

INLAND WETLANDS
AND
WATERCOURSES REGULATIONS
OF THE
TOWN OF CHESTER

Revised and Adopted as of April 4, 2005

Effective on Date of Publication April 8, 2005

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Section 1
Title and Authority

- 1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the State have been endowed. The wetlands and watercourses are a core component of 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, disturbances 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 organisms, wildlife and vegetation and the destruction of 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 Chester."
- 1.3 The Inland Wetlands and Watercourses Regulations of the Town of Chester was established in accordance with an ordinance adopted 2/1/88 and shall implement

the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Chester.

- 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 on inland wetlands and watercourses in the Town of Chester 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 of the Connecticut General Statutes, as amended.

“Agency” means the Inland Wetlands and Watercourses Agency of the Town of Chester.

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

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

“Commission member” means a member of the Inland Wetlands and Watercourses Agency of the Town of Chester.

“Commissioner of Environmental Protection” means the commissioner of the State of Connecticut Department of 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 periods of the annual hydrological cycle, June through September, but 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 agency to carry out its functions and purposes.

“Discharge” means emission of any water, substance, or material into wetlands or watercourses whether or not such substance causes pollution.

“Disturb the natural and indigenous character of the wetland or watercourse” means to alter the inland wetland or watercourse by reason of removal or deposition of material, clear cutting, alteration or obstruction of water flow, or to produce pollution of the wetland or watercourse.

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

“Farming” means use of land for the growing of crops, raising of livestock or other agricultural use.

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

“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 areas with soils that exhibit aquic moisture regimes and are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants.

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

“Municipality” means the Town of Chester.

“Nurseries” means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.

“Permit” means the whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these regulations and the Act or other municipal, state and federal law.

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

“Person” means any person, firm, partnership, association, corporation, 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 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 use of or operation within a wetland, watercourse or review area involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands, watercourses or review area, but shall not include the specified activities in section 4 of these regulations. Additionally, the following activities located within the regulated area or review area are regulated activities: clearing of vegetation, grubbing, filling, excavating or grading of land, clear cutting of trees, or conducting any construction activities.

“Regulated Area” means any wetlands or watercourses as defined in these regulations.

“Remove” includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, 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.

“Review area” means the 100 foot wide area located adjacent to and upland of wetlands or watercourses, including that area adjacent to the high tide line of the Connecticut River and its tributaries, within which area a permit is required for certain activities that are defined in these regulations as regulated activities. Such 100 foot distance shall be the horizontal distance and shall be measured perpendicular to the boundary of the wetlands and the ordinary high water line of non-tidal watercourses or the extreme high tide line on tidal waterways. In addition, Review Area includes any area more distant than 100 feet, where, in the judgement of the Agency or its designated representative, activities, such as those defined above in “Regulated activities”, are likely to impact or affect wetlands or watercourses.

“Significant Impact Activity” means any activity, including but not limited to the following activities, which may have a major effect or impact on the area for which an application has been filed or on another part of the inland wetland or watercourse system:

1. Any activity involving deposition of material which will or may have a major effect or significant impact on the regulated area or on another part of the inland wetland or watercourse system;

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 desirable fisheries, wildlife, or other biological life; or to prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to 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 regulated area;
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland;
7. Any activity which destroys unique wetland or watercourse 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 areas with soils that exhibit aquic moisture regimes and 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 Chester.

“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 of the General Statutes, as amended. 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. Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

Section 3 Inventory of Regulated Areas

- 3.1 The map of regulated areas entitled "Inland Wetlands and Watercourses Map, Chester, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Agency. In all cases, the precise location of regulated areas 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 other information in determining the location of the boundaries of wetlands and watercourses.
- 3.2 Any owner who disputes the designation of any part of his or her land as a regulated area on the Inland Wetlands and Watercourses Map may petition the Agency to change the designation in accordance with section 15 of these regulations. All petitions for a map change shall include all relevant facts and circumstances that support the change. The petitioner shall provide proof that the designation is inapplicable. The Agency shall require such an owner to provide an accurate delineation of regulated areas in accordance with section 15 of these regulations.
- 3.3 The Agency or its designated agent(s) shall maintain a current inventory of regulated areas within the Town. The Agency may amend its map as more accurate information becomes available. Any person may petition for an amendment to the map. Petitioners shall bear the burden of proof for all map amendments. Such proof may include, but not be limited to, aerial photography, remote sensing imagery, resource mapping, wetlands delineation by a soil scientist, or other available information. Such map amendments are subject to the public hearing process outlined in section 15 of these regulations.

