

**TOWN OF PROSPECT,  
CONNECTICUT**

**INLAND WETLANDS  
AND  
WATERCOURSES  
REGULATIONS**

**Effective Date: July 1, 1974**  
**As amended to: June 3, 2013**

***TOWN OF PROSPECT, CONNECTICUT***  
***INLAND WETLANDS AND WATERCOURSE REGULATIONS***

**Mayor**

Robert J. Chatfield

**Inland Wetlands Commission**

Stephen Sackter, Chairman

Charles W. Wentworth, Vice Chairman

Lorraine Dixon

Anthony Dorso

Glenn Gruber (Alternate)

Sandy Russell (Alternate)

Vacancy (Alternate)

**Clerk**

Wendy Boroski

**Land Use Inspector**

William Donovan

**Effective Date:** July 1, 1974

**As amended to:** June 1, 2013

## Table of Contents

<b><u>SECTION 1: TITLE, PURPOSE AND AUTHORITY</u></b>	<b><u>1-2</u></b>
<b><u>SECTION 2: DEFINITIONS</u></b>	<b><u>3-7</u></b>
<b><u>SECTION 3: INVENTORY OF REGULATED AREAS</u></b>	<b><u>8</u></b>
<b><u>SECTION 4: PERMITTED USES AS OF RIGHT &amp; NONREGULATED USES</u></b>	<b><u>9-10</u></b>
<b><u>SECTION 5: ACTIVITIES REGULATED BY THE STATE</u></b>	<b><u>11</u></b>
<b><u>SECTION 6: REGULATED ACTIVITES TO BE LICENSED</u></b>	<b><u>12</u></b>
<b><u>SECTION 7: APPLICATION REQUIREMENTS</u></b>	<b><u>13-17</u></b>
<b><u>SECTION 8: APPLICATION PROCEDURES</u></b>	<b><u>18</u></b>
<b><u>SECTION 9: PUBLIC HEARINGS</u></b>	<b><u>19</u></b>
<b><u>SECTION 10: CONSIDERATIONS FOR DECISION</u></b>	<b><u>20-22</u></b>
<b><u>SECTION 11: DECISION PROCESS AND PERMIT</u></b>	<b><u>23-25</u></b>
<b><u>SECTION 12: ACTION BY DULY AUTHORIZED AGENT</u></b>	<b><u>26</u></b>
<b><u>SECTION 13: BOND AND INSURANCE</u></b>	<b><u>27</u></b>
<b><u>SECTION 14: ENFORCEMENT</u></b>	<b><u>28-29</u></b>
<b><u>SECTION 15: AMENDMENTS</u></b>	<b><u>30-31</u></b>
<b><u>SECTION 16: APPEALS</u></b>	<b><u>32</u></b>
<b><u>SECTION 17: CONFLICT AND SEVERANCE</u></b>	<b><u>33</u></b>
<b><u>SECTION 18: OTHER PERMITS</u></b>	<b><u>34</u></b>
<b><u>SECTION 19: APPLICATION FEES</u></b>	<b><u>35-36</u></b>
<b><u>SECTION 20: RECORDS RETENTION AND DISPOSITION</u></b>	<b><u>37</u></b>
<b><u>SECTION 21: EFFECTIVE DATE OF REGULATIONS</u></b>	<b><u>38</u></b>

**EXHIBIT A: DEFINITION OF AGRICULTURE** **39**

**EXHIBIT B: CONNECTICUT GENERAL STATUTES SECTION 8-7d** **40-41**

**INLAND WETLANDS AND WATERCOURSES MAP** **42**

# **REGULATIONS FOR THE PROTECTION AND PRESERVATION OF THE INLAND WETLANDS AND WATERCOURSES OF THE TOWN OF PROSPECT**

## **SECTION 1: TITLE, AUTHORITY AND PURPOSE**

- 1.1** The inland wetlands and watercourses of the Town of Prospect 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 Town of Prospect 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 Town.

It is, therefore, the purpose of these regulations to protect the citizens of the Town 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 Town'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 Town 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 Town of Prospect, 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* (hereinafter referred to as the "Regulations") of the *Town of Prospect* (hereinafter referred to as the "Town").

**1.3** The Inland Wetlands Commission of the Town of Prospect was established in accordance with an ordinance adopted March 19, 1974 to regulate inland wetland and watercourse areas and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of Prospect.

