

INLAND WETLANDS & WATERCOURSES REGULATIONS

TOWN OF MANSFIELD, CONNECTICUT

Adopted by the Mansfield
Inland Wetlands Agency

Effective Date: November 15, 2017

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Section 1.0 Title and Authority

- 1.1** The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- 1.2** These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Mansfield.
- 1.3** The Mansfield Inland Wetlands Agency was established in accordance with an ordinance adopted January 14, 1974 by Mansfield's Town Council, and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of Mansfield.
- 1.4** These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5** The Agency shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Mansfield and shall take all other appropriate actions pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

Section 2.0 Definitions

2.1 For the purposes of these regulations, certain words and terms used herein shall be used, interpreted and defined as set forth in this section:

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

Agent or Inland Wetlands Agent means the duly authorized Town employed representative of the Agency.

Agency means the Mansfield Inland Wetlands Agency.

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

Building Area Envelope (BAE) means the portion of a "Development Area Envelope", as defined by Mansfield's Subdivision Regulations, within which structures, including but not limited to a house, garage, shed, swimming pool, outside storage areas and other improvements that are subject to the Schedule of Dimensional Requirements contained in Article VIII of the Mansfield Zoning Regulations, are located. The Agency's review of the location of a proposed Building Area Envelope is limited to the consideration of the impact of the proposed location on wetlands and watercourses.

Clear-cutting means the harvest of timber which removes all trees down to a two inch diameter at breast height.

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

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

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

Development Area Envelope (DAE) means that portion of a lot within which site improvements such as, but not limited to, a house, garage, shed, swimming pool, driveway, parking area, outside storage area, septic system, septic reserve area, water supply well, utility lines and lawns are to be located. The Agency's review of a proposed development area envelope is limited to the consideration of the impact on wetlands and watercourses.

Discharge means 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.

Farming shall be consistent with the definition contained in Section 1-1(q) of the Connecticut General Statutes. (See Appendix)

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

License means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

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 Mansfield.

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

Permit see License.

Permittee means the person to whom a license 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 (also see upland review area) means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 22a-40 of the Connecticut General Statutes. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water or other activity on the land within one hundred and fifty (150) feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Agency may also rule that any other activity located within an 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 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 means any activity, including, but not limited to, the following activities:

1. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse in which the activity takes place 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 substantial diminution of flow of a natural watercourse or groundwater levels of a 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 wetland trees and shrubs.

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

Town means the Town of Mansfield.

Upland Review Area means all land within one hundred and fifty (150) feet from the edge of a wetland or a watercourse, as measured horizontally from the boundary of any wetland or watercourse and in addition, areas at a greater distance than 150 feet from the edge of a wetland or watercourse where in the determination of the agency proposed activities are likely to impact or affect wetlands or watercourses.

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

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 a 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 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 aquatic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

Yield Plan means a map(s) containing a lot and site improvement layout and additional information as required by Mansfield's Subdivision and Zoning Regulations, to demonstrate compliance with the Zoning Schedule of Dimensional Requirements for standard lot size, lot frontage and building setbacks; as well as all other Zoning and Subdivision requirements, including, minimum lot area requirements for new lots; the Design Criteria of Section 7 and the Open Space requirements of Section 13. A yield plan is required by the subdivision regulations whenever a subdivider requests a reduction or waiver of minimum lot frontage (see Section 7.6) or in the R-90 and RAR-90 zones, a lot size of less than 90,000 square feet. The Agency shall review a yield plan and provide advisory comments to the Planning and Zoning Commission regarding the potential yield plan impact on wetlands and watercourses, including, as applicable, whether the proposed subdivision or yield plan is preferable with respect to potential impacts on wetlands and watercourses.

Section 3.0 Inventory of Inland Wetlands and Watercourses

- 3.1** The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, Mansfield Connecticut" (hereafter referred to as the "map") 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, Planning Department or Town Engineer's Office. 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 Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or any other pertinent information in determining the location of the wetland boundaries and watercourses. Wetlands and watercourses (see definition in Section 2), even in they do not appear on Mansfield's Inland Wetlands and Watercourses map, are still subject to these regulations.
- 3.2** Any person may petition the Agency for an amendment to the map. All petitions for a map amendment shall be submitted in writing and shall include all relevant facts and circumstances which support the proposed amendment. The petitioner shall bear the burden of proof regarding the proposed map amendment. The Agency may require the petitioner to provide an accurate delineation of regulated areas in accordance with Section 15 of these regulations.
- 3.3** The Agency shall maintain a current inventory of regulated areas within the town. The Agency may amend its map as more accurate information becomes available.
- 3.4** All petitions for a map amendment shall be heard at a public hearing, in accordance with the procedure described in Section 15 of these regulations.