Section 4 Permitted Uses as of Right & Nonregulated Uses

- 4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
 - a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar materials from wetlands or watercourses for the purposes of sale;

- b. a residential home (i) for which a building permit has been issued, or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning, or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit as a right under this subdivision shall document the validity of said right by providing a certified copy of the building permit and a site plan showing proposed and existing topographic contours, house and well locations, septic system, driveway, approval dates or other necessary information to document his or her right thereunder;
 - c. Boat anchorage or mooring, not to include dredging or dock construction;
 - 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 and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition of substantial amounts of material from or into a wetland or watercourse or diversion or alteration of a watercourse.
 - e. Construction and operation by water companies as defined by section 16-1 of the 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-410 of the General Statutes.
 - f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42 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 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. Any dredging or any erection, placement, retention or maintenance of any structure, fill, obstruction or encroachment, or any work incidental to such activities, conducted by a state agency, which activity is regulated under sections 22a-28 to 22a-35, inclusive, as amended, or sections 22a-359b to 22a-363f, inclusive, as amended, shall not require any permit or approval under sections 22a-36 to 22a-45, inclusive, as amended.
- 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 wetlands or watercourses by removal or deposition of

material, alteration or obstruction of waterflow 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, minor work to control erosion, or to encourage proper fish, wildlife and silviculture management practices.
 - b. Outdoor recreation including the use of play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing and cross-country skiing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands or watercourses, including tidal watercourses, involving filling, excavating, dredging, clear cutting, clearing, grading, construction, and excavation 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.
- 4.4 To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse shall, prior to commencement of such operation or use, notify the Agency on a form provided by it, and provide the Agency 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 Agency or its designated agent shall rule that the proposed operation or use is a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Agency following the meeting at which the request was received. The designated agent for the Agency may make such ruling on behalf of the Agency at any time.

Section 5 Activities Regulated by the State

- 5.1 In addition to any permit or approval required by the Agency, the Commissioner of Environmental Protection shall regulate activities in or affecting wetlands or watercourses subject to the following jurisdiction:
- a. Construction or modification of any dam pursuant to sections 22a-401 through 22a-411 of the General Statutes, as amended. The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair order issued by the Commissioner of Environmental Protection under section 22a-402 or a dam construction permit issued by the Commissioner of Environmental Protection under sections 22a-403 or 22a-41 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or dam construction permit from the Commissioner of DEP under section 22a-401 of the General Statutes 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;
- b. Construction, encroachment or placement of any obstruction within stream channel encroachment lines pursuant to sections 22a-342 through 22a-349a of the General Statutes, as amended;
 - c. Construction or placement of any structure or obstruction within the tidal, coastal or navigable waters of the state pursuant to sections 22a-359 through 22a-363 or in designated tidal wetlands pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended;
 - d. Diversion of water including withdrawals of surface or groundwater in excess of fifty thousand (50,000) gallons per day, or any piping, culverting, channelization, relocation, damming or other alteration of the location of any flow of any surface waters of the state where the tributary watershed area above the point of diversion is 100 acres or larger pursuant to sections 22a-365 through 22a-378a of the General Statutes, as amended;
 - e. Discharges into the waters of the state pursuant to section 22a-430 of the Connecticut General Statutes, as amended;
 - f. Discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U. S. Army Corps of Engineers under section 404 of the Federal Clean Water Act.
- 5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the state of Connecticut, except any local or regional board of education, (1) after an advisory decision on such license or permit has been rendered to the Commissioner by the wetland agency of the municipality within which such wetland is located, or (2) thirty-five days after receipt by the commissioner of such application, whichever occurs first, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.

Section 6 Regulated Activities to be Licensed

- 6.1 No person shall conduct or maintain a regulated activity (*see definitions*) upon any inland wetland, watercourse or review area within the Town of Chester without first obtaining a permit for such activity from the Inland Wetlands and Watercourses Agency of the Town of Chester.
- 6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provisions of these

regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 14 of these regulations and any other remedies provided by law.