**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 Prospect pursuant to sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## SECTION 2: DEFINITIONS

### 2.1 As used in these regulations:

**“Act”** means the Inland Wetlands and Watercourses Act, sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.

**“Agency”** means the Inland Wetlands Commission of the Town of Prospect.

**“Applicant”** means any person who has submitted an application to the Commission for a permit to conduct regulated activities pursuant to these regulations or who has submitted information for a determination by the Commission pursuant to Section 7 of these regulations.

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

**“Buffer”** means an undisturbed natural area adjacent to the edge of a wetland and/or watercourse.

**“Clear-cutting”** means the harvest of timber or removal of timber in a fashion which removes substantially all trees two inches or greater at breast height from wetlands and watercourses, upland review area, or any other area which may affect wetlands and watercourses.

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

**“Commission”** means the Inland Wetlands Commission of the Town of Prospect.

**“Commissioner of Environmental Protection”** means the commissioner of the State of Connecticut Department of Environmental Protection.

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

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

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

**“Designated agent”** means an individual(s) designated by the Inland Wetlands Commission to carry out its functions and purposes.

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

**“Disturb the natural and indigenous character of the wetland or watercourse”** means to alter the inland wetlands and watercourses by reason or removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.

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

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

**“Intermittent watercourses”** are characterized by and shall be delineated by a defined, permanent channel and bank and occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and/or (c) the presence of hydrophytic vegetation.

**“License”** means the whole or any part of any permit, certificate 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.

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

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

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

**“Municipality”** means the Town of Prospect.

**“Nurseries”** means places where plants are grown for sale, transplanting, or experimentation.

**“Permit”** see “license” above.

**“Permittee”** means the person to whom a permit has been issued.

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

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

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

**“Regulated activity”** means any operation within or use of a wetland or watercourse or upland review area involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses or upland review areas, 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 of storm water on the land within 100 feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Commission 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.

**“Regulated Area”** means any inland wetland or watercourse or upland review area located within the Town of Prospect. Upland review areas are only regulated in so far as activities therein impact wetlands and watercourses.

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

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

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

1. 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.

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

**“Soil scientist”** means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

**“Swamps”** are watercourses that are distinguished by the dominance of wetlands trees and shrubs.

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

**“Town”** means the Town of Prospect.

**“Upland Review Area”** means the land within one hundred (100) feet measured horizontally from the boundary of any wetlands or watercourse. Furthermore, the Commission may rule that activities on a land area where conditions such as steep slopes (15% grade or more) that could have a physical impact on a wetlands or watercourse are subject to review.

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

**“Waste”** means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.

**“Watercourses”** means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes. Intermittent 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 duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

**“Wetlands”** means land, including submerged land as defined in this section, not regulated pursuant to sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the National Resources Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

**“Wetlands Delineation”** means placement of field markers using blue flags with numbers to correspond with wetlands boundary depiction on a site plan presented with an application.

### **SECTION 3: INVENTORY OF REGULATED AREAS**

- 3.1** The map of regulated areas entitled “Inland Wetlands and Watercourses Map, Prospect, Connecticut” dated April 2013, 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 Land Use Office and on page 42 of these regulations. In all cases, the precise location of wetlands and watercourses shall be determined by a certified soils scientist, 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 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: 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 Environmental Protection 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 the continual flow, clear cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
- b. a residential home (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, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987.
- c. boat anchorage or mooring;
- d. uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot size shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse, or diversion or alteration of a watercourse;
- e. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 through 22a-403 of the Connecticut General Statutes.
- f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, which ever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.

g. Withdrawals of water for fire emergency purposes.

**4.2** 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:

- a. conservation of soil, vegetation, water, fish, shellfish, and wildlife.
- b. outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated.
- c. the installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a non-pressurized pipe system that: (A) is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

**4.3** All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations 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** To carry out the purposes of this section, any person proposing a permitted operation and use or nonregulated operation and use shall, prior to commencement of such operation and use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Commission shall rule that the proposed operation and use or portion of it is a permitted or nonregulated operation and use or that the proposed operation and use is a regulated activity and a permit is required.