Section 4.0 Permitted Uses as of Right & Non-regulated Uses

- 4.1** The following operations and uses shall be permitted in inland wetlands and watercourses and upland review areas, 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 for the purposes of wetlands or watercourse restoration or enhancement or mosquito control.
- The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale.
- B. A residential home (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 of the Connecticut General Statutes, or as of July 1, 1974, whichever is earlier, and further provided no

residential home shall be permitted as of right pursuant to this subdivision unless the 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 permitted anywhere in the municipality, provided that in any town, where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of 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.
- G. Withdrawals of water for fire emergency purposes.

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

- A. Conservation of soil, vegetation, water, fish, shellfish and wildlife. Such operation or use may include, but is not limited to, testing and monitoring associated with and related to water quality and subsurface drainage and/or sewage disposal systems, minor work to control erosion or to encourage proper fish, wildlife and forestry management practices.
- 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 and upland review areas involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Section 6

of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with Section 12 of these regulations.

- 4.4 To carry out the purposes of this section, any person proposing a permitted-by-right operation and use (see Section 4.1) or a non-regulated operation and use (see Section 4.2) shall, prior to commencement of such operation and use, notify the Agency's Agent, and provide to the Agent sufficient information to enable a determination that the proposed operation and use is a permitted or non-regulated use of a wetland or watercourse. The Agency's Agent, with the concurrence of the Agency Chairman, is authorized to rule that the proposed operation and use or a portion of it is a permitted or non-regulated operation and use or that the proposed operation and use is a regulated activity and a permit is required. Any dispute regarding this determination shall be resolved by the Agency and all determinations made by the Agent and Agency Chairman shall be reported to the Agency.

Section 5.0 Activities Regulated Exclusively by the Commissioner of Energy and 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, inclusive, of the Connecticut General Statutes.
- 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 Section 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 The Commissioner of Energy and 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 6.0 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 Agency, or for certain specific activities, its duly authorized Agent, in accordance with Section 12 of these regulations.
- 6.2** Any person found to be conducting or maintaining a regulated activity without the prior authorization 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 7.0 Application Requirements

- 7.1** Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Agency. The application shall contain the information described in this section and any other information the Agency may reasonably require. Application forms may be obtained in the office of the Agency or on line at <http://www.mansfieldct.org>. Consultation with the Agent is advised.
- 7.2** If an application to the Town of Mansfield Planning and Zoning Commission for site plan or special permit approval or for the 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 the Planning and Zoning Commission. Wetlands permit applications involving subdivisions or re-subdivisions shall include building area envelopes, development area envelopes and, as required, yield plans and other information as required by Mansfield's Subdivision Regulations.
- 7.3** The application shall contain such information as is necessary for a fair and informed determination by the Agency. All applicants are advised to consult with the Agent before submitting an application to the agency. All comments of the Agent are advisory and are not binding on the Agency.
- 7.4** All applications shall include, at a minimum, the following information (for applications that the Agency determines may involve significant impact, additional information as described in Section 7.5 may be required):
- A. The applicant's name, home and business mailing addresses and telephone numbers; if the applicant is a Limited Liability Company, Corporation or Partnership, the managing member's, partner's or responsible corporate officer's name, address, and telephone number;
 - B. The land owner's name, mailing address and telephone number and written consent, if the applicant is not the owner of the land upon which the subject activity is proposed;
 - C. A statement of the applicant's interest in the land;
 - D. A copy of that portion of Mansfield's Assessor's map depicting the subject property and all land within 1,000 feet of the property;
 - E. The address or 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;

