Uses**

- 4.1** The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- a)** Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Energy and Environmental Protection (DEEP) for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
  - b)** A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a of the Connecticut General Statutes, 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 section 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 information requested by the Commission or its designated agent to document his entitlement.
  - c)** Boat anchorage or mooring;
  - d)** Uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of five or more cubic yards of material from or onto 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 and;

- f) Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, “maintenance” means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.
- 4.2 The following operations and uses shall be permitted, as nonregulated 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:
  - i. Conservation of soil, vegetation, water, fish, shellfish and wildlife; and
  - ii. Outdoor recreation including play and sporting areas, , field trails, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shell-fishing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the 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 purposes of this section, any person proposing a permitted operation and use or a nonregulated operation involving the use of a wetland, watercourse or regulated area that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation and use, notify the Agency on a form provided by it, and provide the Agency with a completed Application for Determination of Permitted/ Non-Regulated Activity along with sufficient information to enable the Agency to properly determine that the proposed operation and use is a permitted or nonregulated use of a wetland or watercourse. The Agency shall rule that the proposed operation and use or portion of it is a permitted or nonregulated operation and use or that the proposed operation and use is a regulated activity, and a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated Agent for the Agency may make such ruling subject to Commission review.

## **Section 5 - Activities Regulated Exclusively by the State of Connecticut Commissioner of Energy and Environmental Protection and the United States of America.**

- 5.1** 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 East Lyme, 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.
- 5.2** In addition to any permit or approval required by the Agency, the Commissioner of Energy and Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- i.** Construction or modification of any dam pursuant to Sections 22a-401 through 22a-410 of the General Statutes, as amended;
  - ii.** 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;
  - iii.** 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;
  - iv.** 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;
  - v.** Discharges into the waters of the State pursuant to Section 22a-430 of the General Statutes, as amended;
  - vi.** Discharge of fill or dredged materials into the wetlands and watercourses of the State pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.
- 5.3** 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 Statutes, , (1) after an advisory decision on such license or permit has been rendered to the Commissioner by the wetland 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.
- 5.4** 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.

- 5.5** 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.
- 5.6** 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 East Lyme Inland Wetlands Agency of the Town of East Lyme.
- 6.2** The Agency shall regulate any operation within or use of a wetland or watercourse and any regulated activity or portion thereof within the regulated area as specified and defined under Section 2.1 of these regulations involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses and any other regulated activity, unless such operation or use is permitted or non-regulated pursuant to Section 4 of these regulations.
- 6.3** Any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of stormwater on land within 300-feet measured horizontally from the boundary of any wetland or watercourse (aka, URA) is subject to review by the Inland Wetlands Agency or its Designated Agent for determination of regulated activities. The Agency or Agent may rule that any other activity located in such upland review area or in any other non-wetland or non-watercourse area (the area beyond the 300-foot URA, is regulated if it is likely to impact or affect wetlands or watercourses.
- 6.4** 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 Requirements**

- 7.1** Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Agency. The application shall contain the information described in this section and any other information the Agency may reasonably require. Application forms may be obtained in the offices of the East Lyme Inland Wetlands Agency..
- 7.2** If an application to the Town of East Lyme Planning, Zoning, or Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the 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** The application shall contain such information as is necessary for a fair and informed determination thereon by the Agency. The Agency, upon written request from an applicant may waive certain application requirements.
- 7.4** A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- 7.5** A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- 7.6** All applications shall include the following information in writing or on maps or drawings:
- a.** the applicant's name, home and business mailing addresses and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate officer's name, address, and telephone number;
  - b.** the owner's name, mailing address and telephone number and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed;
  - c.** the applicant's interest in the land;
  - d.** a location map at a scale of 1" = 800' identifying the property involved;
  - e.** the geographical location, and Assessor's map and lot number, 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;
  - f.** the purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;

