



INLAND WETLANDS AND WATERCOURSES  
REGULATIONS OF THE  
TOWN OF BEACON FALLS

ADOPTED: January 11, 2012  
EFFECTIVE DATE: January 18, 2012

Town of Beacon Falls Inland Wetlands & Watercourses Commission

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## **PREAMBLE**

The inland wetlands and watercourses of the State of Connecticut and the Town of Beacon Falls 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 of the Town's 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/or watercourses. Such unregulated activity has had, and will continue to have a significant, adverse impact on the environment and ecology of the Town 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/or watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the Town. It is, therefore, the purpose of these regulations to protect the citizens of the Town by making provisions for the protection, preservation, maintenance and use of the inland wetlands and/or 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/or watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the Town's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the Town of Beacon Falls and the use of its land with the need to protect its environment and ecology, in order to forever guarantee to the people of the Town of Beacon Falls, the safety of such natural resources for their benefit and enjoyment, and for the benefit and enjoyment of generations yet unborn.

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

- 1.1 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Beacon Falls." These regulations may also be referred to as the "Regulations" or the "Wetlands Regulations."
- 1.2 The Inland Wetlands and Watercourses Commission (IWWC) of the Town of Beacon Falls was established in accordance with an ordinance adopted June 14, 1974, and revised November 28, 1980, January 1, 1994, March 16, 2004 and shall implement the purposes and provisions of these regulations and the State of Connecticut Inland Wetlands and Watercourses Act within the Town of Beacon Falls, Connecticut. The Town of Beacon Falls designated the Inland Wetlands and Watercourses Commission as the Town's Aquifer Protection Agency on December 13, 2005. The aquifer area protection regulations are contained in a separate document entitled "Town of Beacon Falls Aquifer Protection Area Regulations (see Appendix C).
- 1.3 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.
- 1.4 The Commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, with terms, conditions, limitations or modifications, or deny permits for all regulated activities effecting inland wetlands and/or watercourses in the Town of Beacon Falls pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- 1.5 In accordance with the provisions of Sections 8-2 and 22a-239 of the Connecticut State Statues, the zoning regulations are to incorporate provisions for the control of erosion and sediment. The Beacon Falls Planning and Zoning Commission delegated its' authority to the Beacon Falls Inland Wetlands and Watercourses Commission with respect to the enforcement of sediment and erosion controls. This is appropriate due to the experience, and expertise of the Beacon Falls Inland and Watercourses Commission due to the on going training of IWWC members, and because uncontrolled erosion and sediment negatively effects wetlands and/or watercourses.

## SECTION 2: DEFINITIONS AND CONSTRUCTION OF LANGUAGE

### 2.1 As used in these regulations:

- a. **"Act"** means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes, as amended.
- b. **"Adverse impact"** means any deleterious effects on wetlands or watercourses, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- c. **"Agency" or "Inland Wetlands Agency"** means the Beacon Falls Inland Wetlands and Watercourses Commission of the Town of Beacon Falls.
- d. **"Aquic"** means, "saturated" when used in conjunction with soil moisture.
- e. **"Bogs"** are watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
- f. **"Clear-cutting"** means the harvest of timber in a fashion that removes all or more than one half of the trees down to a two (2) inch diameter at breast height.
- g. **"Commercial Uses"** means activities carried out on a property developed for industry commerce, trade, recreation, or business being developed to be occupied for such purposes for profit or nonprofit.
- h. **"Commission"** means Beacon Falls Inland Wetlands and Watercourses Commission.
- i. **"Commission member"** means a member of the Beacon Falls Inland Wetlands and Watercourses Commission.
- j. **"Commissioner of Environmental Protection"** means the commissioner of the State of Connecticut Department of Energy & Environmental Protection.
- k. **"Completion"** means the date of acceptance by the Commission of the job as being complete.
- l. **"Contiguous dry land"** means dry land that is not separated by wetlands or watercourses.

## Section 2.1 Definitions and Construction of Language (Continued)

- m. **"Continual flow"** means a flow of water that persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.
- n. **"Days"** mean calendar days, not business days, unless otherwise noted.
- o. **"Deposit"** includes, but shall not be limited to fill, grade, dump, place, discharge or emit.
- p. **"Designated agent"** means the Wetlands Enforcement Officer or such other individual (s) designated by the Commission to carry out its functions and purposes.
- q. **"Discharge"** means emission of any water, substance, or material directly or indirectly into wetlands, or watercourses, or waters of the State, whether or not such substance causes pollution.
- r. **"Disturb the natural and indigenous character of the wetlands and/or watercourses"** means that the activity will significantly alter the inland wetlands and/or watercourses by reason of removal or deposition of material, clearing cutting, alteration or obstructing water flow, or will result in the pollution of wetlands and/or watercourses through run-off containing nitrogen or other chemicals.
- s. **"Essential to the farming operation"** means that the proposed activity is necessary and indispensable to sustain farming activities on a farm.
- t. **"Farming"** Shall be consistent with the definition as noted in Section 1-1(q) of the Connecticut General Statutes. (see Appendix A).
- u. **"Feasible"** means able to be constructed or implemented consistent with sound engineering principles.
- v. **"Intermittent watercourses"** shall be delineated by a defined permanent channel and bank and the occurrence of two (2) 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.
- w. **"License"** means the whole or any part of any permit, certificate of approval or similar form of permission, which may be required by any person by the provisions of sections 22a-36 to 22a-45 inclusive.

## Section 2.1 Definitions and Construction of Language (Continued)

- x. **"Management Practice"** aka. **"Best Management Practices"** 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 and/or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of /or 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.
- y. **"Marshes"** are watercourses with soils that exhibit aquatic moisture regimes and 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.
- z. **"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.
- aa. **"Municipality"** means the Town of Beacon Falls, New Haven County, Connecticut.
- bb. **"Nurseries"** means land used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.
- cc. **"Other uses"** means activities other than residential uses, commercial uses or industrial uses.
- dd. **"Permit"** see license.
- ee. **"Permittee"** / **"Applicant"** means the person(s) such a permit has been issued.
- ff. **"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.
- gg. **"Pollution"** means harmful thermal effect or the contamination or rendering unclean or impure of any wetlands and/or watercourses of the State or Town by reason of erosion or 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 wetlands and/or watercourses. This includes, but is not limited to, erosion and sedimentation



## Section 2.1 Definitions and Construction of Language (Continued)

resulting from any filling, land clearing or excavation activity.