- F. A description of the proposed activity, including the purpose of the activity, proposed erosion and sedimentation controls, proposed storm water management controls and other management practices and mitigation measures, 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 resource, all of which may be considered as conditions of issuing the requested permit;
- G. Alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative requested in the application was chosen; all alternatives shall be diagramed on a site plan or drawing or otherwise described to the Agency's satisfaction.
- H. A site plan (or where applicable, a subdivision plan), drawn to scale with north arrow and map date, including revisions, showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying all 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. The submitted maps also shall include all proposed erosion and sedimentation controls and other measures planned to protect wetlands and watercourses, buildings and structures, driveways and parking areas, wells and septic systems, stone walls, stockpile locations, staging areas, and other prominent physical features that help describe the site and proposed activity. For all subdivision applications, the plan shall include proposed building and development area envelopes and, where applicable, yield plans shall be submitted;
- I. A 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 Agency to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;
- K. A completed CT DEEP reporting form; the Agency may revise or correct the information provided by the applicant, if necessary, and submit the form to the Commissioner of Energy and Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
- L. Any other information the Agency requests which it 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 or referenced in Section 19 of these regulations.

7.5 At the discretion of the Agency or its Agent, when the proposed activity involves or may involve a significant impact, some or all of the following additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, may be required:

- A. Site plans, or where applicable subdivision plans, at a scale of one inch equals forty feet or larger (1"= 20', etc) unless an alternative scale is approved by the Agency, with north arrow and map dates, including revisions for the proposed activity and a depiction of the land which will be affected. The plans shall show existing and proposed conditions, wetland and watercourse boundaries, existing and proposed 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. Unless specifically waived by the Agency, the plans shall

be prepared by a professional engineer, land surveyor or landscape architect licensed by the state.

- B. Technical reports and analyses and additional drawings prepared by qualified professionals, that fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and proposed erosion and sedimentation control and stormwater management plans. Drainage calculations for various storm events, including 100 year storms may be required.
- 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 plans. In situations where a wetland or watercourse boundary is obvious to a non-expert, this certification may be waived by the Agency.
- 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. A description of the amount and kind of material to be deposited and/or removed including, as appropriate, an 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, including but not limited to specific grading and seeding/re-vegetation plans and specifications and management plans for the use of fertilizers, pesticides and other chemicals.
- H. A CT DEEP Diversity Data Base Program Review if the location of the proposed activity is within a Natural Diversity Data Base Area.

7.6 For all applications, 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.

7.7 Unless an applicant is otherwise directed by the Agency or its Agent, a complete application shall consist of two (2) copies of full sized maps and other application materials and as applicable, fifteen (15) copies of reduced size (11"x17") maps and special reports.

7.8 Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Section 8 of these regulations. Any application to renew or amend such an existing permit shall contain the information required under Section 7 of these regulations and:

- A. The documentation and record of the prior application;

- B. A description of the extent of work completed and the schedule for completing all activities authorized in the permit;
- C. The reason why the authorized activity was not initiated or completed within the time specified in the permit; and
- D. A description of any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land since the permit was issued;

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

7.10 For any permit application involving property subject to a conservation restriction or preservation restriction, the applicant shall comply with the provisions of Connecticut General Statutes Section 47-42d, as it may be amended.

Section 8.0 Application Procedures

8.1 All petitions, applications, requests or appeals shall be submitted to the Mansfield Inland Wetlands Agency or its Agent.

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

- A. Any portion of the property affected by a decision of the agency is within five hundred feet of the boundary of an adjoining municipality;
- B. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- C. A significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
- D. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, appeal, request or plan.

8.3 When an application is filed to conduct 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 and the Commissioner of Public Health in a format prescribed by said Commissioner, provided such water company or said Commissioner has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company and the Commissioner of Public Health,

through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.

- 8.4** Notification to abutting property owners: Concurrent with the filing of an application, the applicant shall notify all property owners abutting the site of a proposed use or activity requiring approval by the Inland Wetland Agency, including property owners across the street from the subject site (as measured at right angles to straight street lines and radial to curved street lines). This notice shall be sent by certified mail to these owners as listed on current property records maintained by the Mansfield Assessor's Office. A copy of the notice and a list of the property owners notified shall be submitted to the Agency prior to submission of the official mail receipts.

Notification shall include:

- A. A description of the application being made together with sufficient mapping to clearly indicate proposed activities;
- B. That application materials are available for review in the Department of Planning and Development.

Abutters as well as the general public may contact the Inland Wetlands Agent to review application materials in the Planning Office.