Section 7 Application Requirements

- 7.1 Any person wishing to undertake a regulated activity or to renew a permit to conduct such activity shall apply for a permit on a form provided by the Agency entitled "Town of Chester Inland Wetlands and Watercourses Agency – Application for permit." An applicant shall include a completed application form with information as prescribed by subsection 7.5 and, in the case of a significant activity, by subsection 7.6 of these regulations. Application forms may be obtained in the offices of the Chester Town Clerk or the Inland Wetlands Agency.
- 7.2 If an application to the Town of Chester Planning, Zoning, or Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, as defined in section 2 of these regulations, the applicant shall, in accordance with Sections 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application to the Inland Wetlands Agency, in accordance with this section, no later than the day the application is filed for the subdivision or resubdivision.
- 7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the Agency.
- 7.4 A prospective applicant may request the Agency to determine whether or not the proposed application involves a significant 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 address and telephone numbers;
 - b. The owner's name, mailing address and telephone number and written consent of the property owner if the applicant is not the owner of the property upon which the subject activity is proposed;
 - c. The applicant's interest in the land;
 - d. The geographical location of the property which is the subject of the proposed activity and a description of the property 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, and areas upland of the 100 foot review area whose disturbance may affect inland wetlands and watercourses;
 - 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 considered and subsequently rejected by the applicant and why the alternative set forth in the application was chosen. All such alternatives shall be diagrammed on a site plan or drawing;**
 - g. A site plan showing 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 addresses of adjacent land owners, including those across roads and right-of-ways;
 - 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 Agency to inspect the subject property at reasonable times, both before and after a final decision has been issued;
 - k. A completed DEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with section 22a-39-m of the Connecticut General Statutes;
 - l. Any other information the Agency deems necessary to the understanding of what the applicant is proposing;
 - m. A certification that notice of the application has been mailed postage prepaid to all owners of abutting properties, including those across streets or rights of way. The notice may be a summary of the proposed application, but should contain at least
 - the name of the applicant
 - the name of the owner
 - the location of the property
 - a description of the proposed activity
 - an explanation that written comments may be sent to the Chester Inland Wetlands and Watercourses Agency at the Town Office Building, or may be presented in person at the next meeting of the Agency.
 - n. Submission of the appropriate filing fee established in section 19 of these regulations.
- 7.6 If the proposed activity involves a significant activity as determined by the Agency and defined in section 2 of these regulations, 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 property 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 property 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 and 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 Soil Cooperative Survey of the U. S. Natural Resources Conservation Service. The Agency may require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporation onto the site plans;
- d. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activities on these communities and wetland functions;
- e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative, and **a description of why each alternative considered was deemed neither feasible nor prudent;**
- f. Analysis of chemical or physical characteristics of any fill material; and
- g. Management practices and other measures designed to mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage, or which otherwise safeguard water resources.

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 Ten (10) copies of all application materials shall be submitted to comprise a complete application, unless an applicant is otherwise directed, in writing, by the Agency.

7.9 Any application to renew or amend an existing permit shall be filed with the Agency in accordance with section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend 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 the property for which the permit was issued;
 - e. The agency may, prior to the expiration of a permit, accept an untimely application to renew a 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; the application shall describe the extent to work completed at the time of filing and the schedule for completing the activities authorized in the permit;
 - f. The Agency shall evaluate the application pursuant to section 10 of these regulations and grant the application as filed, grant it with any terms or limitations, or deny it.
 - g. 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 may be valid for more than ten years.
- 7.10 A reporting form shall be completed during the application process which provides the Commissioner of the Department of Environmental Protection with information necessary to properly monitor the inventory of State wetlands. The reporting form shall be part of the Application and the following information shall be provided by the applicant: name of applicant; location and name of the project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered. The Agency shall be responsible for the remaining information and any corrections on the form and for filing it in accordance with section 22a-39-m of the Connecticut General Statutes.