- hh. **"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 providing a mere showing of expense will not necessarily mean an alternative is imprudent.
- ii. **"Regulated Activity"** means any operation within or use of a wetlands and/or watercourses involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands and/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 stormwater on the land within one hundred feet (100') or as determined by the Commission measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Commission may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or effect wetlands or watercourses and is a regulated activity. See Section 6.4 through 6.4.d., for some specific examples of regulated activities and/or violations.
- jj. **"Regulated Area"** means:  
Any wetlands and/or watercourses as defined by these Regulations;  
The area within one hundred feet (100') of all wetlands and/or within one hundred feet (100') of the seasonal high water mark of watercourses, as defined by these Regulations.
- kk. **"Remove"** includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, clear cut timber, bulldoze, dragline or blast.
- ll. **"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.
- mmm. **"Significant Impact Activity"** means any activity, including, but not limited to, the following activities which may have a major effect or significant impact on the area for which an application has been filed or on another part of the inland wetlands and/or watercourses system:
  - 1. Any activity involving deposition or removal of material which will or may have major effect or significant impact on the regulated area or on another part of the inland wetlands and/or watercourse system, or
  - 2. Any activity, which substantially changes the natural channel or may inhibit the

## Section 2.1 Definitions and Construction of Language (Continued)

- natural dynamics of a watercourse system, or
3. Any activity which substantially diminishes the natural capacity of an inland wetlands and/or watercourses to: support desirable fisheries, wildlife, or other biological life; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions, or
  4. Any activity which is likely to cause or has the potential to cause degradation, substantial turbidity, siltation or sedimentation in a wetlands and/or watercourses, or
  5. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area, or
  6. Any activity which causes or is likely to cause or has the potential to cause pollution of a wetlands and/or watercourses, or
  7. Any activity, which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific, aesthetic, recreational or educational value.
- nn. **"Soil Scientist"** means an individual duly qualified in accordance with standards set by the Federal Office of Personnel Management.
- oo. **"Swamps"** are watercourses with soils that exhibit aquatic moisture regimes and that are distinguished by the dominance of wetland trees and shrubs.
- pp. **"Submerged lands"** means those lands, which are inundated by water on a seasonal or more frequent basis.
- qq. **"Town"** means the Town of Beacon Falls, New Haven County in the State of Connecticut.
- rr. **"Waste"** means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands and/or watercourses of the Town.
- ss. **"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, as amended. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two (2) 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

## Section 2.1 Definitions and Construction of Language (Continued)

than a particular storm incident, and (c) the presence of hydrophytic vegetation.

- tt. **"Wetlands"** means land, including submerged land as defined in Section 2.1 (ii.) (Definitions) of these Regulations, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and flood plain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Soil Conservation Service of the U.S. Department of Agriculture (USDA). Such areas may include filled, graded, or excavated sites that possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.
- uu. **"Wetlands Enforcement Officer (WEO)"** means a person or persons designated by majority vote of the Commission to assist the Commission in the fulfillment of its responsibilities. The Wetlands Enforcement Officer is authorized to: a) accept for processing applications submitted to the Commission; b) process administrative permits that involve no wetlands and/or watercourses or impact thereto; c) process administrative permits for activities outside of the regulated area that may have an impact on wetlands and/or watercourses; d) accompany Commission members on site inspections; e) conduct other site inspections, review applications and handle administrative duties and paperwork on behalf of the Commission; f) advise the Commission; g) act within the provisions of Sections 7.9 (Application Requirements) and Section 13 (Enforcement) of these Regulations; i) and perform other duties as may be necessary and authorized by the Commission, h) document by photographs, video tape, notes, drawings and other media the conditions of wetlands and watercourses, and situations and conditions that are and /or could impact wetlands and watercourses. The wetlands enforcement officer may also be referred to as the; wetlands officer; enforcement officer; wetlands enforcement/administrative officer; WEO; and staff.

- 2.2 These Regulations consist of Sections, Subsections and other information. When reference is made to a Section, it shall include everything (Subsections and other information) contained in the Regulations from the beginning of said Section to the beginning of the Section immediately following. When reference is made to a specific Subsection, it shall include all text, requirements, conditions, terms and other information from the beginning of the Subsection to the beginning of the next Section or Subsection
- 2.3 All words used in the present tense include the future tense; all words in the plural number include the singular number; and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Unless otherwise specified, all distances and areas shall be measured horizontally. Reference to the General Statutes applies to the General Statutes of the State of Connecticut as they may be amended from time to time. Words not specifically defined herein shall be used as defined in the latest edition of Webster's New Collegiate Dictionary.

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

- 3.1 The map entitled "Inland Wetlands and Watercourses Map, Beacon Falls, Connecticut" delineates the approximate and general location and boundaries of inland wetlands and/or the approximate and general location of watercourses. In all cases, the precise location of the inland wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types, and location of watercourses. The Commission may use aerial photography, remote sensing imagery, resource mapping, soil maps, site inspection or other observations in determining the location of the boundaries of wetlands or watercourses. All wetlands and/or watercourses as defined herein, and whether shown on the map or not, are regulated areas and are within the jurisdiction of and are to be protected by, the Commission. All areas within one hundred feet (100') of any wetlands and/or watercourses are regulated areas. Copies of the wetlands map are available for inspection in the Town Hall.
- 3.2 Such determinations shall be made by the Commission, the designated staff or representative of the Commission, or shall be made by field inspection and testing conducted by a soil scientist where soil classifications are required, or where watercourses determinations are required by other qualified individuals.
- 3.3 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 Commission to change the designation. In accordance with Section 14 (Amendments) of these regulations. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances, which support the change. The petitioner shall provide proof that the designation is inapplicable. Documentation in accordance with Section 14 (Amendments) of these Regulations may be required of the property owner when the Commission requires an accurate delineation of regulated areas.
- 3.4 The Inland Wetlands and Watercourses Commission or its designated agent(s) shall maintain a current inventory of regulated areas within the Town. The Commission may amend its map from time to time as information becomes available relative to more accurate delineation of wetlands and/or watercourses within the Town. Such map amendments are subject to the public hearing process outlined in Section 14 (Amendments) of these Regulations. The Commission 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 requested map amendments. Such proof may include, but not be limited to, a detailed report from a soil scientist, aerial photography, remote sensing imagery, resource mapping or other available information. Such map amendments are subject to the public hearing process outlined in Section 14 (Amendments) of these regulations.

