

**INLAND WETLANDS AND WATERCOURSES REGULATIONS**

**of the**

**TOWN OF CROMWELL, CONNECTICUT**

Date Adopted:	September 7, 1988
Date Effective:	October 1, 1988
Amended:	June 6, 1990
	November 1, 1992
	May 4, 1994
	October 7, 1998
	November 13, 2000
	September 15, 2001
	April 28, 2004 (effective June 18, 2004)
	December 19, 2006 (effective December 28, 2006)
	April 25, 2007 (effective May 5, 2007)
	August 5, 2009 (effective August 11, 2009)
	January 6, 2010 (effective January 13, 2010)
	April 6, 2011 (effective April 12, 2011)

## TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
Section 1: Title and Authority	3
Section 2: Definitions	4
Section 3: Inventory of Regulated Areas	9
Section 4: Permitted Uses As of Right and Nonregulated Uses	10
Section 5: Activities Regulated Exclusively by Commissioner	11
Section 6: Regulated Activities to be Licensed	12
Section 7: Application Requirements	12
Section 8: Application Procedures	19
Section 9: Public Hearings	20
Section 10: Considerations for Decision	21
Section 11: Decision Process and Permit	24
Section 12: Action by Duly Authorized Agent	27
Section 13: Bond and Insurance	28
Section 14: Enforcement	28
Section 15: Amendments	29
Section 16: Appeals	32
Section 17: Conflict and Severance	32
Section 18: Other Permits	32
Section 19: Records Retention and Disposition	32
Section 20: Fee Schedule	32
Section 21: Effective Date of Regulations	34

**SECTION 1**  
**TITLE AND AUTHORITY**

- 1.1 The inland wetlands and watercourses of the state of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- 1.2 These regulations shall be known as the "Inland Wetland and Watercourses Regulations of the Town of Cromwell". They shall be administered by the Inland Wetland and Watercourses Agency of the Town of Cromwell.
- 1.3 The Inland Wetland and Watercourses Agency of the Town of Cromwell was established in accordance with an ordinance adopted January 17, 1974 and is empowered to implement the purposes and provisions of the Inland Wetland and Watercourses Act in the Town of Cromwell.

- 1.4 These regulations have been adopted and may be amended, from time to time, in accordance with the provisions of the Inland Wetlands and Watercourses Act and these regulations.
- 1.5 The Agency shall enforce the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Cromwell pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

## **SECTION 2 DEFINITIONS**

- 2.1 As used in these regulations:
  - a. "Act" means the Inland Wetland and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, as amended.
  - b. "Agency" means the Inland Wetland and Watercourses Agency of the Town of Cromwell.
  - c. "Bogs" are watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.
  - d. "Buffer Area": See "Upland Review Area".
  - e. "Clear-cutting" means the harvest of timber products in a fashion which removes all trees down to a 2" diameter at breast height.
  - f. "Commission member" means a member of the Inland Wetlands and Watercourses Agency of the Town of Cromwell.
  - g. "Commissioner of Environmental Protection" means the Commissioner of the State of Connecticut Department of Environmental Protection.
  - h. "Continual flow" means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.
  - i. "Date of Receipt" means the day of the next regularly scheduled meeting immediately following the day of submission or thirty-five days after such submission, whichever is sooner

- j. "Designated agent" means an individual(s) designated by the agency to carry out its functions and purposes.
- k. "Deposit" includes, but shall not be limited to, fill, grade, dump, place, discharge or emit.
- l. "Discharge" means emission of any water, substance, or material into waters of the state whether or not such substance causes pollution.
- m. "Disturb the natural and indigenous character of the wetland or watercourse" means alter the inland wetland and watercourses by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.
- n. "Essential to the farming operation" means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.
- o. "Farming" shall be consistent with the definition as noted in section 1-1(q) of the Connecticut General Statutes.
- p. "Feasible" means able to be constructed or implemented consistent with sound engineering principles.
- q. "Gardening" means the tilling of soil, planting, cultivating, and harvesting of vegetable matter.
- r. "License" means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of sections 22a-36 to 22a-45, inclusive.
- s. "Management practice" means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: stormwater quality and quantity treatment; erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.
- t. "Marshes" are watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year and areas of open water six

inches or more in depth are common, but seasonal water table fluctuations are encountered.