- 8.5** The date of receipt of a petition, application, request or appeal (see Section 12) is the date of the next regularly scheduled meeting of the Agency, next following the date of submission to the Agency or its Agent of the petition, application, request or appeal, or thirty-five days after such submission, whichever is sooner.
- 8.6** The Wetlands Agency shall forward application materials and supporting documentation to the Conservation Commission, the Inland Wetlands Agent and, where appropriate, other staff members, agencies and consultants for review and comment. Mansfield's fee schedule authorizes the Agency to hire independent consultants at the expense of an applicant when the Agency deems it necessary to do so.
- 8.7** At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in Section 11.2 of these regulations.
- 8.8** All applications shall be open for public inspection.
- 8.9** Applications which do not contain the information required by these regulations may be denied.

Section 9.0 Public Hearings

- 9.1** The Inland Wetlands Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, or, a petition signed by at least twenty-five Mansfield residents eighteen years of age or older requesting a hearing is filed with the Agency not later than fourteen days after the date of receipt of an application, or the Agency finds that a public hearing regarding an application would be in the public interest. Any applicant also may request that the Agency hold a public hearing on a submitted application. All public hearings shall be commenced no later than sixty-five days after the receipt of the application. All applications, maps and documents relating to the public hearing shall be open for public inspection. At the hearing any person 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.

Section 10.0 Considerations for Decision

- 10.1** The Agency may consider the following in making its decision on an application:
- A. The application and its supporting documentation
 - B. Reports from other agencies, commissions and staff members including but not limited to:
 - 1. Conservation Commission
 - 2. Planning and Zoning Commission
 - 3. Eastern Highlands Health District
 - 4. Open Space Preservation Committee
 - 5. The Inland Wetlands Agent
 - 6. Director of Public Works/Town Engineer
 - 7. The Director of Planning
 - 8. The Building Official
 - 9. The Zoning Agent
 - C. Comments from the Eastern Connecticut Conservation District, the Capitol Region Council of Governments or other regional organizations; 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. Public comments, evidence and testimony.
 - E. Non-receipt of comments shall neither delay nor prejudice the decision of the Agency.
 - F. Each Agency member's own personal, ordinary knowledge and experience concerning the area involved, including that knowledge acquired by a site visit and review. Any information used by Agency members which is not commonly known and all information acquired by members at site visits shall be disclosed on the record by the Agency members.

- G. Professional/technical assistance furnished to the Agency by technical advisors retained or utilized by the Agency which assistance enables the Agency to carry out its responsibilities as set forth in these regulations.
- H. If a member of the Agency has special expertise relevant to a pending application and if the member intends to rely on his expertise in deciding the merits of the application, he shall disclose his expertise and raise his questions during a public session so any party may have an opportunity to question and rebut the information and any opinion offered. Whenever the application involves a public hearing, this provision should be addressed prior to the close of the public hearing.

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

- A. The environmental impact of the proposed regulated activity on wetlands or watercourses, including the effects on the capacity of the wetlands and watercourses to support desirable biological life, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety.
- 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. The consideration of alternatives shall include alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should also include, but is not limited to, the alternative of requiring actions of a different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- 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, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options.
- 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. This requires recognition that the Inland Wetlands and Watercourses of the State of Connecticut are an indispensable, irreplaceable, and fragile natural resource and that these areas may be irreversibly destroyed by deposition, filling and removal of material; by the diversion, diminution, or obstruction of water flow, including low flows; and by the erection of structures and other uses.
- E. Any management practices or 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;

- F. The character and degree of injury to, or interference with, safety, health or the reasonable use of property, including abutting or downstream property, which is caused or threatened by the proposed regulated activity; or the creation of conditions which may do so.
- G. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands and watercourses.

- 10.3** In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in Section 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 Agency shall propose on the record in writing the types of alternatives which the applicant may investigate, provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5** For purposes of this section, (1) “wetlands and watercourses” includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) “habitats” means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6** The Agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7** In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that this application is consistent with the purposes and policies of these regulations and Sections 22a-36 to 22a-45, inclusive of the Connecticut General Statutes.
- 10.8** In the case of an application where the applicant has provided written notice pursuant to Section 7.10.C of these regulations, the holder of the restriction may provide proof to the Inland Wetlands Agency 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 restrictions, the Agency shall not grant the permit approval.
- 10.9** In the case of an application where the applicant fails to comply with the provisions of Sections 7.10.C or 7.10.D of these regulations, the party holding the conservation or preservation restriction may, not later than fifteen days after receipt of actual notice of permit approval, file

an appeal with the Inland Wetlands Agency, subject to any rules and regulations of such agency relating to appeals. The Inland Wetlands Agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction.