Section 8 Application Procedures

- 8.1 All applications shall be submitted to the Inland Wetlands and Watercourses Agency of the Town of Chester.
- 8.2 When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within 500 feet of the boundary of another municipality, the applicant shall give written notice of the proposed activity, certified mail return receipt requested, to the adjoining municipal wetlands agency on the same day of filing an inland wetland permit application with the Chester Inland Wetlands Agency. Documentation of such notice shall be provided to the Chester Inland Wetlands Agency.
- 8.3 The Agency shall, in accordance with Connecticut General Statutes sections 8-7b(f) and 22a-42b, notify the town clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:

- a. any portion of the property on which the regulated activity is proposed is located within 500 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 site will flow through and significantly 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.

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

- 8.4 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 16-1 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company provided such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the Inland Wetlands Agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within 7 days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.
- 8.5 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the agency, immediately following the day of submission to such agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.
- 8.6 At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.7 All applications shall be open for public inspection.
- 8.8 Incomplete applications may be denied.

Section 9 Public Hearings

- 9.1 The 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 persons who are eighteen years of age or older and who reside in the Town of Chester requesting a hearing is filed with the Agency not later than fourteen days after the date of receipt of such application, or the Agency finds that a public hearing regarding such application would be in the public interest. The Agency may issue a permit

without a public hearing provided no petition provided for in this section is filed with the Agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard and may be represented by agent or by attorney.

- 9.2 Notice of the public hearing shall be published by the Agency 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. The hearing shall be completed within forty-five days of its commencement. Action shall be taken on such application within thirty-five days after the completion of a public hearing.
- 9.3 Copies of the Notice of the public hearing shall be mailed by the applicant to the owner(s) of record of abutting land no less than 10 (ten) days prior to the day of the hearing. Proof of the mailing must be available to the Agency no later than the day of the hearing.
- 9.4 In the case of any application which is subject to the notification provisions of subsection 8.3 of these regulations, a public hearing shall not be conducted until the clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

Section 10 Considerations for Decision

- 10.1 The Agency may consider the following in making its decision on an application:
- a. The application and its supporting documentation;
 - b. Public comments, evidence and testimony (Public Hearing only);
 - c. Reports from other agencies and commissions including, but not limited to the Town of Chester:
 1. Conservation Commission
 2. Planning, Zoning, or Planning and Zoning Commissions
 3. Building Official
 4. Health Officer
 5. Harbor Management Commission (Required for tidal areas - CGS 22a-113p)
 - d. The Agency may also consider comments on any application from the Middlesex County Soil and Water Conservation District, the Connecticut River Estuary Regional Planning Agency (CRERPA), the Connecticut River Gateway Commission or other regional organizations (i.e. Council of Elected Officials); 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.
 - e. Non-receipt of comments from agencies and commissions listed in subdivisions 10.1.c and d above within the prescribed time shall neither delay nor prejudice the decision of the Agency.

10.2 Standards and Criteria for Decision.

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

- a. The environmental impact of the proposed regulated activity on the inland wetland's and watercourse's capacity to support fish and wildlife, 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. This consideration should 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.
- 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 the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, siltation, loss of fish and wildlife and their habitats, loss of unique habitat having demonstrable natural, scientific or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic visual impacts, recreational and other public and private uses and values of wetlands and watercourses to the community.
- 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.
- g. Measures which would mitigate the impact of any aspect of the proposed regulated activity. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to watercourses and which could be feasibly carried out by the applicant and would protect the wetland's or watercourse's natural capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground

waters, to control sedimentation, to prevent erosion, to assimilate wastes, to facilitate drainage, to control pollution, to support recreational activities and open space, and promote public health and safety.

- 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 subsection 10.2 of this section. The finding and the reasons 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 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 watercourses" includes aquatic, plant or animal life and their habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism 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 his application is consistent with the purposes and policies of these regulations and sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes.
- 10.8 If the inland wetlands agency, or its agent, fails to act on any application within thirty-five days after the completion of a public hearing or in the absence of a public hearing within sixty-five days from the date of receipt of the application, or within any extension of any such period as provided in Section 11.2 of these regulations, the applicant may file with the Commissioner of Environmental Protection who shall review and act on such application in accordance with this section. Any costs incurred by the commissioner in reviewing such application for such inland wetlands agency shall be paid by the Town of Chester. Any fees that would have been paid to the Town of Chester if such application had not been filed with the commissioner shall be paid to the State. The failure of the inland wetland agency or the commissioner to act within any time period specified in the regulations shall not be deemed to constitute approval of the application.