- u. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse, or waste.
- v. "Nurseries" means places where plants are grown for sale, transplanting, or experimentation.
- w. "Permit" see license.
- x. "Permittee" means the person to whom such permit has been issued.
- y. "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.
- z. "Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the Town by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.
- aa. "Prudent" means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.
- bb. "Regulated Activity" means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetland or watercourse, but shall not include the specified activities in Section 4 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of stormwater in an upland review area is a regulated activity.
- cc. "Regulated Area" means any inland wetland or watercourse as defined in these regulations.
- dd. "Remove" includes, but shall not be limited to, drain, excavate, mine, dig, dredge, suck, grub, cutting trees, bulldoze, dragline or blast.

- ee. "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.
- ff. "Significant impact" means any activity, including, but not limited to, the following activities which may have a major effect on a wetland or watercourse:
  - 1. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
  - 2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
  - 3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or to perform other functions.
  - 4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
  - 5. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
  - 6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
  - 7. Any activity which damages or destroys unique wetland or watercourse areas having demonstrable scientific or educational value.
- gg. "Soil scientist" means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management (formerly the U.S. Civil Service Commission).
- hh. "Submerged lands" means those lands which are inundated by water on a seasonal or more frequent basis.
- ii. "Swamps" are watercourses that are distinguished by the dominance of wetland trees and shrubs.
- jj. "Town" means the Town of Cromwell, in the State of Connecticut.

- kk. "Upland Review Area" means:
1. land within one hundred feet of the boundary of any wetland;
  2. land within one hundred feet of the centerline of any unnamed watercourse;
  3. land within two hundred feet of the centerline of any named watercourse including Chestnut Brook, Willow Brook, Wilcox Brook/Cromwell Creek, North Brook, Coles Brook and the Mattabasset River;
  4. land within two hundred feet of the ordinary high water mark of the Connecticut River;
  5. land within two hundred feet of any vernal pool;
  6. land within two hundred feet of any wetlands or watercourse in the area located east of the railroad track, south of Nooks Hill Road and north of Wall Street ("Dead man's Swamp");
  7. land within two hundred feet of any wetlands or watercourse in the area located west of Route 9, south of West Street and east of Shunpike Road ("Round Meadows"); or
  8. any other area of town with a significant likelihood to cause damage to wetland and regulated area.
- ll. "Vernal Pool" means a watercourse consisting of a confined basin depression which contains a small body of standing water, usually drying out for part of the year during warm weather. It can be natural or man-made, and usually lacks a permanent outlet or any fish population. Further, the occurrence of one or more of the obligatory species which include the fairy shrimp, spotted salamander, Jefferson salamander, marbled salamander, wood frog and eastern spadefoot toad are necessary to conclusively define the vernal pool.
- mm. "Waste" means sewage or any natural or man-made substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the Town.
- nn. "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 Section 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or

deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

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

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

- 3.1 The map of wetlands and watercourses entitled "Town of Cromwell Department of Public Works Wetlands Base Map" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Agency. In all cases, the precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. The Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.
- 3.2 Any person may petition the Agency for an amendment to the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to aerial photography, remote sensing imagery, resource mapping or other available information. The Agency may require such person to provide an accurate delineation of regulated areas in accordance with section 15 of these regulations.
- 3.3 The Agency shall maintain a current inventory of regulated areas within the town. The Agency may amend its map as more accurate information becomes available.
- 3.4 All map amendments are subject to the public hearing process outlined in section 15 of these regulations.

**SECTION 4**  
**PERMITTED USES AS OF RIGHT AND NONREGULATED USES**

- 4.1 The following operations and uses shall be permitted in regulated areas, as of right:
- a. Grazing, farming, nurseries, gardening and harvesting of crops, and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, or the mining of top soil, peat, sand, gravel, or similar material from wetlands or watercourses for purposes of sale;
  - b. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Cromwell Planning and Zoning Commission as of June 26, 1974, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the building permit was obtained on or before July 1, 1987.
  - c. Boat anchorage or mooring, not to include dredging or dock construction;
  - d. Uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the Town (currently 40,000 sf) and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of material from or into a wetland or watercourse, or diversion or alteration of a watercourse;
  - e. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs, and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-403 of the Connecticut General Statutes.
  - f. Maintenance relating to any drainage pipe which existed before July 1, 1974, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For the purposes of this section, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine while the pipe remains in place.