## **SECTION 5: ACTIVITIES REGULATED BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION**

- 5.1** The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2** The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.3** The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Environmental Protection under Sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said dam permit.
- 5.4** The Commissioner of Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

## **SECTION 6: REGULATED ACTIVITIES TO BE LICENSED**

- 6.1** No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Inland Wetlands Commission of the Town of Prospect.
- 6.2** Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 14 of these regulations and any other remedies as provided by law.

## **SECTION 7: APPLICATION REQUIREMENTS**

- 7.1** Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Commission. The application shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained in the offices of the Prospect Town Clerk or the Commission. The applicant shall submit the original and eight copies of all application materials to comprise a complete application unless otherwise directed by the commission.
- 7.2** If an application to the Town of Prospect 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 Commission.
- 7.4** A prospective applicant may request the Commission to determine whether or not a proposed activity involves a significant impact activity.
- 7.5** All applications shall include the following information in writing or on maps or drawings:
- a. the applicant's name, home and business mailing address and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate officer's name, address, and telephone number;
  - b. 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. the geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), and wetland vegetation;
  - e. the purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;

- f. alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be 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 land owners;
- i. statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- j. authorization for the members and agents of the Commission to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;
- k. a completed DEP reporting form; the Commission 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;
- l. any other information the Commission deems necessary to the understanding of what the applicant is proposing; and
- m. submission of the appropriate filing fee based on the fee schedule established in section 19 of these regulations.

**7.6** At the discretion of the Commission or its agent, or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:

- a. site plans for the proposed activity and the land which will be affected thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
- 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. full disclosure of all fill materials deposited within the upland review area or beyond the regulated area where potential sediment erosion could impact a watercourse or wetlands. The applicant shall provide a log of any fill material brought onto the site indicating the location of where the fill is being obtained, date of delivery and the amount of material being trucked in. The applicant may further be required to submit a chemical analysis performed by a State certified laboratory of fill materials should the commission have reason to believe that based on the location from which the fill has been obtained, the fill may contain certain industrial, commercial or agricultural contaminants potentially harmful to a wetlands or watercourse. The Inland Wetlands Agent shall be notified prior to the date of the material sample collection to be available on site to observe who is collecting the samples and where the materials are being taken from.
- g. management practices and other measures designed to mitigate the impact of the proposed activity.

**7.7** The applicant shall certify whether:

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

**7.8** Copies 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** 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. Any application to renew or amend such an existing permit shall contain the information required under section 7 of these regulations provided:

- a. the application may incorporate the documentation and record of the prior application;
- b. the application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
- c. the application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
- d. the application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
- e. the Commission may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgement, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity.

**7.10** Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit shall be valid for more than ten years, and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.

**7.11** For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:

- a. for purposes of this section, “conservation restriction” means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open 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 existing building that does not expand or alter the footprint

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

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

## **SECTION 8: APPLICATION PROCEDURES**

- 8.1** All petitions, applications, requests or appeals shall be submitted to the Land Use Inspector of the Town of Prospect who shall act as the agent of the Inland Wetlands Commission for the receipt of such petition, application, request, or appeal.
- 8.2** The Commission shall, in accordance with Connecticut General Statutes Section 8-7d(f), notify the clerk of an adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
- a. any portion of the property affected by a decision of the agency is within five hundred feet of the boundary of an adjoining municipality;
  - b. a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - c. a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
  - d. water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, appeal, request or plan.

- 8.3** When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 25-32a, the applicant shall provide written notice of application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner, provided such water company or 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 Commission of such municipality. Such notice shall be made by certified mail, return receipt requested and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through representative, may appear and be heard at any hearing on the application.
- 8.4** The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Commission, immediately following the day of submission to the Commission or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.
- 8.5** At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.6** All applications shall be open for public inspection.
- 8.7** Incomplete applications may be denied.

## **SECTION 9: PUBLIC HEARINGS**

- 9.1** The Inland Wetlands Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing that is filed with the Commission not later than fourteen days after the date of receipt of such application, or 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 each town where the affected wetland and watercourse is located.
- 9.3** The applicant shall notify by mail all abutting property owners, including those separated from the subject property by a public street or other municipal property, of the time, date, and place of the public hearing and shall provide evidence of such notice to the commission in the form of a certificate of mailing at the public hearing. Failure to provide such notice shall be grounds for denial of an application for incompleteness.