- g.** alternative which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan or drawing;
- h.** a site plan at a scale that provides sufficient detail to show existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- i.** an evaluation of storm water detention where appropriate, including the existing or future need for flood control shall be provided on a site plan at a scale of 1-inch = 40-feet and shall include the following:
  - i.** the proposed activity and existing and proposed conditions in relation to wetlands and watercourses, including the location of existing and proposed buildings, subsurface sewage systems, roads, driveways, test holes, structures, contour lines, vegetation, sodding, wetlands and watercourses, and other topographical and man-made features;
  - ii.** any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses such as location and design of erosion control structures, seeding, and re-vegetation/landscaping;
  - iii.** Key or inset map, use of north arrow where appropriate;
  - iv.** 300 - foot. regulated area; and
  - v.** Property classification and/or delineation where appropriate, including but not limited to property lines, conservation easements, and/or flood zones;
- j.** names and mailing addresses of adjacent land owners;
- k.** 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;
- l.** authorization for the members 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;
- m.** a completed DEEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with section 22a-39-14 of the Regulations of Connecticut State Agencies;
- n.** any other information the Agency deems necessary to the understanding of what the applicant is proposing, at the Agency's request;
- o.** In the case of filling in wetlands, watercourses, or regulated upland areas, the applicant must provide the agency with the area to be filled, the volume of requested fill, finished slopes of filled areas, containment and stabilization measures, proposed finished contours, an evaluation of the effect of filling the wetlands with respect to storage volume and it's impact downstream, showing before and after development flows; and

- p. Submission of the appropriate filing fee based on the fee schedule established in Section 19 of these regulations.
- q. A digital file in a Portable Document Format (PDF) of all application materials shall be submitted.

**7.7** An application proposing an activity deemed by the Commission or its designated agent to be an Intermediate or Significant Regulated Activity shall include the following information in addition to the information specified in Sections 7.5:

- a. A map at a scale not exceeding 1"= 40', identifying the geographical location of the property to be affected by the proposed activity, adjacent lands, names of adjacent property owners, adjacent regulated areas, such upstream and downstream areas as may be identified by the Commission or its designated agent, and other pertinent features including, but not limited to, existing property line survey to a precision of A-2 accuracy, proposed property lines, existing topography to a precision of T-2 accuracy, spot elevations, roads and drives, drainage structures, building and their utilities, soil types, stone walls, the limits of inland wetland, watercourses and all regulated areas, lands protected as open space or by private conservation easements, existing trails and types of vegetative cover. If more than one sheet is required to show the property in its entirety, then an additional Summary Map shall be provided on one sheet;
- b. The purpose and description of the proposed activity, including other management practices and mitigation measures which encompass, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance, and create productive wetland or watercourse resources;
- c. Alternatives considered by the applicant and why the proposal set forth in the application was chosen. These alternatives shall be depicted on a supplemental site plan and submitted to the Commission as part of the application;
- d. The calculated (1) total area (square feet) of wetlands and linear feet of watercourses on the subject property and (2) total area (square feet and/or linear feet) of regulated area that would be disturbed by the proposed activities;
- e. All wetland boundaries on the subject property shall be identified by a Certified Soil Scientist and located in the field and on the map by a licensed surveyor. The soil scientist shall consecutively number the survey tapes that mark boundary lines of all wetlands on the property. The original signature of the soil scientist shall be on the map(s) which depict his or her work. Watercourses shall be delineated by a Certified Soil Scientist, geologist, ecologist or other qualified individual and located in the field and on the map by a Licensed Surveyor;
- f. Soil sample data to include all areas on the property that lie within, or partially within, an area containing poorly drained, very poorly drained, alluvial and/or floodplain soils. The soil type must be consistent with the categories established by The National Cooperative Soils Study of the United States Soil Conservation Service. A soils report prepared and signed by a soil scientist that includes the name of the applicant and project, the location of and limits of the property, the date(s) and method(s) of the soil investigations, a brief soil description of each soil mapping unit investigated, the set of consecutive numbers used on survey tapes to identify the wetland boundaries appearing on the plan shall be submitted;

- g.** Description of the chemical and physical characteristics of any proposed fill material to establish the desired type or quality of fill material to be used in all regulated areas;
- h.** If the proposed activity might affect a watercourse, the applicant shall be required to submit information relative to the present character and the projected impact of the proposed activity upon the watercourse; and
- i.** Measures which mitigate the impact of the proposed activity. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant.