- 4.2 The following operations and uses shall be permitted as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:
- a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife.
  - b. Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing, and cross-country skiing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Section 6 of these regulations or, for certain regulated activities located outside of wetlands and watercourses, from the duly authorized agent in accordance with Section 12 of these regulations.
- 4.4 To carry out the purposes of this section, any person (including a homeowner) proposing a permitted operation and use or nonregulated operation and use shall, prior to commencement of such operation and use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The person claiming a use of wetlands permitted as of 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 entitlement. The Agency shall rule that the proposed operation and use or portion of it is a permitted or nonregulated operation and use, or that the proposed operation and use is a regulated activity and a permit is required.

**SECTION 5**  
**ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF**  
**ENVIRONMENTAL PROTECTION**

- 5.1 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to sections 22a-39 or 22a-45a of the Connecticut General Statutes.

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

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

- 6.1 No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Agency.
- 6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, 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.

## **SECTION 7 APPLICATION REQUIREMENTS**

- 7.1 Any person intending to conduct a regulated activity or renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Agency. The application shall contain the information described in this section and any other information the Agency may reasonably require. Application forms may be obtained in the office of the Town Planner or the Agency.
- 7.2 If an application to the Town of Cromwell Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the

Connecticut General Statutes, submit an application for a permit to the Agency in accordance with this section, no later than the day the application is filed with the Planning and Zoning Commission.

- 7.3 All applications shall contain such information that is necessary for a fair and informed determination thereon by the Agency.
- 7.4 A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- 7.5 All applications shall include the following information in writing or on maps or drawings:
- a. The applicant's name, home and business mailing address and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation the managing member's or responsible corporate officer's name, address, and telephone number;
  - b. The owner's name, mailing address and telephone number and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed;
  - c. The applicant's interest in the land;
  - d. The geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), wetland vegetation, and known or possible vernal pools;
  - e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
  - f. Alternative which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be diagrammed on a site plan or drawing or otherwise described in writing;
  - g. A site plan showing the proposed activity and existing and proposed conditions in relation to wetlands and watercourses and identifying any further activities

associated with, or reasonable related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses;

- h. Names and mailing addresses of adjacent property owners;
- i. Statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- j. Authorization for the members and agents of the Agency to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;
- k. A completed DEP reporting form; the agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
- l. Any other information the Agency deems necessary to the understanding of what the applicant is proposing; and
- m. Submission of the appropriate filing fee as established by the Agency.

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

- a. Site plans for the proposed activity and the land which will be affected thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect and landscape architect licensed by the state, or by such other qualified person;
- b. Engineering reports and analyses and additional drawings to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
- c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Department of Agriculture; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation be depicted on the site plans;

- d. A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
- e. A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative which would cause less or no environmental impact to wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent;
- f. An analysis of chemical or physical characteristics of any fill material;
- g. Management practices and other measures designed to mitigate the impact of the proposed activity.
- h. If the Agency deems that an outside agency review of the application is warranted, and adequate outside agency review is not available to the Agency at little or no cost to the Town, the applicant shall be required to pay the cost of that review. The cost will be determined by the Agency and shall be paid by the applicant prior to the issuance of the permit (if approved).
- i. An affidavit from the applicant's consulting engineer or legal representative attesting that the erosion and sediment control plans comply with generally accepted best management practices or the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control (DEP Bulletin 34).
- j. An affidavit from the applicant's consulting engineer or legal representative attesting that the stormwater quality and quantity treatment design complies with generally accepted best management practices or the 2004 Connecticut Stormwater Quality Manual published by the Connecticut Department of Environmental Protection (if applicable).
- k. An affidavit from the applicant's consulting engineer or legal representative attesting that the design of any proposed stream crossings comply with generally accepted best management practices or the "Stream Crossing Guidelines" published by the Connecticut Department of Environmental Protection dated February 26, 2008 as revised (if applicable).
- l. A document listing each erosion control measure, stormwater quality and quantity treatment measure, and stream crossing shown on the site plan with its corresponding "best management practice" recommended by DEP Bulletin 34, the Connecticut Stormwater Quality Manual, and/or the DEP "Stream Crossing Guidelines". If there is no corresponding best management practice, so state and explain.