Section 11
Decision Process and Permit

- 11.1 The Agency, or its duly authorized agent acting pursuant to section 12 of these regulations, may in accordance with section 10 of these regulations grant the application as filed, grant it upon other terms, conditions, limitations or modifications necessary to carry out the purposes of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2 No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total extension of all such periods shall not be longer than sixty-five (65) days, or may withdraw the application. The failure of the Inland Wetlands Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Agency must either be withdrawn by the applicant or denied by the Agency.
- 11.3 The Agency shall state upon its record the reasons and bases for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall, as applicable and in accordance with section 10 of these regulations, incorporate a statement relative to the consideration of feasible and prudent alternatives.
- 11.4 The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such 15-day period, the applicant may provide for publication within 10 days thereafter.
- 11.5 If an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, a 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 the decision and report on the application with the Town of Chester Planning, Zoning, or Planning and Zoning Commission within fifteen (15) days of the date of the decision thereon.

- 11.6 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.
- 11.7 Permits are not transferable without prior written consent of the Agency.
- 11.8 If a bond or insurance is required in accordance with section 13 of these regulations, the Agency may withhold issuing the permit until such bond or insurance is provided.
- 11.9 General provisions in the issuance of all permits:
- a. If the Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
 - b. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Chester, 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 property or activity.
 - c. If the activity authorized by the inland wetland permit also involves an activity or a project 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 wetlands permit may begin until such approval is obtained.
 - d. In conducting the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.

Section 12 Action by Duly Authorized Agent

- 12.1 The Agency may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland, watercourse, or review area 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 the form specified in section 7.1 of these regulations. 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 activity at any time.

- 12.2 The Duly Authorized Agent shall provide a written record of all activities, relevant to enforcement and permitting, to the Agency at or before the next regular meeting.
- 12.3 Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within 15 days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than five business days after receipt by such Agency or its agent of such appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with section 7 of these regulations.

Section 13 Bond and Insurance

- 13.1 Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Agency, be required to file a bond with such surety in such amount and in a form approved by the Agency.
- 13.2 The bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.
- 13.3 The Agency may require the applicant to certify that it has public liability insurance against liability which might result from the proposed alteration, operation or use of the wetlands or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount commensurate with the regulated activity.

Section 14 Enforcement

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.
- 14.2 The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued under these regulations.

- 14.3 If the Agency or its designated agent finds that any person, including contractors or others assisting or taking part, is conducting or maintaining any activity, facility or condition, which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:
- a. issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the facts presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to section 22a-44(b) of the Connecticut General Statutes, as amended.
 - b. suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The agency shall hold a hearing to provide the permittee an opportunity to show that it is compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation within the municipality.
 - c. issue a notice of violation to such a 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 subdivision 14.3.a or other enforcement proceedings as provided by law.

Section 15
Amendments

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Chester may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands 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 decision. The provisions of this subdivision shall not be construed to apply:
- a. to the establishment, amendment or change of boundaries of inland wetlands or watercourses, or
 - b. to any change in regulations necessary to make regulations consistent with the provisions of the Act as of the date of such decision.
- 15.3 These regulations and the Town of Chester Inland Wetlands and Watercourses Map shall be amended in the manner specified in section 22a-42a of the Connecticut General Statutes, as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least 35 days before the public hearing on their adoption. (Fee schedules shall be adopted as Agency regulations or as otherwise provided by municipal ordinance.)
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Chester, 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 name and mailing addresses of the owners of abutting land;
 - d. The petitioner's interest in the land affected by the petition;
 - e. Map(s) showing the geographical 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
 - f. The reasons for the requested action.
 - g. Payment of the prescribed fee (Section 19.5)
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Chester, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to soils mapping by a certified soil scientist, professional interpretation of aerial photography and remote sensing imagery, resource mapping, or other information acceptable to the Agency. If such person is the owner, developer or

contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer, or purchaser, in addition to the information required in subsection 15.4, the petition shall include:

- a. The name, mailing address and telephone number of the owner(s) of such land and the owner(s)'s agent or other representative;
- b. The name 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 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 regulations and the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having general circulation in the Town of Chester at least twice at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last not less than two days, before the date set for the hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

15.8 The Agency shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after such commencement. The Agency shall act upon the changes requested in such petition within sixty-five (65) days after completion of the 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 the periods specified in this subsection provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such petition. The failure of the Agency to act within any time period specified in this subsection or extension thereof, shall not be deemed to constitute approval of the petition.

