
TOWN OF CANAAN (Falls Village) INLAND WETLANDS AND WATERCOURSES REGULATIONS

**Adopted Effective
November 16, 2020**

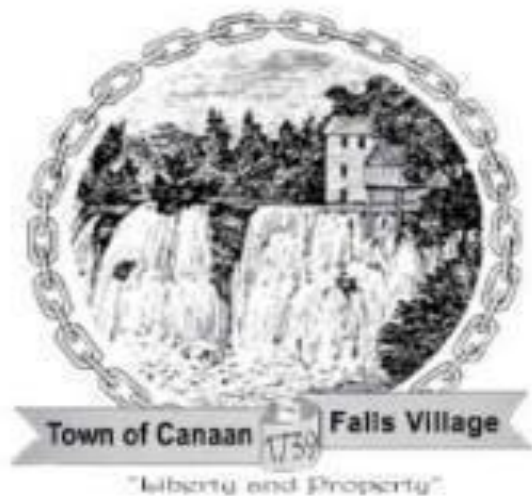


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SECTION 1
Title and Authority

- 1.1 The inland wetlands and watercourses of the State of Connecticut are a fragile, indispensable and irreplaceable natural resource with which the citizens of the state have been endowed. Wetlands and watercourses are critical to an adequate supply of surface and underground water. They are essential to the hydrological stability, control of flooding and erosion, recharging and purification of groundwater, and to the existence of many forms of animal, aquatic and plant life. Inland wetlands and watercourses are at risk of harm or destruction because of unregulated uses such as the depositing, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses. Unregulated activity has the potential for adverse impact on the environment and ecology of the State of Connecticut. By regulating activities, the environmental, ecological, scenic, historic and recreational values and benefits associated with said inland wetlands and watercourses would be preserved and protected. The purpose of these regulations is to protect the citizens of the State by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses. It is the intent of these regulations to minimize disturbance and pollution of wetlands and watercourses, to maintain and improve water quality in accordance with the highest standards set by federal, state or local authority, to prevent damage from erosion, turbidity or siltation, and to prevent loss of fish, aquatic organisms, wildlife, vegetation, and natural habitats. Likewise, these regulations are intended to minimize the danger of flood and pollution, protect the quality of wetlands and watercourses for conservation, economic, aesthetic, recreational and other public and private uses and values, and protect the state's potable fresh water supplies from drought, overdraft, pollution, misuse and mismanagement. These regulations provide for the balance of economic growth of the state and the use of its land with the need to protect its environment and ecology. Protecting and regulating inland wetlands and watercourses is for the benefit of us all, and our future.
- 1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Canaan (Falls Village)."
- 1.3 The Inland Wetlands Commission of the Town of Canaan (Falls Village) was established in accordance with an ordinance adopted February 21, 1973 and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of Canaan (Falls Village).
- 1.4 These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The Commission shall enforce 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 Canaan (Falls Village) pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2 Definitions

2.1 As used in these regulations:

Act refers to the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 inclusive, of the Connecticut General Statutes, as amended.

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

Clear-cutting is the harvesting of timber that removes all trees down to a two-inch diameter at breast height.

Commission is the Inland Wetlands Commission of the Town of Canaan (Falls Village).

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

Continual flow is movement of water that persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle (June through September), but it recurs in prolonged succession.

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

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

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

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

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

Habitats are areas or environments in which an organism or biological population normally lives or occurs.

Hydrophytic vegetation is a perennial vascular aquatic plant having its over-wintering buds underwater.

Lateral distance – the distance from one point to another measured on a horizontal plane.

Management practice is a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

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

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

Municipality means the Town of Canaan (Falls Village).

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

Permit is the certificate of approval or similar form of permission that may be required of any person by the provisions Sections 22a-36 to 22a-45 of Connecticut General Statutes.

Permittee is the person to whom a permit has been issued.

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

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

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

Regulated activity is any operation within or use of a wetland or watercourse, including but not limited to a vernal pool, swamp, marsh, and bog, involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 22a-40 of the Connecticut General Statutes or Section 4 of these regulations. Said term also refers to activities occurring in an “Upland Review Area” involving any clearing of vegetation (including clear cutting but not thinning), and all grubbing, filling, excavation, earth-moving, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water. Any activity deemed to be “regulated” requires a permit. The Commission may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.

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

Rendering unclean or impure is any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.