## SECTION 4: PERMITTED USES AS OF RIGHT AND NON-REGULATED USES

- 4.1 The following operations and uses shall be permitted in inland wetlands and/or watercourses, as of right:
- a. Grazing, farming, nurseries, gardening and harvesting of crops and creation and maintenance of farm ponds of three (3) 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 Wetlands or Watercourses 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 and/or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel or similar material from wetlands and/or watercourses for the purposes of sale;
  - b. A residential home (i) for which a 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 of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted pursuant to this subdivision unless the permit was obtained on or before July 1, 1987. Any person claiming a use of wetlands permitted 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 hereunder;
  - c. Construction of a new residential home for which a building permit has been issued on or before July 1, 1987. Any person claiming a use of wetlands permitted 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 hereunder;
  - d. Boat anchorage or mooring, not to include dredging or dock construction;
  - e. 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. 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 into a wetland or watercourse, or diversion or alteration of a watercourse;

**SECTION 4: PERMITTED USES AS OF RIGHT AND NON-REGULATED USES  
(CONTINUED)**

- f. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102, of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 through 22a-410 of the Connecticut General Statutes and;
  - g. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulation 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 hand tools, while the pipe remains in place.
  - h. 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 wetlands and/or watercourses 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, 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 diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing and cross-country skiing 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:
    - 1. Is readily accessible to fire department apparatus from a proximate public road,
    - 2. provides for the withdrawal of water by suction to such fire department apparatus, and
    - 3. is permanently installed into an existing lake, pond or stream that is a dependable source of water.

**SECTION 4: PERMITTED USES AS OF RIGHT AND NON-REGULATED USES  
(CONTINUED)**

- 4.3 All activities in wetlands and/or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourses not specifically permitted by this Section and otherwise defined as a regulated activity by these regulations shall require a permit from the Beacon Falls Inland Wetlands and Watercourses Commission in accordance with Section 6 (Regulated Activities to be Licensed) of these regulations, or for certain regulated activities located outside of these wetlands and watercourses from the duly authorized agent in accordance with Section 12 of these regulations.
- 4.4 To carry out the purposes of this Section, any person proposing a permitted operation and use or a non-regulated operation and use, shall, prior to commencement of such operation and use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of a wetland or watercourse. The Commission or its designated agent shall rule that the proposed operation and use or 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. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Commission following the meeting at which the request was received. The Designated Agent for the Commission may make such ruling on behalf of the Commission at any time.

## **SECTION 5: ACTIVITIES REGULATED BY THE STATE**

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



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

- 6.1 No person shall conduct or maintain a Regulated Activity without first obtaining a permit for such activity from the Beacon Falls Inland Wetlands and Watercourses Commission of the Town of Beacon Falls, Connecticut.
- 6.2 No person shall conduct any activity or any operation involving removal or deposition of material, or any regrading, obstruction, construction, alteration or pollution, any other Regulated Activity effecting any wetlands and/or watercourses, unless such operation or use has been specifically authorized in writing by the Commission or such use is permitted or non-regulated pursuant to Section 4 (Permitted Uses as of Right and Non-Regulated Uses) of these Regulations.
- 6.3 Any person found to be conducting or maintaining a Regulated Activity without the prior authorization of the Beacon Falls Inland Wetlands and Watercourses Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 13 of these regulations and any other remedies as provided by law.
- 6.4 Regulated activities would include, but not be limited to, any conditions, operation, use, or activity, which affects a wetland and/or a watercourse. Such activities might be located in, adjacent to, or remote from the wetlands and/or watercourses.
  - a. If any excavation, earth disturbance, regrading, deposition of material, or other condition is not properly controlled with respect to erosion of soil and creation of sediment, such activity and/or condition is in violation of these Regulations.
  - b. Any driveway, access road, right of way or other portion of property which is not stable and is therefore eroding or allows material to be tracked into any public or private street or which allows sediment to reach any wetlands and/or watercourses is deemed to be in violation of these Regulations. Such condition must be stabilized to prevent further degradation of downstream wetlands and/or watercourses.
  - c. Any obstruction of a watercourse, whether man-made or natural, is deemed to be a regulated activity. If not specifically authorized and/or permitted by the Commission, any obstruction of a watercourse is deemed a violation of these Regulations. Owners of property, which contain a watercourse, are responsible for proper maintenance of the property and removal of unauthorized obstructions of watercourses. This would include the prompt removal of obstructions such as fallen trees or other vegetation from within watercourses. Such removal is to be done as soon as practical and in a manner which creates the least amount of disturbance of the natural watercourse. Proper sediment and erosion controls shall be implemented to avoid the degradation of downstream watercourses and/or wetlands.
- 6.5 In accordance with the actions of the Beacon Falls Planning and Zoning Commission, the

## **SECTION 6: REGULATED ACTIVITIES TO BE LICENSED (CONTINUED)**

enforcement of sediment and erosion control measures during construction and development work is now the responsibility of the Beacon Falls Inland Wetlands and Watercourses Commission. Accordingly, any construction and/or development work and/or activity for which appropriate sediment and/or erosion control measures are not properly installed and maintained shall be considered a violation of these Regulations if it is found that the sediment is deposited in, obstructing, and/or polluting wetlands and/or watercourses.