**7.8** The Commission may determine that an activity involves a Significant Regulated Activity as defined in Section 2. of these regulations. The Commission shall state, for the record, the reasons for a Significant Regulated Activity determination. If the Commission determines that the proposed activity involves a Significant Regulated Activity, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following is required in addition to that specified in Sections 7:

- a.** A site plan at a scale not to exceed 1" = 40' accurate to the level of an A-2 survey for the proposed land use on the subject property which will be affected indicating details of: existing and proposed conditions; wetland, watercourse and regulated area boundaries; land contours at two (2) foot intervals, or as specified by the Commission; a compass rose indicating true north; boundaries of land ownership; proposed alterations and uses of wetlands, watercourses and regulated areas; and other pertinent features of the proposed land use drawn by a Licensed Surveyor or Professional Engineer registered in the State of Connecticut or by such other qualified person as approved by the Agency. All maps shall be stamped and sealed by the licensed professional responsible for their preparation and signed by the Certified Soil Scientist responsible for the inland wetlands and watercourses delineation;
- b.** Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses. The Erosion and Sedimentation Control Plan is to include a site specific construction sequence. All reports shall be signed and sealed by the Professional Engineer, licensed in the State of Connecticut, responsible for their preparation;
- c.** Biological evaluation prepared by an ecologist or other qualified professional that provides a description of the ecological communities and functions of the wetlands, watercourses, or regulated areas involved with the application. The report should also describe the extent of the presence of plant species commonly associated with swamps, bogs, and marshes. Also, the evaluation should include the probable effect of the proposed activity upon floral and faunal species and upon wetland functions. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands, watercourses or regulated areas involved in the application and each alternative. The report shall be signed by the professional responsible for its preparation;
- d.** Map and description that identifies watershed boundaries which influence the subject regulated area and a map and description identifying where the subject area falls within the watershed of the named watercourses of East Lyme as shown on U.S.G.S. topographic survey maps; and

- 7.9** 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 professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
  - b.** engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
  - c.** mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;
  - d.** a description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
  - e.** a description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative which would cause less or no environmental impact to wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent;
  - f.** analysis of chemical or physical characteristics of any fill material; and
  - g.** management practices and other measures designed to mitigate the impact of the proposed activity.
- 7.10** 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.
- 7.11** Six (6) hard copies of all application materials and one digital copy of all application materials in portable document format (PDF) shall be submitted to comprise a complete application unless an applicant is otherwise directed, in writing, by the Agency.

- 7.12** Any application to extend or renew the expiration date of a previously issued permit shall be filed with the Agency in accordance with Section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to extend the expiration date of a previously issued permit shall contain the information required under Section 7 of these regulations provided:
- a.** The application shall state the name, address, and contact information of the permit holder, the address or locational description of the property involved, and the date of issuance and expiration of the permit.
  - b.** the application may incorporate the documentation and record of the initial original application;
  - c.** 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;
  - d.** the application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
  - e.** the application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
  - f.** the Agency may, prior to the expiration of a permit, accept an untimely application to renew such permit if the following conditions are met:
    - i.** The authorized activity is ongoing; and
    - ii.** The public interest or environment is best served by not interrupting the activity;
    - iii.** The permit is likely to be extended.
- 7.13** Pursuant to CGS Sec. 22a-42a(g) any permit issued under this section prior to July 1, 2011, that has not expired prior to May 9, 2011, shall expire not less than nine years after the date of such approval. Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no such permit shall be valid for more than fourteen (14) years.
- 7.14** The Commission's designated agent shall be empowered to temporarily authorize regulated activity in an emergency in the absence of a formal application. Any activity authorized pursuant to this Section shall be reviewed by the Commission at its next regularly scheduled meeting. The Commission may ratify such temporary authorization and issue a permit approving the same, or may seek additional information or impose such additional special conditions as it may deem appropriate.
- 7.15** For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:
- a.** For purposes of this section, "conservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space use.

- b. For purposes of this section, “preservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land, including, but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.
- c. No person shall file a permit application, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of such existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof of written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than sixty days prior to the filing of the permit application.
- d. In lieu of such notice pursuant to subsection 7.11d, the applicant may submit a letter from the holder of such restriction or from the holder’s authorized agent, verifying that the application is compliant with the terms of the restriction.

## **Section 8 - Application Procedures**

- 8.1** Prior to the submission of a wetlands application, the applicant may meet with the Commission and/or its designated agent to discuss the application requirements and review pre-application plans.
- 8.2** All petitions, applications, requests or appeals shall be submitted for receipt to the East Lyme Inland Wetlands and Watercourses Agency office of the Town of East Lyme. The application fee shall be paid at the time of filing. A schedule of fees shall be available at the Inland Wetlands office.
- 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 the adjoining municipality.

Such notice 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, petition, appeal, request or plan.