Significant impact is the result of any activity, including, but not limited to, the following activities that may have a major effect:

1. Any activity involving deposition or removal of material that 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.
2. Any activity that substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
3. Any activity that substantially diminishes the natural capacity of an inland wetland or watercourse to support aquatic, plant or animal life and habitats, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space, or perform other functions.
4. Any activity that is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity that causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
6. Any activity that is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity that damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

Soil scientist is an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

Submerged lands are those lands that are inundated by water on a seasonal or more frequent basis.

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

Timber Harvesting the cutting of timber that alters the existing composition and structure of the stand of timber to achieve a given management objective.

Town means the Town of Canaan (Falls Village).

Trimming/Thinning is the cutting of trees, shrubs, or other woody vegetation not to exceed 50% of stems of trees or shrubs, in anyone-canopy layer. (Compare to “clear cutting”).

Upland Review Area is land within one hundred (100) feet (lateral distance) from wetlands or watercourses, or within four hundred (400) feet (lateral distance) from a vernal pool

Vernal Pool Obligate Species are species that can only reproduce successfully in vernal pool habitats.

Waste is 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.

Watercourses are rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes. Intermittent 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.

Wetlands is land, including submerged land as defined in this section, not regulated pursuant to Sections 22a-28 through 22a-35, 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.

SECTION 3
Inventory of Inland Wetlands and Watercourses

- 3.1 The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, Town of Canaan (Falls Village), Connecticut, Compiled December 1981" delineates the general location and boundaries of inland wetlands and watercourses. Said map is available for inspection at the office of the Town Clerk in the Town of Canaan (Falls Village) Town Hall and is to serve only for guidance and cannot supersede site field designation by a certified soil scientist, or in the case of vernal pool identification, a qualified individual. In all cases, the precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.
- 3.2 Any person may petition the Commission for an amendment to the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to aerial photography, remote sensing imagery, resource mapping or other available information. The Commission may require such person to provide an accurate delineation of regulated areas in accordance with Section 15 of these regulations.
- 3.3 The Commission shall maintain a current inventory of regulated areas within the Town. The Commission may amend its map as more accurate information becomes available.
- 3.4 All map amendments are subject to the public hearing process outlined in Section 15 of these regulations.

SECTION 4
Allowed Uses as of Right & Non-regulated Uses
(Activities Not Requiring a Permit from Inland Wetlands Commission)

- 4.1 The following operations and uses shall be *allowed* 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 subsection shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, 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 (A) for which a building permit has been issued or (B) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of Section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be allowed as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;
 - c. boat anchorage or mooring, not to include dredging or dock construction.
 - 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 allowed 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 existing landscaping, but shall not include removal or deposition of significant amounts 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-403 of the Connecticut General Statutes;
 - f. maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a 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: and
g. Withdrawals of water for fire emergency purposes.

- 4.2 The following operations and uses shall be allowed as *non-regulated* uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
- a. Conservation of soil, vegetation, water, fish, shellfish and wildlife;
 - b. Outdoor recreation including play and sporting areas, field trials, nature study, hiking, horseback riding, swimming, skin diving, non-commercial camping, boating, water skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated: and
 - c. The installation of a dry hydrant by or under the authority of a municipal fire department provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a non-pressurized pipe system that : (A) is readily accessible to fire department apparatus from a proximate public road. (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.
- 4.3 All regulated 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 allowed by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Commission in accordance with section 6 of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with Section 12 of these regulations.
- 4.4 For the Commissions review, any person proposing an allowed operation and use or a non-regulated operation and use in the wetlands and watercourse shall, prior to commencement of such operation and use, notify the Commission on the appropriate form provided by the Commission, and provide the Commission with sufficient information to enable it to properly determine the status of the proposal. Whereupon the Commission shall rule accordingly.

SECTION 5
Activities Regulated Exclusively by the
Commissioner of Energy & Environmental Protection

- 5.1 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to Sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.3 The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Energy and Environmental Protection under section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Energy and Environmental Protection under sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order, or permit shall not be required to obtain a permit from the Commission for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 The Commissioner of Energy and Environmental has 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. The issuance of a DEEP 401 permit does not remove the requirement that the applicant obtain a municipal inland wetland agency permit.