Section 11.0 Decision Process and Permit

- 11.1** The Agency, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. Such measures also include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which would protect the natural capacity of the wetlands and watercourses to support desirable biological life, preventing flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage, and to provide recreation and open space.
- 11.2** No later than sixty-five (65) days after receipt of an application, the Agency may commence a public hearing on such application. At such hearing any person may appear and be heard and may be represented by an 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. If additional time to consider the application is necessary, the applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension for all periods shall not be longer than sixty-five (65) days, or the applicant may withdraw the application. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency shall be withdrawn by the applicant or denied by the Agency.
- 11.3** The Agency shall state upon its record the reasons and bases for its decision and, where applicable pursuant to Section 10.3, shall include a statement relative to the consideration and existence of any feasible and prudent alternative.
- 11.4** The Agency shall notify the applicant and any other person entitled to such notice, of its decision within fifteen (15) days of the date of the decision, by certified mail and the Agency shall cause notice of its action, to be published in a newspaper having general circulation in the town of Mansfield.
- In any case in which notice is not published within the 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, variance or special exception, under Sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Agency shall file a copy of its decision on the application with the Town of Mansfield Planning and Zoning Commission or, where appropriate, Zoning Board of Appeals within fifteen days of the date of the decision thereon.

- 11.6** In situations where a yield plan (see Section 2 for definition) has been submitted for Agency review, the Agency shall submit advisory comments to the Planning and Zoning Commission. These comments shall provide an assessment of potential yield plan impacts on wetlands and watercourses including, as applicable, whether the proposed plan is preferable to the yield plan with respect to potential impacts on wetlands and watercourses.
- 11.7** Any permit issued by the Agency for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years, provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years. Any permit issued by the Agency 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.
- 11.8** Modifications. If the Agency grants a permit, the applicant may submit to the Agency a proposed modification of the application or of any permit terms, conditions, limitations or modifications. After evaluating the potential for impact on wetlands or watercourses and the approval standards of Section 10.2, the Agency shall determine whether the proposed modification is a significant or substantial alteration of the application as approved. Any significant or substantial revision of the application, as approved, shall require the filing of a new application and shall be subject to the requirements as set forth in these regulations and may under the requirements of Section 9.0 herein, be subject to a public hearing.
- 11.9** If a bond or insurance is required in accordance with Section 13 of these regulations, the Agency may withhold issuing a permit until such bond or insurance is provided.
- 11.10** General provisions in the issuance of all permits:
- A. The Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked at the Agency's discretion.
 - B. All permits issued by the Agency are subject to, and do not derogate, any present or future rights or powers of the Agency or the Town of Mansfield, and convey no rights in real estate or material, nor any exclusive privileges, upon the land owner or applicant and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.
 - C. If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, or a 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. Before starting other 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. All permittees shall notify the Inland Wetlands Agent before any authorized work is commenced and again upon completion of the work. The initial notice shall include a planned work schedule.
 - F. As a condition of any permit, the Agency may require that the applicant engage at its own expense an independent consultant to report to the Agency the results of project monitoring

and/or inspections. The consultant must be pre-approved by the Agency, and said consultant shall monitor, inspect and report on a schedule determined by the Agency.

Section 12.0 Action by Duly Authorized Agent

- 12.1** The Agency may delegate to its duly authorized Agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands or watercourses provided the 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 such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7.4 of these regulations and any other information the Agent may reasonably require. Sections 8, 9 and 11 of these regulations, shall not apply to requests made pursuant to this section. All agent approvals shall be reported to the Agency.
- 12.2** Any person receiving such approval from the 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. Any person may appeal the decision of the Agent to the Agency within fifteen days after the publication date of the notice. The Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by the Agency or its Agent of the appeal. Any person may appear and be heard at the appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its Agent. If the Agent's decision is rejected, the Agency shall advise the applicant that he may file an application for a permit in accordance with Section 7 of these regulations.