## **SECTION 7: APPLICATION REQUIREMENTS**

- 7.1 Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on an application form provided by the Commission. The application shall include an application form containing the information described in this Section and any other information the Commission may reasonably require. Application forms may be obtained in the offices of the Town Clerk or the Commission.
- 7.2 In addition any person intending to disturb more than one (1) acre of land will file a stormwater management plan review application with the Beacon Falls Inland Wetlands and Watercourses Commission. For sites where the total site area of disturbance is from one (1) acre to five (5) acres in size the stormwater management plan can be incorporated in the "Site Plan" details. For sites where the total site area of disturbance is greater than five (5) acres, regardless of phasing, a CTDEEP registration for the Discharge of Stormwater and Dewatering Wastewaters from Construction is required and a copy of the Stormwater Management Plan must be provided to the Commission with the application. For sites greater than ten (10) acres a CTDEEP registration for the Discharge of Stormwater and Dewatering Wastewaters from Construction is required and a copy of the Stormwater Management Plan must be provided to the CTDEEP for review as well as to the Commission with the application.
- 7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the Commission.
- 7.4 If an application to the Town of Beacon Falls Planning and Zoning Commission for subdivision or re-subdivision of land involves land containing wetlands and/or watercourses, or may have an impact on wetlands and or watercourses, 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 Commission in accordance with this Section, no later than the day the application is filed with the Planning and Zoning Commission.
- 7.5 A prospective applicant may request the Commission to determine whether or not a proposed activity involves a significant impact activity. Upon receipt of such request, the Inland Wetlands and Watercourses Commission or its Agent and the applicant may hold a pre-application meeting to determine whether or not the proposed application involves a significant activity. Whenever possible the determination relative to significant activities should be made at the pre-application meeting.
- 7.6 All applications shall include the application fee as required by Section 19 (Application Fees) and five (5) copies of the following information submitted in writing, or on maps or drawings:

## **SECTION 7: APPLICATION REQUIREMENTS (CONTINUED)**

- a. The applicant's name, home and business mailing addresses and home and business telephone numbers; if the applicant is a Limited Liability Corporation, or a Corporation the managing member's or responsible corporate officer's name address and telephone number.
- b. The owner's name, mailing address and telephone number and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed;
- c. The applicant's interest in the land;
- d. The geographical location of the land that is the subject of the proposed activity, and a description of the land in sufficient detail to allow identification of the inland wetlands and/or watercourses, the area(s) in acres and/or square feet of wetlands and/or watercourses to be disturbed, soil type(s), and wetland vegetation;
- e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls, the plan shall adhere to the practices set for in the "2002 Connecticut Guidelines for Soil Erosion and Sediment Control" handbook, "2004 Connecticut Stormwater Quality Manual" 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 wetlands and/or watercourses resources;
- f. Alternative that would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen. All such alternatives shall be diagrammed on a site plan or drawing.
- g. Diagrams, cross sections, drawings, site plans, photographs and other appropriate graphics showing existing and proposed conditions in relation to wetlands and/or watercourses;
- h. A site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and/or 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 and/or watercourses;
- i. Names and mailing addresses of adjacent land owners;

## SECTION 7: APPLICATION REQUIREMENTS (CONTINUED)

- j. Statement 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;
  - k. Authorization for the members and agents of the Commission to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit:
  - l. Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
  - m. A completed Department of Environmental (DEP) reporting form; the Commission shall revise or correct the information provided by the applicant and submits the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
  - n. Submission of the appropriate filing fee based on the fee schedule established in Section 19 (Application Fee) of these Regulations.
- 7.7 At the discretion of the Commission or its agent, or when the proposed activity involves a significant impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:
- a. Site plans for the proposed activity and the land which will be affected, thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and/or watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
  - b. Engineering calculations, reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to drainage systems, wetlands and/or watercourses and the proposed erosion and sedimentation control plan.
  - c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service. The Commission requires that the applicant have the wetlands delineated in the field by a soil scientist and that the mapping and report of the field delineation be incorporated onto the site plans and into application;
  - d. A description of the ecological communities and functions of the wetlands and/or

## SECTION 7: APPLICATION REQUIREMENTS (CONTINUED)

watercourses involved with the application and the effects of the proposed activity on these communities and wetlands and/or watercourses functions;

- e. A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands and/or watercourses involved in the application and each alternative which would cause less or no environmental impact to wetlands or watercourses and a description of why each alternative considered was deemed neither feasible nor prudent;
- f. Analysis of chemical or physical characteristics of any fill material; and
- g. Management practices and other measures designed to mitigate the impact of the proposed activity. Such measures include, but are not limited to, plans or actions: which avoid destruction or diminution of wetlands and/or watercourse(s) functions, recreational uses and natural habitats; which prevent flooding, degradation of water quality, erosion, sedimentation and obstruction of drainage; which phase, schedule or stagger the implementation of the project or which otherwise safeguard water resources.
- h. A post-activity monitoring plan to ensure that wetlands, watercourses, groundwater, surface runoff and drainage structures are functioning and maintained in accordance with the predicted behavior. The plan is to include a description of the data that is to be collected, the time schedule and other conditions for collecting the data and the manner for presenting the results to all concerned parties.

7.8 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.

7.9 Five (5) copies of all application materials shall be submitted to comprise a complete application. The Commission may direct in writing that additional copies of the application materials be submitted for referrals and/or review. The failure of the applicant to provide such copies within the reasonable time specified by the Commission

## SECTION 7: APPLICATION REQUIREMENTS (CONTINUED)

shall be grounds for denial of the application.

- 7.10 Any application to renew or amend an existing permit shall be filed with the Commission in accordance with Section 8 (application Procedures) of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under Section 7 of these regulations provided:
- a. The application may incorporate by reference the documentation and record of the prior application;
  - b. The application shall state the reason why the authorized activities were not initiated or completed within the time specified in the permit;
  - c. The applicant shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
  - d. The application shall describe any changes in facts or circumstances involved with or affecting wetlands and/or watercourses or the property for which the permit was issued;
  - e. The Commission may prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if in its judgment, 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 of work completed at the time of filing and the schedule for completing the activities authorized in the permit.
- 7.11 Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided
- a. no permit issued during the time period from July 1, 2006 to July 1, 2009, inclusive, shall be valid for more than eleven (11) years; and
  - b. no permit issued prior to July 1, 2006 or after July 1, 2009 may be valid for more than ten (10) years.