SECTION 6
Regulated Activities
(Activities Requiring a Permit from Inland Wetlands Commission)

- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands/Conservation Commission of the Town of Canaan (Falls Village) or its duly authorized agent.
- 6.2 Changes in regulations, including wetland and watercourses boundaries and locations, shall be made pursuant to Section 22a-42a(b) of the General Statutes and as described in Section 15 of these regulations.
- 6.3 All activities in an Upland Review Area shall be subject to the same regulations as wetlands and watercourses herein defined.
- 6.4 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission or its duly authorized agent, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.
- 6.5 The Commission, at its discretion, may request implementation of measures to minimize impact on wetlands or watercourses.

SECTION 7

Application Requirements

- 7.1 The applicant may request that a pre-application meeting be held to discuss a proposed application. A pre-application meeting is recommended to facilitate the general consideration of factors and problems affecting the land before the applicant proceeds with an official application and the preparation of the final maps, plans and documents required for formal consideration by the Commission. Such preapplication review and any results or information obtained from it may not be appealed under provision of the general statutes, and shall not be binding on the applicant or any agency having jurisdiction to review the proposed project.

The purpose of the pre-application meeting is purely to provide preliminary guidance to the applicant, and to identify areas of concern or further study, so as to minimize delay, expense and inconvenience to the public, the applicant, and the Commission upon the receipt, if any, of a formal application.

- 7.2 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 an Application form provided by the Commission. The application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained in the Town of Canaan (Falls Village) Town Hall.
- 7.3 If an application to the Town of Canaan (Falls Village) Planning and Zoning Commission for subdivision or re-subdivision of land involves land containing a wetland or watercourse or involving any regulated activity, 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 form for a permit to the Inland Wetlands/Conservation Commission in accordance with this section, no later than the day the application form is filed with the Planning and Zoning Commission.
- 7.4 The application shall contain such information as is necessary for a fair and informed determination by the Commission.
- 7.5 All applications shall include the following information in writing or on maps or drawings:
- a. the applicant's name, home and business mailing addresses and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation, the managing member's or responsible corporate officer's name, address, and telephone number;
 - b. the owner's name, mailing address and telephone number and written consent of the landowner 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. the geographic location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s) and wetland vegetation as may be required by the Commission;
- e. the purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- f. an 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;
- g. a site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;
- h. names and mailing addresses of adjacent landowners, and distances of activity from adjacent landowners;
- i. statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information; (include on Application form)
- j. authorization for the Commission members, agents of the Commission, and the general public when (and only when accompanied by the Commission) to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;
- k. any other information the Commission deems necessary to the understanding of what the applicant is proposing; and
- l. submission of the appropriate filing fee based on the fee schedule established in section 19 of these regulations.

- 7.6 At the discretion of the Commission or its agent, or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:
- a. site plans for the proposed activity and the land which will be affected thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
 - 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 by a qualified person 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.
- h. if an area exists that does or may have vernal pool characteristics, a vernal pool inventory shall be submitted. All potential vernal pools that cannot be properly evaluated for confirmation as vernal pools, are to be considered vernal pools. (See Appendix C & D)

7.7 The applicant shall certify whether:

- a. any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- b. traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- c. sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
- d. water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

7.8 **One copy** of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed, in writing, by the Commission.

7.9 The commission may request that all proposed roadway centerlines, wetland borders, watercourses (including vernal pool borders), location of all drainage facilities, septic test pits, well locations, zoning setbacks and proposed house sites be staked in the field by the developer's engineer or surveyor to permit the Commission to view the proposed locations. The centerline shall be staked every one-hundred (100) feet and the stakes shall show the roadway stations.

- 7.10 Any application to renew or amend an existing permit shall be filed with the Commission in accordance with Section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit, provided the application to renew or amend is not subject to the limitations of a public hearing as outlined in Section 9. Any application to renew or amend such an existing permit shall contain the information required under section 7 of these regulations provided:
- a. the application may incorporate the documentation and record of the prior application;
 - b. the application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
 - c. the application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
 - d. the application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued.
 - e. the Commission may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in the Commission's judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity;
 - f. Any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011, shall be valid for nine years but not more than fourteen years in accordance with Section 22a-42a(g) of State General Statutes.
 - g. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.
- 7.11 For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:
- a. for purposes of this section, "conservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open 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 that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction not later than sixty days prior to the filing of the permit application.

- d. in lieu of such notice pursuant to subsection 7.1lc, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.