- 7.7 The applicant shall certify whether:
- a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
  - b. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
  - c. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
  - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.
- 7.8 Fifteen (15) copies of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed, in writing, by the Agency.
- 7.9 Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Section 8 of these regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under Section 8 of these regulations provided:
- a. The application may incorporate the documentation and record of the original application;
  - b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;
  - c. The application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;
  - d. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land for which the permit was issued;
  - e. The Agency may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgement, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity.
- 7.10 Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with

regard to the regulated activity for which the permit was issued provided no permit may be valid form more than ten years.

7.11 If the Agency deems that a peer review of any information submitted by the applicant is warranted, the applicant will be required to pay the cost of that peer review prior to a final decision.

7.11 Vernal Pool Indicators

a. Direct Indicators: The wildlife species listed below require vernal pools for successful reproduction, and are therefore considered "obligate vernal pool species". They serve as *direct* indicators of the existence of a vernal pool ecosystem and are the primary beneficiaries of vernal pool ecosystem protection. Documentation of vernal pool use by these species is the best way to identify vernal pool ecosystems. Either of the following categories will verify the existence of a vernal pool ecosystem:

1. Category 1: The existence of a seasonal watercourse in a confined basin or depression that lacks a fish population, and shows evidence of breeding or development by any of the following amphibian obligate species: spotted salamander; marbled salamander; wood frog; Jefferson salamander/blue-spotted salamander complex.

As required by this definition, acceptable proof of breeding or development of these obligate species include one or more of the following items:

Breeding:

- a. Breeding adults:
  1. Wood frogs: breeding chorus and/or mated pairs;
  2. Obligate salamanders: courting individuals and/or spermatophores.
- b. Two or more egg masses of any of the above-named species.

Development:

- c. Tadpoles or larvae of the above species;
- d. Transforming juveniles:
  1. Wood frogs: tail stubs evident;
  2. Obligate salamanders: gill remnants evident.

2. Category 2: The existence of a seasonal watercourse in a confined basin or depression that lacks a fish population, and contains fairy shrimp or their eggs.

b. Indirect Indicators: In the absence of direct indicators (typically when the pool is dry from late summer through early fall, or during the winter), indirect indicators may be used to gauge the likelihood that a watercourse is capable of supporting

obligate species. The more indirect indicators there are (especially indirect indicators 1 through 4), the greater the likelihood that a particular watercourse is a vernal pool.

A defined depression or basin should be examined for the following indirect indicators:

1. Fingernail clam shells, snail shells, caddis fly cases, diving beetles or evidence of other aquatic invertebrates, among the leaf litter;
2. Presence of algal strands hanging over branches, or silt-stained leaves;
3. Dense wetland plant growth (e.g. buttonbush, burr-reed, etc.) In the interior of the basin or depression;
4. A distinct waterline on the base of tree trunks or shrubs in the basin;

(Items 1 through 4 are *strong indicators*, indicating that the pool holds water long enough to support breeding by obligate species)

5. Discolored water-stained gray leaf litter within the basin as distinguished from the brown leaves on the adjacent upland floor;
6. Hummocks supporting moss, grass, sedges or woody growth along the edge of the basin or depression;
7. Unvegetated, low-lying area or areas in the basin interior;
8. Standing water or ice in winter.

(Items 5 through 8 are *moderate indicators* that might signify the presence of a vernal pool but do not provide strong evidence that the pool holds water long enough to support breeding obligate species)

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

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

- b. For purposes of this section, "preservation restriction" means a limitation, whether or not stated in the form of a restriction, easement , covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.
- c. No person shall file a permit application, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of such existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than sixty days prior to the filing of the permit application.
- d. In lieu of such notice pursuant to subsection 7.12c, 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 applications shall be submitted to the office of the Town Planner of the Town of Cromwell.
- 8.2 When an application to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse is filed and any portion of such wetland or watercourse is within 500 feet of the boundary of an adjacent municipality, the applicant shall give written notice of the application by certified mail, return receipt requested, on the same day to the inland wetlands agency of such municipality.
- 8.3 The Agency shall, in accordance with Connecticut General Statutes section 8-7d(f), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
  - a. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
  - b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;

- c. A significant portion of the sewer or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or,
- d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

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

- 8.4 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Section 25-32a, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Agency.
- 8.5 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Agency immediately following the day of submission to the Agency, or thirty-five days after such submission, whichever is sooner.
- 8.6 At any time during the review period, the applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in Subsection 10.2 of these regulations.
- 8.7 All applications shall be open for public inspection.
- 8.8 Incomplete applications may be denied.