Notwithstanding the provisions of Subdivision (2) of Subsection (d) of this Section, any

## SECTION 7: APPLICATION REQUIREMENTS (CONTINUED)

permit issued under this Section prior to July 1, 2011, that has not expired prior to the effective date of this Section, shall expire not less than nine years after the date of such approval. Any such permit shall be renewed upon request of the permit holder unless the agency finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no such permit shall be valid for more than fourteen years

- a. no permit issued during the time period from July 1, 2006 to July 1, 2009, inclusive shall be valid for more than eleven (11) years; and
- b. no permit issued prior to July 1, 2006 or after July 1, 2009 may be valid for more than ten (10) years.

- 7.12 Where a regulated activity shall be proposed and the applicant can reasonably demonstrate that the project is at least one hundred feet (100') from any wetland or watercourse area and is likely to have no impact, the applicant may submit a plan for review by the Wetlands Enforcement Officer. The plan shall be accurately drawn to scale from a survey of the property and shall show all existing and proposed features, including buildings, roads and natural features and sufficient data to adequately describe the proposed work and activities to be carried out. The plan shall include, but not be limited to, showing: the extent of proposed regrading, clearing, and earth disturbance; sediment and soil erosion controls and soil stabilization methods to be utilized; and storm drainage management techniques to be used.

The proposal shall be reviewed by the Wetlands Enforcement Officer. Where the Wetlands Enforcement Officer finds from the submission that the scope of the proposed work or activity shall be so limited or insignificant that it shall present no impact on erosion of soils, wetlands and/or watercourses, the Wetlands Enforcement Officer may approve the application or issue a permit for the activity or work. Prior to the issuance of such a permit, the applicant shall submit the completed prescribed application form. Such permit shall be signed by the Wetlands Enforcement Officer.

Where, in the opinion of the Wetlands Enforcement Officer, any reasonable doubt exists pertaining to the insignificance of any such work or activity under this Subsection, the Applicant shall be notified in writing and within ten (10) days of such determination, that a full application shall be required for review by the entire Commission.

- 7.13 For any permit application, involving property subject to a "conservation restriction" or preservation restriction, the following shall apply:



## SECTION 7: APPLICATION REQUIREMENTS (CONTINUED)

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

## SECTION 8: APPLICATION PROCEDURES

- 8.1 All petitions, applications, requests or appeals shall be submitted to the Town Clerk of the Town of Beacon Falls whom shall act as the agent for said Commission with respect to the receipt of such petitions, applications requests or appeals.
- 8.2 The Commission 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 Commission is within five hundred (500) feet of the boundary of any 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 and exit the site;
  - c. A significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality: or
  - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days of the date of receipt of the application, petition, appeal, request or plan.

- 8.3 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 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 town of Beacon Falls in which the application is made and with the inland wetlands commission of such municipality. Such notice shall be made by certified mail return receipt requested and shall be mailed within seven (7) days of the date of such application. The water company, through a representative, may appear and be heard at any hearing on the application. If such wetland or watercourse is within five hundred feet of the boundary of Naugatuck, Bethany, Seymour and/or Oxford, the Applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the IWWC of such other municipality. Documentation of such notice shall be provided to the Beacon Falls Inland Wetlands and Watercourses Commission.
- 8.4 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission to such Commission, or its agent of such petition, application, request or

## **SECTION 8: APPLICATION PROCEDURES (CONTINUED)**

appeal or thirty-five (35) days after such submission, whichever is sooner.

- 8.5 At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in Subsection 11.2 of these regulations.
- 8.6 All applications, files and materials shall be open for public inspection.
- 8.7 Incomplete applications may be denied by the Commission.

## SECTION 9: PUBLIC HEARINGS

9.1 The Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a significant impact on wetlands and/or watercourses, or a petition signed by at least twenty-five persons (25) who are eighteen (18) years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the Commission not later than fourteen (14) days after the date of receipt of such application, or the Commission finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing provided no petition provided for in this Section is filed with the Commission on or before the fourteenth (14) day after the date of receipt of the application.

Such hearing shall begin no later than sixty-five (65) 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, or may submit written documentation and may be represented by an authorized agent or by attorney.

9.2 Notice of the public hearing shall be published by the Commission in a newspaper having general circulation in each town where the affected wetlands and/or watercourses are located. The notices shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the day set for the hearing.

9.3 The Commission shall notify the Applicant of the scheduled public hearing not less than sixteen (16) days prior to the date of said hearing. The notification shall be sent via certified or registered mail and the notification shall include a copy of the text of the legal notice to be published in the newspaper.

9.4 The Applicant or their representative shall mail a copy of the legal notice of the public hearing by certified or registered mail to the owner(s) of record of each property within 100' of the outside perimeter of the subject (Applicant's) property within Beacon Falls and other Towns. The information shall be obtained from the Beacon Falls Tax Assessor's record and from other applicable Town Tax Assessor's records, as of the date of submission of the application. The notices shall be postmarked no less than fifteen (15) days prior to the day of the hearing.

9.5 Proof of mailing of notification to the neighboring property owners shall be entered into the hearing record.

## **SECTION 10: CONSIDERATIONS FOR DECISION**

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

- a. The application and its supporting documentation.
- b. Public comments, evidence and testimony.
- c. Reports from other persons, agencies and Commissions including but not limited to the Town of Beacon Falls:
  1. Public Works
  2. Planning, Zoning, or Planning and Zoning Commissions
  3. Building Official
  4. Health Officer
  5. Town Engineer
  6. Conservation Commission
  7. Water Pollution Control Authority (WPCA)
  8. Observations made by Commission members of the site and environs.
- d. The Commission may also consider comments on any application from the Southwest Conservation District, the Central Naugatuck Valley Regional Planning Commission or other regional organizations (i.e. Council of Elected Officials, Council of Governments); 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 state agencies and commissions listed in subdivision 10.1 c and d above within the prescribed time shall neither delay nor prejudice the decision of the Commission.