## **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 Prospect's:
  1. Conservation Commission
  2. Planning and Zoning Commission
  3. Building Official
  4. Chesprocott Health District
- c. The Commission may also consider comments on any application from the Southwest Conservation District, the Council of Governments of the Central Naugatuck Valley, the South Central Regional Council of Governments, the Connecticut Water Company, South Central Regional Water Authority, agencies in adjacent municipalities which may be affected by the proposed activity or other technical agencies or organizations which may undertake additional studies or investigations.
- d. Non-receipt of comments from state agencies and commissions listed in subsection 10.1.b and c above within the prescribed time shall neither delay nor prejudice the decision of the Commission.

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

- 10.3** In the case of an application which received a public hearing pursuant to 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 therefor 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, (1) “wetlands or a watercourse” includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) “habitats” means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6** The Inland Wetlands 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 and shall incorporate a statement relative to the consideration of feasible and prudent alternatives. 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 (15) days after receipt of actual notice of permit approval, file an appeal with

the Inland Wetlands Commission, subject to the rules and regulations of such commission relating to appeals. The Inland Wetlands Commission shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency that holds such restriction may, not later than thirty (30) days after receipt of actual notice of permit approval, file an appeal with the Inland Wetlands Commission, subject to the rules and regulations of such commission relating to appeals. The Inland Wetlands Commission shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.

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

## **SECTION 11: DECISION PROCESS AND PERMIT**

- 11.1** The Commission, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the Commission, or its agent, determines that such restrictions are necessary to carry out the policy of sections 22a-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 longer than sixty-five (65) days, or may withdraw the application. The failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission shall be withdrawn by the applicant or denied by the Commission.
- 11.3** The Commission shall state upon its record the reasons and bases for its decision.
- 11.4** The Commission shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.
- 11.5** If an activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Commission shall file a copy of the decision and report on the application with the Town of Prospect Planning and Zoning Commission or Zoning Board of Appeals within fifteen (15) 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 was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.

**11.7** No permit issued by the Commission shall be assigned or transferred without the written permission of the Commission.

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

**11.9** General provisions in the issuance of all permits:

- a. The Commission has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
- b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Prospect, 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. Additional erosion control measures as may be required or directed by the commission or its agent during the construction sequence to address site degradation resulting from unusually severe weather conditions, uncontrolled or unexpected erosion and sedimentation, exposed steep slopes and over-winter permanent stabilization of steep slopes and other factors threatening wetlands or watercourses shall be applied.
- f. Prior to constructing the authorized activities, the permittee shall advise the Commission that necessary erosion and sedimentation controls are in place and ready for inspection by the Commission or its agent.

- g. The applicant shall comply with posting of permanent wetlands markers provided by the IWC agent and as directed by the IWC prior to full release of a posted bond. A site walk shall be scheduled to confirm compliance.
- h. Permits are not transferable without the prior written consent of the Commission and acknowledgement from the new permit holder that they understand and will comply with the conditions of the permit. Transferring a permit does not constitute transfer of outstanding bond should one exist.

## **SECTION 12: ACTION BY DULY AUTHORIZED AGENT**

- 12.1** The Commission may delegate to its duly authorized agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7.5 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time.
- 12.2** Any person receiving such approval from such Agent shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within fifteen (15) days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 7 of these regulations.

## **SECTION 13: BOND AND INSURANCE**

- 13.1** The Commission may require as a permit condition the filing of a bond with such surety in such amount and in a form approved by the Commission.
- 13.2** The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.
- 13.3** Bonds that are \$10,000.00 or less shall be secured by certified bank check or passbook savings account.

## **SECTION 14: ENFORCEMENT**

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

personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

## **SECTION 15: AMENDMENTS**

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

**15.2** An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.

**15.3** These regulations and the Town of Prospect 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 Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.

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

**15.4** Petitions requesting changes or amendments to the “Inland Wetlands and Watercourses Map, Prospect, 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
- b. 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
- c. the reasons for the requested action.