## **SECTION 9 PUBLIC HEARINGS**

- 9.1 The Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the Agency not later than fourteen days after

the date of receipt of such application, or the Agency finds that a public hearing regarding such application would be in the public interest. The agency may issue a permit without public hearing provided no petition provided for in this section is filed with the agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held no later than sixty-five days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any such public hearing.

- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 The applicant shall send notice of the public hearing by certified mail, return receipt requested, to the owners of record of abutting land no less than fifteen days prior to the day of the hearing.
- 9.4 In the case of any application which is subject to the notification provisions of subsection 8.2 of these regulations, a public hearing shall not be conducted until the clerk of the adjoining municipalit(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.
- 9.5 The applicant shall post a sign or signs announcing the scheduled public hearing. The sign or signs shall be not less than four feet by four feet in size and shall contain the name of the applicant, the application file number, and the date, time, and location of the public hearing in contrasting letters that are not less than four inches high. One sign shall be posted on every side of the property that has frontage on a town road, and shall be placed not more than five (5) feet from the edge of the property. The sign shall be in place continuously for fourteen days prior to the public hearing and shall remain in place throughout the public hearing.

## **SECTION 10 CONSIDERATIONS FOR DECISION**

- 10.1 The Agency may consider the following in making its decision on an application:
  - a. The application and its supporting documentation.
  - b. Public comments, evidence and testimony.
  - c. Reports from other agencies and commissions including but not limited to the Town of Cromwell Conservation Commission, Planning and Zoning Commission, Building Official, and Health Officer.

- d. The Agency may also consider comments on any application from the Connecticut River Coastal Conservation District, the Midstate Regional Planning Agency, or other regional organizations (e.g. 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. If the Agency deems that a peer review of any information submitted by the applicant is warranted, the applicant will be required to pay the cost of that peer review prior to a final decision.
- e. Non-receipt of comments from agencies and commissions listed in Subsections 10.1.c and d above within the prescribed time shall neither delay nor prejudice the decision of the Agency.

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

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses;
- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses;
- c. The relationship between the short-term and long term impacts of the proposed regulated activity on wetlands and watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
- d. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
- e. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
- f. The suitability of the activity to the area for which it is proposed. This requires a balancing of the need for the economic growth of the state and the use of its land,

with the need to protect its environment and ecology for the people of the state and the benefit of generations yet unborn.

- g. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.
- 10.3 In the case of any application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in Subsection 10.2 of these regulations. The finding and the reasons therefor shall be stated on the record in writing.
- 10.4 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.
- 10.5 For purposes of this section, (1) “wetlands and watercourses” includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) “habitats” means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6 A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision. A conclusion that a feasible and prudent alternative does not exist does not create a presumption that a permit should be issued. The applicant has the burden of demonstrating that his application is consistent with the purposes and policies of these regulations and Sections 22a-36 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 7.12c or 7.12d of these regulations, the holder of the restriction may provide proof to the inland wetlands agency that granting of the permit application will violate the

terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the inland wetlands agency shall not grant the permit approval.

- 10.9 In the case of an application where the applicant fails to comply with the provisions of subsections 7.12c or 7.12d of these regulations, the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the inland wetlands agency, subject to the rules and regulations of such agency relating to appeals. The inland wetlands agency shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.
- 10.10 Nothing in subsections 7.12c or 7.12d of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

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

- 11.1 The Agency, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2 No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection, provided the total of all such

extensions shall not be for longer than sixty-five (65) days, or may withdraw such application. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the agency shall be withdrawn by the applicant or denied by the agency.