However it is incumbent upon the Applicant to demonstrate to the Commission that the Applicant has obtained the necessary approvals and permits such as septic system approvals, curb cut permits, water diversion permits, Army Corps of Engineer permits, storm water discharge authorization, and etc.
- f. The experience of the Commission with respect to past applications and projects
- g. The experience and ability of the applicant to properly implement the proposed activity.
- h. The alternative that may or may not be feasible and prudent that is submitted or is discussed.

## **SECTION 10: CONSIDERATIONS FOR DECISION (CONTINUED)**

- 10.2 Criteria for Decision: In carrying out the purposes and policies of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall consider all relevant facts and circumstances in making its decision on any application for a permit, including, but not limited to the following:
- a. The environmental impact of the proposed regulated activity on wetlands and/or watercourses: 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 and/or watercourses;
  - c. The relationship between the short term and long-term impacts of the proposed regulated activity on wetlands and/or watercourses and the maintenance and enhancement of long-term productivity of such wetlands and/or watercourses;
  - d. Irreversible and irremediable loss of wetlands and/or watercourses 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 and/or watercourse resources;
  - e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
  - f. Impacts of the proposed regulated activity on wetlands and/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/or watercourses.
  - g. Measures that would mitigate the impact of any aspect of the proposed regulated activity (ies). Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and/or watercourses and which could be feasibly carried out by the applicant and would protect the capacity of the

## **SECTION 10: CONSIDERATIONS FOR DECISION (CONTINUED)**

- wetlands and/or watercourses to support fish and wildlife, prevent flooding, supply water, control sedimentation, prevent erosion, assimilate wastes, facilitate drainage, and to provide recreation and open space.
- h. Measures to reasonably assure that the wetlands and watercourses and the regulated areas around the wetlands and watercourses will be protected from future encroachment and/or impact. Such measures could include, but are not limited to: deed restrictions; conservation easements; the placement of plaques and markers; stonewalls and fences; planted buffer areas; limitations on expansions of lawns or landscaped areas; maintenance programs; and other means of protecting the wetlands and watercourses.
- 10.3 In the case of any application that received a public hearing, pursuant to a finding by the Commission that the proposed activity may have a significant impact on wetlands and/or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in Subsection 10.2 of this Section. The finding and the reasons therefore shall be stated on the record in the decision of the Commission.
- 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 and/or watercourses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate provided this Subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5 For purposes of this Section (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means area or environments in which an organism or biological population normally lives or occurs.
- 10.6 The commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 In reaching its decision on any application after a public hearing, the Commission may obtain analysis and/or advice from Town Staff on information already in the record of the public hearing, provided that no new evidence or testimony is offered by the Commission's experts. The Commission shall base its decision on the record of that

## **SECTION 10: CONSIDERATIONS FOR DECISION (CONTINUED)**

hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Commission 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 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 Subsection 7.12 c of these regulations, the holder of the restriction may provide proof to the Commission that the 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 Commission shall not grant the permit approval.
- 10.9 In the case of an application where the applicant fails to comply with the provisions of Subsections 7.12c or 7.12d (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the Commission, subject to the rules and regulations of such agency relating to appeals. The Commission shall reverse the permit approval upon finding that the requested land use violates the terms of such restriction: or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the Commission, subject to the rules and regulations of such Commission relating to appeals. The Commission shall immediately reverse such permit approval if the Commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.
- 10.10 Nothing in Subsection 7.12c or 7.12d of these regulations shall be construed to prohibit the filling of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under terms of such conservation or preservation restriction.



## SECTION 11: DECISION PROCESS AND PERMIT

11.1 The Commission, or its duly authorized agent acting pursuant to Section 20 (Action by Duly Authorized Agent) of these regulations, may, in accordance with Section 10 (Considerations for Decisions) of these regulations, grant or deny the application as filed; or grant it upon other terms, conditions, limitations and/or modifications of the regulated activity designed to carry out the purposes and policies of the Act. 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 wetlands and/or watercourses resources.

11.2 No later than sixty-five (65) days after receipt of an application, the Commission may hold a public hearing on such application. At such hearing any person or persons may appear and be heard or may submit written documentation and may be represented by an authorized 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 any such periods shall not be for longer than sixty-five (65) days, or may withdraw the application.

The failure of the Commission to act within any time period specified in this Subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the Commission shall be withdrawn by the Applicant or denied by the Commission.

11.3 The Commission shall state upon its record, the reasons and bases for its decision.

11.4 The Commission shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its order in the issuance or denial of the permit to be published in a newspaper having general circulation in the Town wherein the inland wetland and/or watercourse lies. In any case in which such notice is not published within such fifteen (15) day period, the applicant may provide for the publication of such notice within ten (10) days thereafter.

## **SECTION 11: DECISION PROCESS AND PERMIT (CONTINUED)**

- 11.5 If an activity authorized by an Inland Wetlands and Watercourses permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under Sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Commission shall file a copy of the decision and report on the application to the Town of Beacon Falls Zoning Board of Appeals or Planning and Zoning Commission within fifteen (15) days of the date of the decision thereon.
- 11.6 If the Commission grants a permit with terms, conditions, limitations, stipulations and/or modifications, the applicant may attempt to modify the proposal to address the Commission's concerns. The Commission shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified and corrected application by the Commission shall be equivalent to the denial of an application for the purposes of appeal.
- 11.7 Permits are not transferable without the prior written consent of the Commission.
- 11.8 If a bond or insurance is required in accordance with Section 12 of these regulations, the Commission may withhold issuing the permit until such bond or insurance is provided.
- 11.9 General provisions in the issuance of all permits:
- a. The Commission has relied in whole or in part on information provided by the Applicant, and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
  - b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Commission or the Town of Beacon Falls, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any Federal, State, and municipal laws or regulations pertinent to the subject land or activity.
  - c. If the activity authorized by the Commission's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under Sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, then, no work other than sediment and erosion control installation or other work specifically authorized by the Commission or WEO may begin until such other approval(s) is obtained pursuant to the wetland permit may begin until such approval is obtained. To minimize susceptibility to erosion, unvegetated areas, and other environmental impacts, the time period between commencement and completion of a phase, activity or aspect of the project (such as a stream crossing, filling of an area, pipe or utility installation, etc.) may be limited to a very short time by the

## SECTION 11: DECISION PROCESS AND PERMIT (CONTINUED)

Commission. The intent is to require that once an area is disturbed in preparation for development, the work will be completed and the area will be restabilized as quickly as possible.