7.12 The completed DEEP reporting form in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies shall be the responsibility of the Commission.

7.13 The Commission, its agents and consultants hired by the Commission to evaluate permit applications under these regulations may need to conduct site walk, at a reasonable time, to evaluate application.

SECTION 8
Application Procedures

- 8.1 All petitions, applications, requests or appeals shall be submitted to the **Inland Wetlands Commission** of the Town of Canaan (Falls Village) or submitted to the Town Clerk of Canaan (Falls Village) who shall take receipt of such petition, application, request or appeal and forward to the Commission.
- 8.2 The Commission shall, in accordance with Connecticut General Statutes section 8-7d(f), notify the Town 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 days of the date of receipt of the application, petition, appeal, request or plan. Proof of notification shall be entered into record.

- 8.3 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 25-32a of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company provided such water company filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission. Proof of notification shall be entered into record.
- 8.4 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Commission, immediately following the day of submission to the Commission or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.

- 8.5 At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection.
- 8.7 Incomplete applications may be denied without prejudice.
- 8.8 The filing of an application with the Commission shall be deemed to constitute permission by the applicant for the Commission or its agents to enter onto the subject property for the purpose of inspections and tests, and, if the Commission designates a formal site walk during the public hearing process, such permission shall allow the general public, in company with the Commission to inspect such property. The property owner shall be notified prior to any scheduled site walk of the Commission, to be conducted at a reasonable time.

SECTION 9
Public Hearings

- 9.1 The Inland Wetlands Commission shall not hold a public hearing on an application unless:
- a. the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses or,
 - b. a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the Inland Wetlands Commission not later than fourteen days after the date of receipt of such application, or
 - c. the Commission finds that a public hearing regarding such application would be in the public interest.

The Commission may issue a permit without a public hearing provided no petition provided for in this section is filed with the Commission on or before the fourteenth day after the date of receipt of the application.

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

- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in the Town.
- 9.3 The applicant shall mail notice of the public hearing to the owner(s) of record of abutting land and any land within 100' of the subject property, as such ownership on the property tax map is indicated on the most recent grand list. Notice shall be mailed not less than fifteen (15) days prior to the day of the hearing. Applicant shall provide the Commission with proof of mailing at or before the day of the public hearing.

SECTION 10

Considerations for Decision

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

- a. The application and its supporting documentation.
- b. Reports from other agencies and commissions including but not limited to the Town of Canaan (Falls Village):
 1. Conservation Commission
 2. Planning and Zoning Commission
 3. Building Official
 4. Torrington Area Health District
 5. Experts retained by the Commission
- c. The Commission may also consider comments on any application from the Northwest Conservation District, the Litchfield Hills Council of Governments or other regional organizations (i.e. Council of Elected Officials); agencies in adjacent municipalities that may be affected by the proposed activity, or other technical agencies or organizations that may undertake additional studies or investigations.
- d. Non-receipt of comments from state agencies and commissions listed in subdivision 10.1b and c above within the prescribed time shall neither delay nor prejudice the decision of the Commission.
- e. Public comments, evidence and testimony.

10.2 Criteria for Decision. In carrying out the purposes and policies of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. the environmental impact of the proposed regulated activity on wetlands or watercourses;
- b. the applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.;
- c. the relationship between the short term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- d. irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;

- e. the character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
- f. impact on the aquatic, plant or animal life in habitats of wetlands or watercourses, provided that the Commission shall not deny or condition an application for a regulated activity in areas *outside* wetlands or watercourses on the basis of an impact or effect on aquatic, plants, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses;
- g. impacts of the proposed regulated activity on wetlands or watercourses 1) outside the area for which the activity is proposed and 2) future activities associated with or 3) reasonably related to the proposed regulated activities, which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

- 10.3 In the case of an application, which received a public hearing pursuant to a finding by the Commission, that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Commission shall consider the facts and circumstances set forth in subsection 10.2 of this section. The finding and the reasons therefore shall be stated on the record in writing.
- 10.4 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5 For purposes of this section, “wetlands and watercourses” includes aquatic, plant or animal life and habitats in wetlands or watercourses.
- 10.6 The Commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 In reaching its decision on any application after a public hearing, the Commission shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission in its' decision.