- 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 25-32a, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the Inland Wetlands Agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed no later than seven days after the date of the application. The water company and the Commissioner of Public Health, 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 the Agency or its agent of such petition, application, request or appeal or thirty-five (35) days after such submission, whichever is sooner.
- 8.6** At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these **regulations.**



- 8.7** All applications shall be open for public inspection.
- 8.8** Incomplete applications may be denied.

## **Section 9 - Public Hearings**

- 9.1** The Inland Wetlands Agency shall not hold a public hearing on an application unless the Inland Wetlands Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five (25) persons who are eighteen (18) years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the Inland Wetlands Agency not later than fourteen (14) days after the date of receipt of such application, or the Inland Wetlands Agency finds that a public hearing regarding such application would be in the public interest. The Inland Wetlands Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the inland wetlands agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard.
- 9.2** Notice of the public hearing shall be published at least twice at intervals of not less than two (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 the Town where the affected wetland and watercourse is located. In addition to notice of public hearing by publication, public notice shall be made as follows:
- a.** Notification of adjacent property owners: Each application upon which a public hearing is held shall include a list, prepared by the applicant, of the names and addresses of all properties 200 feet or less distant therefrom, all as shown on the most recent records on file in the town of East Lyme's Tax Assessor's Office. The applicant shall mail notification of said pending application to the owners of each property as indicated on the last completed grand list as of the date such notice is mailed not more than fifteen (15) days nor less than two (2) days before the date set for the public hearing by transmitting the text of the public hearing notice as provided by the Agency. Evidence of such mailing, in the form of the US Post Office Certificates of Mailing, shall be submitted for inclusion in the record of the hearing.
  - b.** Notice of the public hearing shall be mailed to the owner(s) of record of adjacent land not less than ten (10) days prior to the day of the hearing.
- 9.3** Procedures for Public Hearing Notice:
- a.** The Agency shall hold a public hearing on an application in accordance with its regulations and Connecticut General Statutes.
  - b.** Public Notice: In addition to the notice of hearing by publication, public notice of a public hearing shall be made as follows:
  - c.** Posting of Sign: At least 15 days prior to any public hearing the applicant shall post a sign on the premises indicating that such action is proposed. The sign shall be of durable material 4' by 4' in size and shall be firmly set at least three feet above ground surface and located so as to be clearly visible and legible from the most heavily used adjacent Town road or two-lane state highway. The sign shall contain the following, in black block lettering not less than 3 inches in height for a road sign and 2 inches in height for a window sign on a white background:

PUBLIC NOTICE

This Property Proposed for:

REGULATED ACTIVITIES

For further information, contact the Department of  
Planning & Inland Wetlands and Watercourses  
East Lyme Town Hall  
108 Pennsylvania Avenue, Niantic, CT

- c.** Removal of Sign: The sign shall be removed within 10 days of completion of Public Hearing.
- d.** Continued Hearing: Should a public hearing be continued, the applicant shall modify or replace the sign and add language announcing the continuance which shall include the time, date, and location of said hearing. Said sign shall be posted not less than seven (7) days prior to the continued hearing.

## **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, public comments, evidence and testimony;
  - c. Reports from other agencies and commissions including but not limited to the Town of East Lyme:
    - i. Commission for the Conservation of Natural Resources
    - ii. Planning, Zoning, or Planning and Zoning Commissions
    - iii. Building Official
    - iv. Director of Public Works;
    - v. Town Engineer
    - vi. Ledge Light Health District
  - d. The Agency may also consider comments on any application from:
    - i. The New London County Soil and Water Conservation District,
    - ii. The Southeastern Regional Planning Agency or other regional organizations (i.e. Council of Elected Officials);
    - iii. 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
    - iv. The Connecticut Department of Energy and Environmental Protection (DEEP) Non-receipt of comments from state agencies and commissions listed in subdivision 10.1(c) and (d) above within the prescribed time shall neither delay nor prejudice the decision of the Agency.
    - v. For an application for which a public hearing is held, public comments, evidence and testimony provided at such hearing.
- 10.2** Criteria for Decision: In carrying out the purposes and policies of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:
- i. The environmental impact of the proposed regulated activity on wetlands or watercourses;
  - ii. 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.
  - iii. 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.