- a. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
  - b. Any permit issued by the Commission prior to July 1, 2006 or after July 1, 2009 for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Commission may establish a specific time period within any regulated activity shall be conducted. Any permit issued by the Commission prior to July 1, 2006 or after July 1, 2009 for any other activity shall be valid for not less than two (2) years and not more than five (5) years. Any permit issued by the Commission during the time period from July 1, 2006 to July 1, 2009, inclusive, shall expire not less than six (6) years after the date of such approval.
  - c. Notwithstanding the provisions above, any permit issued prior to July 1, 2011, that has not expired prior to the effective date of this Section, shall expire not less than nine years after the date of such approval. Any such permit shall be renewed upon request of the permit holder unless the agency finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no such permit shall be valid for more than fourteen years.
- 11.10 Provided it is modified in a fashion that substantially changes the impact that resulted in the denial. Such submittal shall take the form of a new application.

## **SECTION 12: ACTION BY DULY AUTHORIZED AGENT OF THE COMMISSION**

- 12.1 The Commission may delegate to its duly authorized Agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such Agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetlands and/or watercourses provided such Agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Commission and shall contain the information listed under Section 7.5 (Application Requirements) of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 8, 9 and 11 of these regulations, such Agent may approve or extend such an activity at any time.
- 12.2 Any person receiving such approval from such Agent shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having 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 Commission within fifteen (15) days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three (3) business days after receipt by such Commission or its Agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its Agent or require an application for a permit in accordance with Section 7 (Application Requirements) of these regulations.

## **SECTION 13: SURETY, LETTER OF CREDIT, AND/OR INSURANCE**

- 13.1 The Commission may require as a permit condition the filing of surety, a letter of credit and/or insurance in such amount and in form approved by the Commission.
- 13.2 The surety or letter of credit shall be conditioned on compliance with the provisions of these regulations and the terms, conditions and limitations established in the permit. The purpose of a surety is to assure that adequate and appropriate measures to protect inland wetlands, watercourses, erodible soils, unique vegetation, and other environmental features are properly installed and maintained in accordance with the approved plans and as circumstances at the site may require.
- 13.3 The Commission may require the Applicant to certify that the Applicant has public liability insurance against liability which might result from the proposed operation or use of the wetlands and/or watercourses covering any and all damage which might occur within two (2) years of completion of such operations, in an amount to be determined by the Commission commensurate with the regulated activity.

## SECTION 14: ENFORCEMENT

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

## SECTION 14: ENFORCEMENT (CONTINUED)

Subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended.

- 14.5 The Commission may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct that warrants the intended action. The Commission shall hold a hearing to provide the permittee an opportunity to show that the activity is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.
- 14.6 Any person, who commits, takes part in, allows, or assists in any violation of any provision of Sections 22a-36 to 22a -45, inclusive including regulations adopted by the Commissioner of the DEP and/or ordinances and regulations promulgated by the Town of Beacon Falls shall be assessed a civil penalty of not more than one thousand dollars (\$1,000.00) for each offense. Each violation of said sections shall be separate and distinct offense, and in the case of a continuing violation each day's continuance thereof shall be deemed to be a separate and distinct offence. The Superior Court in an action brought by the Commissioner, Town of Beacon Falls, District or any person, shall have jurisdiction to restrain a continuing violation of said Sections, to issue orders directing that the violation be corrected or removed and to assess civil penalties pursuant to this Section. All costs, fees and expenses in connection with such action shall be assessed as damages against the violator together with reasonable attorney's fees, which may be allowed, all of which shall be awarded to the Commissioner, Town of Beacon Falls, district or person, which brought such action. All penalties collected pursuant to this Section shall be used solely by the Commissioner of Environmental Protection (1) to restore the affected wetland or watercourses to their condition prior to the violation, whenever possible, (2) to restore other degraded wetlands or watercourses, (3) to inventory or index wetlands and watercourses of the state, or (4) to implement comprehensive training program for inland wetland agency members.
- 14.7 Any person who willfully or knowingly violates any provision of Sections 22a-36 to 22a-45, inclusive, including regulations adopted by the Commissioner and the ordinances and Regulations promulgated by the Town of Beacon Falls shall be fined not more than one thousand dollars (\$1,000.00) for each day during which such violation continues or be imprisoned for not more than six months or both. For subsequent violation, such person

**SECTION 14: ENFORCEMENT (CONTINUED)**

shall be fined not more than two thousand dollars for each day during which such violation continues or be imprisoned not more than one year or both. For the purpose of this Subsection, "person" shall be construed to include any responsible corporate officer.



## **SECTION 15: AMENDMENTS**

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Beacon Falls may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection or as new information regarding soils and inland wetlands and/or watercourses becomes available.
- 15.2 An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland 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 Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this Section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3 These Regulations and Inland Wetlands and Watercourses Map for the Town of Beacon Falls shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed Regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except determinations of boundaries, at least thirty-five (35) days before the public hearing on their adoption.
- 15.4 Petitions from the public requesting changes or amendments to the Inland Wetlands and Watercourses Map for the Town of Beacon Falls shall contain at least the following information:
- a. The petitioner's name, address and telephone number;
  - b. The property owner's name (if not the applicant), address, telephone number, and a written consent to the proposed action set forth in the application;
  - c. Petitioner's interest in the land;
  - 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;
  - e. The reasons for the requested action;
  - f. The names and addresses of adjacent property owners; and
  - g. Maps or a map showing the existing conditions and the proposed development of the property.