- 10.8 In the case of an application where the applicant has provided written notice pursuant to subsection 7.11c of these regulations, the holder of the restriction may provide proof to the inland wetlands commission that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the inland wetlands commission shall not grant the permit approval.
- 10.9 In the case of an application where the applicant fails to comply with the provisions of subsections 7.11c or 7.11d of these regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the inland wetlands commission, subject to the rules and regulations of such commission relating to appeals. The inland wetlands commission shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction;; or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the inland wetlands commission, subject to the rules and regulations of such commission relating to appeals. The inland wetlands commission shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction. 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.
- 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 restrictions.

SECTION 11
Decision and Permit Process

- 11.1 The Commission, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the Commission, or its agent, determines that such restrictions are necessary to carry out the policy of sections 22a-36 to 22a-45, inclusive of the Connecticut General Statutes.
- 11.2 No later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission shall be withdrawn by the applicant or denied by the Commission.
- 11.3 The Commission shall state upon its record the reasons and rationale for its decision.
- 11.4 The Commission shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested. The Commission shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the Town. 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 Commission shall file a

copy of the decision and report on the application with the Town of Canaan (Falls Village) Planning and Zoning Commission within fifteen days of the date of the decision thereon.

- 11.6 Any permit issued by the Commission for the development of land for which an approval is required under chapter 124, 124b, 126 or 126a of the Connecticut General Statutes shall be valid until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued by the Commission for any activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years.
- 11.6.1 Notwithstanding the provisions of Section 11.6 of these regulations, any permit issued by the Commission prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for nine years, but not more than 14 years, after the date of such approval.
- 11.7 No permit issued by the Commission shall be assigned or transferred without the written permission of the Commission.
- 11.8 If a bond or insurance is required in accordance with Section 13 of these regulations, the Commission may withhold issuing the permit until such bond or insurance is provided.
- 11.9 General provisions in the issuance of all permits:
- a. The Commission has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
 - b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Canaan, 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 Commission's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
 - d. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
 - e. Permits are not transferable without the prior written consent of the Commission.

SECTION 12
Action by Duly Authorized Agent

- 12 .1 The Commission may delegate to its duly authorized agent the authority to approve or extend a permit for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Energy and Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7.5 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time.
- 12.2 Any person receiving such approval from such 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.
- 12.3 Any person may appeal such decision of such agent to the Commission within fifteen days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.

SECTION 13
Bond and Insurance

- 13.1 The Commission may require as a condition of the permit, the filing of a bond with such surety in such amount and in a form approved by the Commission.
- 13.2 The bond or surety shall be conditioned on compliance with the provisions of these regulations and the terms, conditions and limitations established in the permit.

SECTION 14

Enforcement

- 14.1 The Commission may appoint an agent or agents to act on its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.
- 14.2 As a condition of an issued permit, the Commission or its agent may make regular inspections at reasonable hours of all regulated activities during the life of the permit.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Commission or its agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.
- 14.4 If the Commission or its agent finds that any person is conducting or maintaining any activity, facility or condition that is in violation of the Act or these regulations, the Commission or its agent may:
- a. issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44(b) of the Connecticut General Statutes, as amended.
 - b. issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in section 14.4 or other enforcement proceedings as provided by law.

- c. Require a bond of any person conducting or maintaining any activity, facility, or condition which is in violation of these regulations, when such person has been ordered to restore the site to its original state or ordered to remedy the violation in some other manner.

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

SECTION 15

Amendments

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in these 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 Canaan (Falls Village) Inland Wetlands and Watercourses Map shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Energy and Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.

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

- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map", Town of Canaan (Falls Village), 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, including vernal pools, 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, Town of Canaan (Falls Village), 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 Commission. If such person is the owner, developer or contract purchaser of the land, which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 15.4, the petition shall include:
- a. the name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
 - b. the names and mailing addresses of the owners of abutting land;
 - c. documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
 - d. map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.
- 15.6 Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 15.7 A public hearing shall be held on petitions to amend these regulations to the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the Town 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 and filed in the office of the town clerk at least ten days before such hearing.

- 15.8 The Commission shall hold a public hearing on a petition to amend the regulations and/or 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 Commission 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. 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 Commission to act within any time period specified in this subsection or any extension thereof shall not be deemed to constitute approval of the petition.
- 15.9 The Commission shall make its decision and state, in writing, the reasons for its decision.