- iv. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- v. 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; including abutting or downstream property, which would be caused or threatened by the proposed regulated activity, or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community; and
- vi. impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands and watercourses. The environmental impact of the proposed regulated activity on the inland wetland or watercourse including the effects on the inland wetland's and watercourse's capacity to support desirable biological life, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.
- vii. Measures which would mitigate the impact of any aspect of the proposed regulated activity. Mitigation measures which may be considered as a condition of issuing a permit for such activity include but are not limited to, measures to:
  - (A) Prevent or minimize pollution or other environmental damage,
  - (B) Maintain or enhance existing environmental quality; or
  - (C) In the following order of priority:
    - i. Restore;
    - ii. Enhance; and
    - iii. Create productive wetland or watercourse resources. Appropriate mitigation measures are those which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, including public water supplies to control sedimentation, to prevent erosion, to assimilate wastes, to facilitate drainage, to control pollution, to support recreational activities and open space, and to promote public health and safety.

- 10.4** In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in subsection 10.1 and 10.2 of this section. The finding and the reasons therefore shall be stated on the record in writing. 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 their application is consistent with the purposes and policies of these regulations and sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.
- 10.5** In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.6** A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7** In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision.
- 10.8** In the case of an application which is denied on the basis of a finding that there may be a feasible and prudent alternative(s) to the proposed regulated activity which may have less adverse impacts on the wetlands or watercourses, the Commission shall propose on the record in writing the type(s) of alternative(s) which the applicant may investigate. This subsection shall not be construed to shift the burden from the applicant to prove that they are entitled to the permit or to present alternatives to the proposed regulated activity. Further, the types of alternatives proposed by the Commission shall not be deemed to be all-inclusive.
- 10.9** In the case of an application where the applicant fails to comply with the provisions of subsections 7.11c or 7.11d of these regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the Inland Wetlands Agency, subject to the rules and regulations of such agency relating to appeals. The Inland Wetlands Agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the Inland Wetlands Agency, subject to the rules and regulations of such agency relating to appeals. The Inland Wetland Agency shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.

- 10.10** Nothing in subsections 7.11c or 7.11d of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

## **Section 11 - Decision Process and Permit**

- 11.1** The Agency, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2** No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application. The failure of the 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-day period, the applicant may provide for the publication of such notice within ten days thereafter.
- 11.5** If an activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Agency shall file a copy of the decision and report on the application with the Town of East Lyme Planning, Zoning, or Planning and Zoning Commission within fifteen days of the date of the decision thereon.
- 11.6** Any permit issued by the Agency prior to July 1, 2006 or after July 1, 2009 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 prior to July 1, 2006 or after July 1, 2009 for any other activity shall be valid for not less than two years and not more than five years. Any permit issued by the Agency during the time period from July 1, 2006 to July 1, 2009, inclusive, shall expire not less than six years after the date of such approval.



- 11.7** No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.
- 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 East Lyme, 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 Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
  - d.** In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
  - e.** Permits are not transferable without the prior written consent of the Agency.
- 11.10** The Agency may request as part of any approval for new development, non-encroachment lines or Conservation Easements for further protection of the wetlands or watercourses. The designated line or area shall be shown on a site plan and labeled as such. Non-encroachment lines or Conservation Easements shall be established for the purpose of providing any combination of the following functions in relation to the wetlands and watercourses:
- a.** Habitat preservation
  - b.** Surface or groundwater protection.
  - c.** Protection against soil erosion.
  - d.** Use as recreational areas.
  - e.** Educational purposes.
  - f.** Flood management.

- 11.11** In all cases the non-encroachment lines or Conservation Easement limits shall be determined on an individual basis. The following criteria shall be considered in determining setback areas:
- a. Requested or proposed development plans.
  - b. Soil types and associated characteristics.
  - c. Steepness of slope.
  - d. Ability of area to provide flood control.
  - e. Vegetative types and patterns.
  - f. Ability of area to provide for wildlife habitat and corridors.
  - g. Previous disturbance or degradation of the area and potential for restoration.
  - h. Presence of watercourses.
  - i. Size and/or quality of wetland or watercourse.
  - j. Surface water and groundwater quality designation.

## **Section 12 - Action by Duly Authorized Agent**

- 12.1** The Agency may delegate to its duly authorized agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of 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 extend such an activity at any time.
- 12.2** Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen 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 business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject 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 The Agency may require as a permit condition the filing of 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 the provisions of these regulations and the terms, conditions and limitations established in the permit.