## SECTION 15: AMENDMENTS (CONTINUED)

- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Beacon Falls, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to, professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Commission. If such person is the owner, developer or contract purchaser of the land that 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 14.4, the petition shall include:
- a. The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;
  - b. The names and mailing addresses of the owners of abutting land;
  - c. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and
  - d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland(s) and watercourse(s) boundaries.
- 15.6 Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- 15.7 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having general circulation in the municipality at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before the date set for the hearing. All materials including maps and documents relating to the petitions shall be open for public inspection.
- 15.8 The Commission shall hold a public hearing on a petition to amend the regulations and the Inlands and Watercourses Map within sixty-five (65) days after receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of the periods specified in this Subsection, provided the total extension of any such periods shall not be for longer than sixty-five (65) days, or may withdraw the such petition. Failure of the

## **SECTION 15: AMENDMENTS (CONTINUED)**

Commission to act within any time period specified in this Subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

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

## **SECTION 16: APPEALS**

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

## **SECTION 17: CONFLICT AND SEVERANCE**

- 17.1 If there is a conflict among the provisions of these regulations, the provision that imposes the most stringent standards for protection and preservation of wetlands and/or 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 that can be given effect without such invalid part or parts.
- 17.2 If there is a conflict between the provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

## **SECTION 18: OTHER PERMITS**

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

## **SECTION 19: APPLICATION FEES**

- 19.1 No application shall be considered complete and the Commission shall process no application unless the correct application fee is paid in full or unless the Commission pursuant to Subsection 19.5, 19.9 and 19.10 of these Regulations, has granted a waiver.
- 19.2 The application fee is not refundable. The application fee is to partially offset/reimburse the Town for the cost of processing the request. The fee is not for a permit, nor is it a user fee or an impact fee.
- 19.3 An application shall be considered incomplete if all fees are not paid. If, after approval of a permit, field conditions warrant the payment of additional fees, no further permit will be issued nor will any cease and desist order(s) be removed until all the additional fees attributable to the after-discovered field conditions are paid.
- 19.4 Method of Payment. All fees required by these regulations shall be submitted to the Commission by personal/business check up to and including the amount of five hundred (\$500.00) and by certified check or money order of any amount in excess of five hundred (\$500.00) payable to the Beacon Falls Inland Wetlands and Watercourses Commissions at the time the application is filed with the Commission.
- 19.5 In accordance with the requirements of Public Act 92-235, the Beacon Falls Inland Wetlands and Watercourses Commission is required to collect on behalf of the Connecticut Department of Environmental Protection. An additional fee for each application is included in the application fees in Subsection 19.5 of these Regulations.
- 19.6 Definitions. As used in this Section:
- "Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.
- "Commercial/industrial uses" means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.
- "Other uses" means activities other than residential uses or commercial uses.
- 19.7 Fee Schedule. Application fees shall be based on the Town of Beacon Falls Ordinance:
- 19.8 Application fee for petitions to amend these Regulations shall be \$ 750.00 per request.
- 19.9 Complex application fee: The Commission may charge additional fee sufficient to cover the cost of reviewing and acting on complex applications. Such fee may include, but not limited to, the cost of retaining experts to analyze, review, and report on issues requiring such experts. The Commission or the duly authorized Agent shall estimate the complex

## **SECTION 19. APPLICATION FEES (CONTINUED)**

application fee, which shall be paid pursuant to Section 19.3 of these regulations within ten (10) days of the applicant's receipt of notice of such estimate. Any portion of the complex application fee in excess of the actual cost shall be refunded to the applicant no later than thirty- (30) days after publication of the agency's decision.

19.10 Exemption. All Boards, Commissions, Agencies and/or Departments of the Town of Beacon Falls are exempt from all fee requirements...

19.11 Waivers. The applicant may petition the commission to waive, reduce or allow delayed payment of the fee required by Section 19 (Application Fees) of these regulations. Such petitions shall be in writing and shall state fully the facts and circumstances the Commission should consider in its determination under this Section. The Commission may waive all or part of the application fee if the Commission determines that:

- a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or
- b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.
- c. The applicant has shown good cause.

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



## **SECTION 20: EFFECTIVE DATE OF REGULATIONS**

- 20.1 These regulations including the Inland Wetlands and Watercourses Map, application forms, fee schedule and amendments thereto, shall become effective at 12:01 A.M. on January 18, 2012 provided: a copy of the regulations and map have been filed in the Office of the Town Clerk; and publication of a notice of the adoption of and the effective date of the regulations and map in a newspaper having general circulation in the Town of Beacon Falls.

## SECTION 21: RECORDS RETENTION AND DISPOSITION

- 21.1 The Commission and the Town Clerk for the Town of Beacon Falls shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedules set for in Subsection 21.2.
- 21.2 The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands and Watercourses Agencies effective April 24, 1989 (Revised February 2005):

RECORD TITLE	MINIMUM RETENTION REQUIRED IN/BY COMMISSION		DISPOSITION
Applications (inc. supporting materials for site plan) Approved Denied or Withdrawn	9 years 2 years after denial of decision or 2 years after application withdrawn		Destroy <sup>1</sup> Destroy <sup>1</sup>
Staff or Public written testimony	10 years after decision		Destroy <sup>1</sup>
Decision Letters	10 years after issuance of decision	N/R	Destroy <sup>1</sup>
General correspondence issued or received	5 years		Destroy <sup>1</sup>
Legal Notices	1 year after decision		Destroy <sup>1</sup>
Minutes of Public Meetings including Hearings	Permanent		Maintain in municipality
Tapes, Audio-Inland Wetlands Matters	4 years		Destroy <sup>1</sup>
Text of Changes Adopted In Regulations	Continuous Update/ Permanent	Permanent	
Enforcement actions	10 years after correction of violation		Destroy <sup>1</sup>