- 11.3 The Agency shall state upon its record the reasons and bases for its decision.
- 11.4 The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having general circulation in the town wherein the inland wetland or watercourse lies. In any case in which such notice is not published within such fifteen day period, the applicant may provide for the publication of such notice within ten days thereafter.
- 11.5 If an activity authorized by an inland wetland permit also involves an activity which requires zoning or subdivision approval, a special permit, or a variance, a copy of the decision and report on the application shall be filed with the Town of Cromwell Planning and Zoning Commission within fifteen days of the date of the decision.
- 11.6 Any permit issued by the Agency for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years.
- 11.7 No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency.
- 11.8 If a bond or insurance is required in accordance with Section 13 of these regulations, no permit shall be issued until such bond or insurance is provided.
- 11.9 The Agency may require the applicant to pay for an environmental specialist to ensure compliance with the approved "Erosion and Sediment Control Narrative and Construction Sequence", conduct regular and special site inspections, be present during environmentally-sensitive construction activity as directed by the Agency, and any other related activities deemed appropriate by the Agency. No permit shall be issued until the applicant has paid this amount to the Town.

11.10 General provisions in the issuance of all permits:

- a. The Agency has relied in whole or in part on information provided the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked.
- b. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Cromwell, 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 Agency's permit also involves an activity which requires zoning or subdivision approval, a special permit, or a variance under Section 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
- d. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
- e. Permits are not transferable without the prior written consent of the agency.
- f. Permits shall include the following General Conditions:
  1. This Permit shall expire five years after the date of its issuance;
  2. All work shall be conducted as shown on plans submitted in connection with this application as amended to reflect any conditions of this approval;
  3. The Permittee shall notify the Development Compliance Officer and the Town Engineer immediately prior to any work being conducted in a wetland or upland review area;
  4. The Permittee shall notify the Development Compliance Officer upon the completion of the approved regulated activity;
  5. In granting this Permit, the Agency has relied on information provided by the Permittee and, if such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, this permit may be modified, suspended or revoked;

6. Prior to commencement of any regulated activity and not more than 30 days after the date of this permit, the Permittee shall submit a narrative "Erosion and Sediment Control Chronological Order Checklist" for use by the Permittee's contractors and town staff;
7. The Permittee shall mark the boundaries of all conservation easement areas in a manner approved by the Agency, such as concrete monuments, a split-rail fence, new trees or shrubs, metal medallions attached to existing trees, or some combination of the above. The Permittee shall install said markers before selling any residential lots, and before commencing with any other site work;
8. The Permittee shall remove all temporary erosion and sediment control devices not more than six months after the topsoil is stable.

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

- 12.1 The Agency may delegate to its duly authorized agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in a no greater than a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 6.5 of these regulations and any other information the Agency may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in Sections 7, 8, and 10 of these regulations, such agent may approve or extend such an activity at any time.
- 12.2 Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Agency within fifteen days after the publication date of the notice and the Agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency shall, at its discretion, sustain, alter, or reject the decision of its agent or require an application for a permit in accordance with Section 6 of these regulations.

**SECTION 13  
BOND AND INSURANCE**

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

**SECTION 14  
ENFORCEMENT**

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to inspect property, except a private residence, and issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision under Section 10.2 of these regulations. The Agency may appoint an agent or agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations.
- 14.2 The Agency or its agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued with the consent of the property owner or the authorized agent of the owner during the life of the permit. This permission shall be indicated on the permit application.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Agency 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 Agency or its designated agent finds that any person is conducting or maintaining any activity, facility, or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:
  - a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Agency shall consider the fact presented at the hearing and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The Agency shall publish notice of its decision in a newspaper

having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the General Statutes, as amended.

- b. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Subsection 13.3.a or other enforcement proceedings as provided by law. Other actions may include the filing of a certificate of such order in the Office of the Town Clerk indexed under the name of the property owner(s). Such certificate shall be released upon compliance with such order.
- 14.5. The Agency may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions, or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a public hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.
- 14.6. The enforcement remedies referred to herein are not intended to limit any other remedies available in law or equity including, without limitation, fines and penalties otherwise provided by law.

## **SECTION 15 AMENDMENTS**

- 15.1 These regulations and the Wetlands Base Map for the Town of Cromwell may be amended from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.