### **Section 14 - Enforcement**

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the 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 with the consent of the property owner or the authorized agent of the owner during the life of the permit.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Agency or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 If the Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:
  - a. issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44(b) of the Connecticut General Statutes, as amended.

- b. 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 in wetlands or 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 section 14.3.a or other enforcement proceedings as provided by law.

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

## **Section 15 - Amendments**

- 15.1** These regulations and the Inland Wetlands and Watercourses Map for the Town of East Lyme 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 wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such 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 section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3** These regulations and the Town of East Lyme Inland Wetlands and Watercourses Map shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.

- 15.4** Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, East Lyme, Connecticut," shall contain at least the following information:
- a.** the petitioner's name, mailing address and telephone number;
  - b.** the address, or location, of the land affected by the petition;
  - c.** the petitioner's interest in the land affected by the petition
  - d.** map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
  - e.** the reasons for the requested action.
- 15.5** Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, East Lyme, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include:
- a.** the name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
  - b.** the names and mailing addresses of the owners of abutting land;
  - c.** documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
  - d.** map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6** Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 15.7** A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two days, the first not more than fifteen days, nor less than ten days, and the last not less than two 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 Wetlands and Watercourses Map within sixty-five days after receipt of such petition. The hearing shall be completed within thirty-five days after commencement. The agency shall act upon the changes requested in such petition within sixty-five days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney.

- 15.9 The petitioner may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five 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.
- 15.10 The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

### **Section 16 - Appeals**

- 16.1 Appeal on actions of the Agency shall be made in accordance with the provisions of section 22a-43 of the Connecticut General Statutes, as amended.
- 16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

### **Section 17 - Conflict and Severance**

- 17.1 If there is a conflict among the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.
- 17.2 If there is a conflict between 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 East Lyme, the State of Connecticut or the Government of the United States including any approval required by the Connecticut Department of Energy and Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility
- 18.2 Taxes must be paid current on the property subject to the Inland Wetlands Application. Documentation from the Tax Collector indicating that the taxes are current shall be submitted with any Application for an Inland Wetlands Permit. Applications for Determinations of Non-Regulated or Exempt Activities shall not require this provision. In the event the taxes are not current at the time of application, the Commission shall determine the application to be incomplete and deny said application.

### **Section 19 - Effective Date of Regulations**

- 19.1 These regulations are effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of East Lyme.

## **Section 20 - Fees**

- 20.1 Method of Payment:** All fees required by these regulations shall be submitted to the Agency by certified check or money order payable to the Town of East Lyme at the time the application is filed with the Agency.
- 20.2** 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.
- 20.3** The application fee is not refundable.
- 20.4 Definitions.** As used in this section:
- a. Residential Uses: Means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.
  - b. Commercial Uses: Means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.
  - c. Other Uses: Means activities other than residential uses or commercial uses.
- 20.5 Fee Schedule:** Application fees shall be in accordance with Town Ordinance (refer to Appendix D)
- 20.6 Exemption:** Boards, commissions, councils and departments of the Town of East Lyme are exempt from all fee requirements.
- 20.7 Fee Waivers:** The applicant may petition the Agency to waive, reduce, or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Agency may waive all or part of the application fee if the Agency determines that:
- a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or
  - b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.
  - c. The applicant has shown good cause.
  - d. The Agency shall state upon its record the basis for all actions under this subsection.

## **APPENDIX A**

**Connecticut General Statute 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, hoopouses 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 mulluscan shellfish, on leased, franchised and public underwater farmlands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.



## **APPENDIX B**

**Connecticut General Statute section 8-7d Hearings and decisions. Time limits. Day of receipt. Notice to adjoining municipality.** (a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126 or chapter 440. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board or agency may, by regulation, provide for notice to persons who own or occupy land that is adjacent to the land that is the subject of the hearing. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered within sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126 or chapter 440. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.

(b) Notwithstanding the provisions of subsection (a) of this section, whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered within sixty-five days after receipt of such site plan. Whenever a decision is to be made on an application for subdivision approval under chapter 126 on which no hearing is held, such decision shall be rendered within sixty-five days after receipt of such application. Whenever a decision is to be made on an inland wetlands and watercourses application under chapter 440 on which no hearing is held, such decision shall be rendered within sixty-five days after receipt of such application. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such plan or application.