SECTION 16

Appeals

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

SECTION 17

Conflict and 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 preclude the requirements for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Canaan (Falls Village), 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 are the sole responsibility of the applicant.
- 18.2 No person shall conduct any regulated activity within an inland wetland or watercourse, including vernal pools, nor within one hundred (100') feet (lateral distance) of a vernal pool thereof, in accordance with Section 6 hereinabove, if such regulated activity requires zoning or subdivision approval, without first having obtained a valid subdivision approval, special exception, site plan approval, variance, certificate of zoning compliance or other approvals required by the Town of Canaan (Falls Village) Zoning or Subdivision Regulations establishing that the proposal complies with the said Zoning and/or Subdivision Regulations and that the proposal is authorized to commence construction.

SECTION 19

Fees

19.1 Method of Payment. All fees (excluding fees associated with complex applications) required by these regulations shall be submitted to the Commission and made payable to the **Town of Canaan** at the time the application is filed. The Commission reserves the right to ask for a certified check or money order.

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

19.3 The application fee is not refundable.

19.4 Definitions. As used in this section:

"Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

"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.

"Other uses" means activities other than residential uses or commercial uses.

19.5 Fee Schedule. Application fees shall be based on the following:

a. Single residential lot, subdivisions and commercial/industrial

Base fee for all applications	\$135
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Preliminary review by commission without an application	\$ 0
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b. Complex Application Fee: An additional fee sufficient to cover the cost of reviewing and acting on complex applications **may be charged**. Such fee may include, but not be limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts. The Commission 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 commission's decision.

- 19.6 Exemptions: Boards, commissions, councils and departments of the Town are exempt from all fee requirements.
- 19.7 Waivers: The applicant may petition the Commission 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 Commission should consider in its determination under this subsection. The Commission may waive all or part of the application fee if the Commission 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,
 - b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application, or
 - c. The applicant has shown good cause.

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

SECTION 20

Effective Date of Regulations

- 20.1 These regulations are effective after adoption by the Commission 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.

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 8-7(d)

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

TOWN OF CANAAN (FALLS VILLAGE) INLAND WETLANDS AND WATERCOURSE AGENCY

APPLICATION - NOTIFICATION OF ALLOWED ACTIVITY

1. Applicant(s) Name _____
Phone _____
Email _____

2. Owner(s) Same as applicant? YES NO
Name _____
Address _____
Phone _____

3. Applicant(s) interest in land (owner, lessee, option holder, etc.)

4. If applicant is not the landowner, then the owner's consent, duly acknowledged, to the proposed Activity, must be attached to the application.

5. Location of Property Activity:

Detailed description or plot plan. (Additional page may be used)

Area (acres) _____ Square Feet, if less than 2 acres

Assessor's Map No. _____ Parcel No. _____ Zone _____

Total acreage of wetlands on property _____

6. Purpose and description of the proposed activity:

7. Any other information necessary to the understanding of what the applicant is proposing. As stated in Section 4.1 and 4.4 of the Canaan (Falls Village) Inland Wetlands and Watercourses Regulations as amended, such information may include the submission of a site plan, construction sequence and procedures, and erosion and sedimentation control plan, Best Management Practices for storm water controls, and any other such information that may be required by the Agency to be assured that the activity will have no adverse effect on other wetlands and watercourses in the State of Connecticut.

8. Applicant's Signature:

The undersigned warrants the truth of all statements made in conjunction with this application and consent to inspections of the site

Applicant Signature

Print or type name

Owners Signature

Print or type name

The Agency shall rule that the proposed operation and use is a permitted or non-regulated use or operation (see Section 4 of the Canaan Inland Wetlands and Watercourses Regulation) or that a permit is required. If the Agency determines that the proposed activity(s) is not a non-regulated use or operation and that a permit is required, an application in accordance with the provisions of Section 7 of the regulations shall be required.

FOR AGENCY USE

Petition No. _____

Date Received _____

Fee*** _____

Petition approved _____

Petition denied _____

Petition granted with the following conditions:

Petition denied for the following reasons:

Chairman _____ Date _____

Secretary _____

*** No fee if the Agency rules that the proposed operation and use is a permitted or a non-regulated use or operation (see Section 4 of the Falls Village Inland Wetlands and Watercourses Regulations). If the Agency determines that the proposed activity(s) is not a non-regulated use or operation and that a permit is required, and application in accordance with the provisions of Section 7 of the regulations shall be required and a fee submitted accordingly.