- 15.2 An application filed with the Agency which is in conformance with the Agency's regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in those regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of the Agency with respect to such application shall not be dismissed by the Superior court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt.
- 15.3 These regulations and the Wetlands Base Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes as amended. The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearings to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five (35) days before the public hearing on their adoption.
- 15.4 Petitions requesting changes or amendments to the Wetland Base Map shall contain at least the following information:
- a. The petitioner's name, mailing address and telephone number;
  - b. The address, or location, of the land affected by the petition;
  - c. The petitioner's interest in the land affected by the petition;
  - d. Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetlands and watercourses boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
  - e. The reasons for the requested action.
- 15.5 Any person who submits a petition to amend the Wetlands Base Map of Cromwell 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 Agency. If such person is the owner, developer or contract purchaser of the land which is the subject of the petition, or if such person is representing the interests of such an owner, developer or purchaser, in addition to the information required in subsection 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 and watercourse boundaries.
- 15.6 Watercourses shall be delineated by a competent soil scientist, geologist, ecologist, or other individual satisfactory to the Agency.
- 15.7 A public hearing shall be held on all proposed amendments to the Inland Wetlands and Watercourses regulations or map. Notice of such hearing shall be published in a newspaper having substantial circulation in the municipality at least twice at intervals of not less than two 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 such hearing. A copy of such proposed amendment shall be filed in the office of the Town Clerk for public inspection at least ten (10) days before such hearing.
- 15.8 No later than sixty-five (65) days after receipt of an application to amend the regulations or the Wetlands Base Map, the Agency shall hold a public hearing on such application. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within sixty-five (65) days after completion of a public hearing. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total of all such extensions shall not be for longer than sixty-five (65) days, or may withdraw such application. The failure of the Agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the agency shall be withdrawn by the applicant or denied by the agency.
- 15.9 The Agency shall make its decision and state, in writing, the reasons why the change in the Wetlands Base Map was made.

**SECTION 16  
APPEALS**

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

**SECTION 17  
CONFLICT AND SEVERANCE**

- 17.1 If there is a conflict between the provisions of these regulations, the provision which imposes the most stringent standards for the use of wetlands and watercourses shall govern. The invalidity of any word, clause or sentence, section, part, subsection, or provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.
- 17.2 If there is a conflict between the provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern. The term "conflict" does not apply to provisions reflecting the lawful exercise of the Agency's right to adopt administrative procedures more stringent than those contained in the "Inland Wetlands and Watercourses Model Regulations" written by the Connecticut Department of Environmental Protection.

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

**SECTION 19  
RECORDS RETENTION AND DISPOSITION**

- 19.1 The Agency and the Town Clerk for the Town of Cromwell shall retain complete administrative records of Agency actions and dispose of such records in accordance with the Records Retention/Disposition Schedule promulgated by the Connecticut State Library.

**SECTION 20  
APPLICATION FEES**

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

- a. Regulated Activities:
  - Nonsignificant Activity: \$50 plus combined fees from below.
  - Significant Activity: \$100 plus combined fees from below.
    - 1. \$1 per 1,000 square feet of wetland on the property, plus
    - 2. \$2 per 1,000 square feet of wetlands disturbed, plus
    - 3. \$5 per 1,000 square feet of uplands disturbed.
  
- b. Permitted Uses as of Right and Nonregulated Uses:
  - As of Right: No charge
  - Nonregulated Use: \$25
  
- c. Modification of Previous Approval: \$25
  
- d. Map Amendment Petitions: \$100 plus fee from Schedule below.

Length of Wetlands Boundary:	Fee per 100 linear feet of Boundary:
a. Less than 500 linear feet:	\$10
b. 501 to 1,000 linear feet "a" plus:	\$5
c. 1,001 linear feet and up: "b" plus:	\$1

20.6 Land Use boards, commissions, and departments of the Town of Cromwell are exempt from all fee requirements.

20.7 The applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this subsection. The Agency may waive all or part of the application fee if the Agency determines that:

- a. The activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, 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.

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

**SECTION 21**  
**EFFECTIVE DATE OF REGULATIONS**

- 21.1 These regulations including the Wetlands Base Map, application forms, fee schedule and amendments thereto, shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such action in a newspaper having general circulation in the Town of Cromwell.