(c) For purposes of subsection (a) or (b) of this section and section 7-246a, the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such commission, board or agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner. If the commission, board or agency does not maintain an office with regular office hours, the office of the clerk of the municipality shall act as the agent of such commission, board or agency for the receipt of any petition, application, request or appeal.

(d) The provisions of subsection (a) of this section shall not apply to any action initiated by any zoning or planning and zoning commission regarding adoption or change of any zoning regulation or boundary.

(e) Notwithstanding the provisions of this section, if an application involves an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by a zoning commission or planning and zoning commission established pursuant to this section would elapse prior to the thirty-fifth day after a decision by the inland wetlands agency, the time period for a decision shall be extended to thirty-five days after the decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.

(f) The zoning commission, planning commission, zoning and planning commission, zoning board of appeals or inland wetlands agency shall 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: (1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality; (2) 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; (3) 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 (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

## **APPENDIX C**

Guidelines, Upland Review Area Regulations

Connecticut's Inland Wetlands & Watercourses Act

## **APPENDIX D**

### **ORDINANCE ESTABLISHING SCHEDULE OF FEES FOR CONSERVATION, PLANNING AND ZONING COMMISSIONS**

- 1.1 Application Fee \*\*
  - 1.1.1 Residential Uses .....\$150.00 Plus \*\$50.00/LOT  
Plus Fee from Schedule A
  - 1.1.2 Commercial Uses .....\$400.00  
Plus Fee from Schedule A
  - 1.1.3 All Other Uses.....\$200.00  
Plus Fee from Schedule A

\*Each lot with regulated activities

\*\*\$60 fee required by C.G.S 22a-27j will be added to the base fees.

- 1.2 Approval by Duly Authorized Agent \*\* .....\$100.00
- 1.3 Appeal of Duly Authorized Agent Decision.....\$300.00
- 1.4 Significant Activity Fee .....\$300.00
- 1.5 Public Hearing Fee
  - 1.5.1 Single Residential .....\$200.00
  - 1.5.2 Commercial/Industrial/Multi-Family.....\$450.00
- 1.6 Complex Application Fee .....Actual Cost

The Inland Wetlands Agency may charge an additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not be limited to, the cost of retaining experts, to advise, analyze, review, and report on issues requiring such experts. The Agency or the duly authorized agent shall estimate the complex application fee, which shall be paid pursuant to section 19.1 of these regulations within 10 days of the applicant's receipt or notice of such estimate. Any portion of the complex application fee in excess of the actual cost shall be refunded to the applicant no later than 30 days after publication of the agency's decision.

- 1.7 Permitted and Nonregulated Uses:
  - 1.7.1 Permitted Uses as of Right.....\$0.00
  - 1.7.2 Nonregulated .....\$0.00
- 1.8 Regulation Amendment Petitions.....\$500.00  
(Does not include Notices or Regulation Advisories from DEEP)
  - 1.8.1 Map Amendment Petitions .....\$500.00  
Plus Fee from Schedule B
- 1.9 Modification of Previous Approval: .....\$100.00
- 1.10 Renewal of Previous Approval .....\$100.00
- 1.11 Monitoring Compliance Fee .....\$100.00

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

SQUARE FEET of AREA

1.12.1.	Less than 1,000 .....	\$0.00
1.12.2.	1,000 to 5,000 .....	\$250.00
1.12.3.	More than 5,000 .....	\$750.00

- 1.13 SCHEDULE B. For the purpose of calculating the map amendment petition fee, linear feet in Schedule B is the total length of wetlands and watercourses boundary subject to the proposed boundary change.

LINEAR FEET

1.13.1	Less than 500.....	\$0.00
1.13.2	500 to 1,000 .....	\$250.00
1.13.3	More than 1,000 .....	\$750.00

## **REVISION RECORD**

Revision #	Section(s)	Description	Reason	Date of Approval
1	7.10, 11.6	Application Requirements; Considerations for Decision	Public Act 09-181	April 11, 2011
2	7.11, 10.8, 10.9, 10.10	Application Requirements; Considerations for Decision	Public Act 05-124 and Public Act 10-85	April 11, 2011
3	2.1	Definition of a Regulated Activity- URA 300-feet	Agency Initiated	November 16, 2020
4	9.3	Public Hearing Posting of Sign Notice	Agency Initiated	September 13, 2021
5	1 - 20	Various	Agency Initiated	_____, 2025