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

Section 16 Appeals

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

- 16.2 Notice of such appeal shall be served upon the Agency and the Commissioner of Environmental Protection.

Section 17 Conflict and Severance

- 17.1 If there is a conflict between the provisions of these regulations, the provision that 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 valid part or parts.
- 17.2 If there is a conflict between any 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 Chester, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U. S. Army Corps of Engineers. Obtaining such assents, permits or licenses is the sole responsibility of the applicant.

Section 19 Application Fees

- 19.1 All fees required by these regulations shall be submitted to the Agency, payable to the Town of Chester, at the time the application is filed with the Agency, except for fees specified under Subsections 19.5.3 and 19.8 of this Section, which shall be paid upon notification to applicant.
- 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 subsection 19.7 of these regulations.
- 19.3 The application fee is not refundable.
- 19.4 Definitions. As used in this section:
"Residential Uses" means activities carried out on property developed for permanent housing, or being developed for permanent housing.

"Commercial uses" means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes for profit or nonprofit.

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

1. Regulated Uses – (Section 6)
 - Residential Uses (for one residence plus applicable fees below) \$50.00
 - Each additional lot \$25.00
 - Each regulated activity within wetland or watercourse \$100.00
 - Each regulated activity within the review area \$50.00
 - Creation of pond or wetland..... \$200.00
 - Commercial Uses (plus applicable fees below) \$100.00
 - Each regulated activity within wetland or watercourse \$100.00
 - Each regulated activity within the review area \$50.00
 - Creation of pond or wetland..... \$200.00
 - All other uses \$60.00

In the event that the proposed activity is not specifically defined in the fee schedule above, the Agency or its duly authorized agent shall select the nearest equivalent activity and apply the appropriate fee.

2. Permitted and Nonregulated Uses – (Section 4)
 - Permitted Uses as of Right (Subsection 4.1)..... NO CHARGE
 - Nonregulated Uses (Subsection 4.2)..... NO CHARGE
3. Fee for Application Requiring a Public Hearing - (Section 9) \$200.00

As soon as the Agency decides to hold a public hearing, the applicant shall be notified to pay the public hearing fee.
4. Map Amendment Petitions – (Subsection 15.4) \$175.00

Plus: a fee determined from the following table:

<u>BOUNDARY LENGTH (LINEAR FEET)</u>	<u>FEE</u>
a. Less than 500	\$100.00
b. 500 to 1,000.....	\$350.00
c. More than 1,000.....	\$430.00

For the purpose of calculating a map amendment petition fee, boundary length is the total length of the current wetlands and watercourses boundary subject to the proposed boundary change or the total proposed length, whichever length is greater.

5. Modifications, renewal or transfer of Previous Approval \$25.00

(Subsection 7.9)

There shall be no fee for correcting typographical or other errors.
6. Environmental Quality Fund Fee \$30.00
7. Administrative Approval (Section 12) \$50.00
8. If any regulated activity has been initiated before a permit has been issued, the application fees shall be tripled.

- 19.6 Exemption: Boards, commissions, councils and departments of the Town of Chester are exempt from all fee requirements.
- 19.7 Waivers: The applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Agency, in its absolute discretion, may waive all or part of the application fee if:
- a. The Agency determines that 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. For good cause.

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

- 19.8 In the eventuality that the Agency needs to obtain expert assistance to aid in the evaluation of a submission, the applicant shall be made to pay for all of the costs of obtaining such expert assistance. Once the agency makes a determination to seek expert assistance, the applicant shall be notified to pay 150% of the estimated cost of expert assistance. The applicant shall be refunded any amount not expended for such assistance. Should the actual cost exceed 150% of the estimate, the applicant shall not be held responsible for the excess cost.

Section 20 Records Retention and Disposition

- 20.1 The Agency and the Town Clerk for the Town of Chester 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 records retention/disposition schedules for municipal Inland Wetlands Agencies 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 Letter	10 years	Permanent
Approval 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 action in a newspaper having general circulation in the Town of Chester.