**15.5** Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Prospect, 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 the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days, nor less than ten (10) days, and the last not less than two (2) days, before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

**15.8** The Commission shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period 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 such petition. Failure of the Commission to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

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

## **SECTION 16: APPEALS**

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

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

## **SECTION 17: CONFLICT & 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 Prospect, the State of Connecticut or the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

**SECTION 19: APPLICATION FEES**

**19.1** Fees are set to cover the reasonable cost of reviewing and acting on applications, petitions, and monitoring compliance with any permit or Commission order. All fees required by these regulations shall be submitted to the Commission by check, certified check or money order payable to the “Town of Prospect” at the time the application is filed with the Commission or agent.

**19.2** Method of Payment. All fees required by these regulations shall be submitted to the Commission by certified check or money order payable to the Town of Prospect at the time the application is filed with the Commission.

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

**19.4** 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.

**19.5** The application fee is not refundable.

**19.6 Fee Schedule.** Application fees shall be based on the following schedule:

<b>* Fee Schedule: \$25.00 plus.....</b>	<b>\$25.00</b>
\$15.00 per acre (Total parcel):	_____ X \$15.00 = .....
\$100.00 per Regulated Activity:	_____ X \$100.00= .....
Public Hearing Charge (if applicable)	\$150.00
	Total: .....

*(Please make check payable to the Town of Prospect)*

**\* An additional State of Connecticut fee is collected also at this time:**  
 \*\*\*State of Connecticut P.A. 92-235 ..... \$60.00

*(Please make a separate check payable to: Town of Prospect)*

**\* Submit Six (8) copies of this completed application with appropriate fees.**

**\* Additional Fees:**  
 The Inland Wetlands Commission 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 analyze, review, and report on issues requiring such experts. The Commission or duly authorized agent shall estimate the additional fees which shall be paid pursuant to Section 19.2 of these regulations within 10 days of the applicant’s receipt or notice of such estimate. Any portion of the additional fees received in excess of the actual cost to the Town, shall be refunded to the applicant no later than 30 days after publication of the Commission’s decision.

- \* **After the Fact Permit Fee:**  
 \$200.00 per regulated activity having occurred or taking place without  
 an approved Inland Wetlands permit: \_\_\_\_\_X \$200.00= \$.....
- \* **Approval by duly authorized agent:** \$.....  
 Appeal of duly authorized agent decision \$.....
- \* **Regulation Amendment Petitions** \$.....
- \* **Map Amendment Petitions** \$.....

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

**19.8** Waiver. 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, 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.

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

## **SECTION 20: RECORDS RETENTION AND DISPOSITION**

**20.1** The Commission and the Town Clerk for the Town of Prospect shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/disposition schedules set for in subsection 20.2.

**20.2** The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands Commissions effective April 24, 1989:

<u>RECORD TITLE</u>	<u>MINIMUM RETENTION REQUIRED IN AGENCY</u>	<u>TOWN CLERK</u>
Applications (inc. supporting materials)	10 years	
Decision Letters	10 years	Permanent
Approved Site Plans	10 years	
Legal Notices	10 years	Permanent
Staff and Public Written Testimony (hearing records)	10 years	
Minutes of Meetings & Public Hearings	15 years	Permanent
Tapes, Audio-Inland Wetland Matters	4 years	
Notices of Violation & Orders	10 years	
Text of Changes Adopted In Regulations	Continuous Update	Permanent
General Correspondence Issued or Received	5 years	

## **SECTION 21: EFFECTIVE DATE OF REGULATIONS**

**21.1** 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 Prospect.

## **APPENDIX A**

### **Definition of Agriculture**

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

## **APPENDIX B**

### **CONNECTICUT GENERAL STATUTE SECTION 8-7d**

**Sec. 8-7d. Hearings and decisions. Time limits. Day of receipt. Notice to adjoining municipality. Public notice registry.** (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 or an aquifer protection agency under chapter 446i 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, chapter 440 or chapter 446i. 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 additional notice. Such regulations shall include provisions that the notice be mailed to persons who own land that is adjacent to the land that is the subject of the hearing or be provided by posting a sign on the land that is the subject of the hearing, or both. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. 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 not later than sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. 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 not later than 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 not later than 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 not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an aquifer protection area application under chapter 446i on which no hearing is held, such decision shall be rendered not later than 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 commission, planning commission or planning and zoning commission regarding adoption or change of any zoning regulation or boundary or any subdivision regulation.

(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, inland wetlands agency or aquifer protection 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.