Section 13.0 Bond and Insurance

- 13.1** The Agency may require as a permit condition, the filing of a bond with a surety in an amount and in a form approved by the Agency. All bonds shall be subject to a bond agreement signed by the Agency Chairman.
- 13.2** The bond or surety shall be conditioned on compliance with the provisions of these regulations and the terms, conditions and limitations stated in the permit and/or contained in application materials.

Section 14.0 Enforcement

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

for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail, return receipt requested, within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in Mansfield.

- 14.5** Nothing in these Regulations shall be interpreted as limiting or excluding other remedies available to the Agency or its staff for the protection of inland wetlands and watercourses. These remedies shall include, but are not limited to seeking civil or criminal penalties as provided for in the state statutes or assessing fines as may be authorized by Mansfield ordinance.

Section 15.0 Amendments

- 15.1** These regulations and the Inland Wetlands and Watercourses Map for the Town of Mansfield may be amended from time to time by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Energy and Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2** An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3** These regulations and the Town of Mansfield Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of 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.
- 15.4** All petitions requesting a change in the Regulations or Inland Wetlands and Watercourses map shall be submitted in writing on a form provided by the Agency. All applicable fees shall be paid (see Section 19).
- 15.5** Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Mansfield Connecticut", shall contain at least the following information:
- A. The petitioner's name, mailing address and telephone number;
 - B. The address, or location, of the land affected by the petition;
 - C. The petitioner's interest in the land affected by the petition;

- D. Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
- E. The reasons for the requested action.

- 15.6** Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Mansfield 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 or soils mapping. 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 Section 15.5, 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, including those across any street from the subject property;
 - 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 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.
- 15.7** Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 15.8** A public hearing shall be held on petitions to amend either the Inland Wetlands Regulations or the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in Mansfield 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 the proposed regulation amendment or map boundary revision, and all documents relating to the petition shall be open for public inspection.
- 15.9** The agency shall open a public hearing on a petition to amend either the Inland Wetlands Regulations or the Inland Wetlands and Watercourses Map within sixty-five days after receipt of a petition. The hearing shall be completed within thirty-five days after commencement. The Agency shall act upon the changes requested within thirty-five days after completion of the hearing. At such hearing, any person may appear and be heard and may be represented by agent or attorney. If additional time to consider the petition is necessary, 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 the petitioner may withdraw the petition. Failure of the agency to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.10** The Agency shall state in writing the reasons for its decision and provide a copy of its decision and, as the case may be, the regulation or boundary change to the State Commissioner of Energy

and Environmental Protection. Failure to submit the regulation or boundary change to the Commissioner shall not impair the validity of such regulations or boundary change.

- 15.11** Any regulation or boundary change shall become effective at such time as is set by the Agency, provided a copy of the regulation or boundary change is filed in the Office of the Mansfield Town Clerk and a notice of decision is published in a newspaper having general circulation in Mansfield.

Section 16.0 Appeals to the Connecticut Superior Court

- 16.1** Appeal of actions of the Agency shall be made in accordance with the provisions of section 22a-43 of the Connecticut General Statutes, as amended.
- 16.2** Notice of an appeal shall be served upon the Mansfield Town Clerk, as agent of service for the Agency and the Commissioner of Energy and Environmental Protection by the person instituting the appeal.

Section 17.0 Conflict and Severance

- 17.1** If there is any 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 18.0 Other Permits

- 18.1** Nothing in these regulations shall obviate the requirement for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Mansfield, the State of Connecticut or the Government of the United States including any approval required by the Connecticut Department of Energy and Environmental Protection and the U.S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

Section 19.0 Fees

- 19.1** **Method of Payment.** All fees required by these regulations shall be submitted to the Agency by cash, certified check, money order or personal check acceptable to Agency staff, payable to the Town of Mansfield at the time the application is filed.

- 19.2** No application shall be granted or approved by the Agency unless the correct application fee is paid in full or unless a waiver has been granted by the Agency pursuant to Section 19.6 of these regulations.
- 19.3** The application fee is not refundable.
- 19.4** **Fee Schedule.** Application fees shall be in accordance with the current Mansfield Code of Ordinances Fee Schedule pursuant to Section 8-1c of the Connecticut General Statutes. The fee schedule includes provisions for applicant-funded consultant studies and reports. The current fee schedule is available in the Planning Office.
- 19.5** **Exemption.** Boards, commissions, councils and departments of the Town of Mansfield are exempt from all fee requirements.
- 19.6** **Waiver.** The applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Agency may waive all or part of the application fee if the Agency determines that:
- A. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee.
 - 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 Agency shall state upon its record the basis for all actions under this subsection.

Section 20.0 Effective Date of Regulations

- 20.1** These regulations are effective upon filing in the Office of the Mansfield Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Mansfield

Section 21.0 Appendix

1. Guide to Activities Regulated by the Connecticut Department of Energy and Environmental Protection

- A. In addition to any permit or approval required by the Agency, the Commissioner of Energy and Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
1. Construction or modification of any dam.
 2. Construction, encroachment or placement of any obstruction within stream channel encroachment lines.
 3. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state.
 4. Diversion of water, including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day or any piping, culverting, channelization, relocation, damming or other alteration of the location of flow of any surface waters of the state where the tributary watershed area above the point of such alteration is 100 acres or larger.
 5. Discharges into the waters of the state pursuant to Section 22a-430 of the Connecticut General Statutes, as amended.
 6. Discharge of fill or dredged materials into the wetlands or 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.
- B. The Commissioner of Energy and Environmental Protection shall have exclusive jurisdiction over tidal wetlands; activities authorized under and dam repair or removal order or a dam construction permit; and 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. Any person receiving such dam repair or removal order or dam construction 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.
- C. Activities conducted by, or under the authority of, the Department of Energy and Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control shall be permitted in wetlands and watercourses, as of right.

2. Guide to Activities Regulated by the Army Corp of Engineers

The Corps of Engineers regulates construction and other work in navigable waterways under Section 10 of the Rivers and Harbors Act of 1899 and the discharge of dredged or fill material into "waters of the United States" under Section 404 of the Clean Water Act. "Waters of the United States" are navigable waters, tributaries to navigable waters, wetlands adjacent to those waters and/or isolated wetlands that have a demonstrated interstate commerce connection. The following permit details for Connecticut can be found at <http://www.nae.usace.army.mil/reg/index.htm#>

- [Connecticut PGP](#)
- [CT - Applications for PGP Category 2 Authorization](#)

- [CT - Addendum Application](#)
- [CT PGP - Aquaculture Application](#)
- [CT PGP - Aquaculture Permitting Guide](#)
- [CT's Aquaculture Permitting Process](#)

3. Section 1-1 (q) of the Connecticut General Statutes

Sec. 1-1 Words and phrases: 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.

4. Section 8-7d of the Connecticut General Statutes

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.
- (g) (1) Any zoning commission, planning commission or planning and zoning commission initiating any action regarding adoption or change of any zoning regulation or boundary or any subdivision regulation or regarding the preparation or amendment of the plan of conservation and development shall provide notice of such action in accordance with this subsection in addition to any other notice required under any provision of the general statutes.
- (2) A zoning commission, planning commission or planning and zoning commission shall establish a public notice registry of landowners, electors and nonprofit organizations qualified as tax-exempt organizations under the provisions of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, requesting notice under this subsection. Each municipality shall notify residents of such registry and the process for registering for notice under this subsection. The zoning commission, planning commission or planning and zoning commission shall place on such registry the names and addresses of any such landowner, elector or organization upon written request of such landowner, elector or organization. A landowner, elector or organization may request such notice be sent by mail or by electronic mail. The name and address of a landowner, elector or organization who requests to be placed on the public notice registry shall remain on such registry for a period of three years after the establishment of such registry. Thereafter any land owner, elector or organization may request to be placed on such registry for additional periods of three years.
- (3) Any notice under this subsection shall be mailed to all landowners, electors and organizations in the public notice registry not later than seven days prior to the commencement of the public hearing on such action, if feasible. Such notice may be mailed by electronic mail if the zoning commission, planning commission or planning and zoning commission or the municipality has an electronic mail service provider.

(4) No zoning commission, planning commission or planning and zoning commission shall be civilly liable to any landowner, elector or nonprofit organization requesting notice under this subsection with respect to any act done or omitted in good faith or through a bona fide error that occurred despite reasonable procedures maintained by the zoning commission, planning commission or planning and zoning commission to prevent such errors in complying with the provisions of this section.