

Town of Bethel, CT  
Tuesday, March 18, 2014

## Chapter 115. WETLANDS AND WATERCOURSES

**[HISTORY: Adopted by Town Meeting of the Town of Bethel 12-12-1991. Editor's Note: These regulations also superseded former Ch. 115, Wetlands and Watercourses, adopted as follows: Art. I, adopted by Town Meeting 10-26-1973; Art. II, adopted by the Conservation Commission 5-18-1981. Amendments noted where applicable.]**

### GENERAL REFERENCES

Building construction — See Ch. 42.

Flood damage prevention — See Ch. 57.

Subdivision of land — See Ch. 95.

Zoning — See Ch. 118.

### § 115-1. Findings of fact; purpose.

#### A. Findings.

- (1) The inland wetlands and watercourses of the Town of Bethel are an indispensable and irreplaceable but fragile natural resource with which the citizens of the Town are 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.
- (2) Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had and will continue to have a significant adverse impact on the environment and ecology of the Town of Bethel 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 Town for its citizens now and forever more.
- (3) The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the Town.

B. Purpose. It is, therefore, the purpose of these regulations to protect the citizens of the Town by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, Town or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the Town's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the Town and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the Town the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

### **§ 115-2. Title; implementation; enforcement.**

A. These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Bethel."

B. The Conservation Commission/Inland Wetlands Agency of the Town of Bethel was established in accordance with an ordinance adopted October 25, 1973, and in accordance with Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Bethel to protect the wetlands and watercourses within the territorial limits of the Town.

C. Amendments.

(1) A public hearing shall be held to amend the regulations. Notice of the time and place of such hearing shall be published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the municipality at least twice, at intervals of not less than two days; the first not more than 25 days nor less than 15 days and the last not less than two days before such hearing, and a copy of such proposed regulation or boundary shall be filed in the office of the Bethel Town Clerk for public inspection at least 10 days before such hearing and may be published in full in such paper. Such regulations and inland wetland boundaries may be from time to time amended, changed or repealed by majority vote of the Conservation Commission/Inland Wetlands Agency. Such regulations or boundary or changes therein shall become effective at such time as is fixed by the Conservation Commission/Inland Wetlands Agency, provided that a copy of such regulations or boundary or changes shall be filed in the office of the Bethel Town Clerk and notice of such filing is published in a newspaper having a general circulation in the Town of Bethel.

(2) Amendments to regulations shall be promulgated in the manner provided in Subsection **C(1)** of this section.

D. The Inland Wetland and Watercourses Regulations of the Town of Bethel were established in accordance with an ordinance adopted on October 26, 1973, and shall be implemented by the Conservation Commission/Inland Wetlands and Watercourses Agency.

E. These regulations have been adopted and may be amended from time to time in accordance with the provisions of the Inland Wetlands and Watercourses Ordinance and the Connecticut General Statutes.

F. The Commission shall enforce all provisions of the Inland Wetlands and Watercourses Ordinance, and shall issue, issue with modifications and deny permits for all regulated activities on inland wetlands and watercourses in the Town of Bethel pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

### **§ 115-3. Powers and duties of Conservation Commission/Inland Wetlands Agency.**

In exercising the authority granted herein, the Conservation Commission/Inland Wetlands Agency shall:

- A. Promulgate such regulations as are necessary to protect the wetlands and watercourses or any of them individually or collectively, and exercise all powers necessary to enforce rules and regulations and to carry out the purpose of the Act.
- B. Advise, consult and cooperate with agencies of the Town, state, federal government, other states and with persons and municipalities in furtherance of the purposes of this chapter. To this end, all applications for building permits, subdivision plans, permits and other activities which involve or may involve a regulated activity in a regulated area, as defined by Connecticut General Statutes Sections 22a-36 to 22a-45, inclusive, as amended, shall be subject to review by the Conservation/Inland Wetlands Agency.
- C. Encourage, participate in or conduct studies, investigations, research and demonstrations and collect and disseminate information related to the purpose of this chapter.
- D. Retain and employ consultants and assistants on a contract or other basis, subject to approval by the Board of Finance and/or Town Meeting, when necessary, for rendering legal, financial, technical or other assistance and advice in furtherance of any of its purposes as may be required from time to time, specifically including but not limited to soil scientists of the United States Soil Conservation Service for the purpose of making on-site interpretations, evaluations and findings as to soil types; and/or shall utilize the services of other Town officials and employees as it may deem appropriate.
- E. Inventory or index the wetlands and watercourses in such form, including pictorial representations, as the Conservation Commission/Inland Wetlands Agency deems best suited to effectuate the purpose of this chapter.

## § 115-4. Definitions.

As used in these regulations, the following terms shall have the meanings indicated:

### **ACT**

The Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45 of the Connecticut General Statutes, as may be amended.

### **AGENCY**

The Conservation Commission/Inland Wetlands Agency of the Town of Bethel.

### **BOGS**

Areas distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage and highly acidic conditions.

### **CLEAR-CUTTING**

The harvest of timber in a fashion which removes all trees down to a two-inch diameter at breast height.

### **COMMISSIONER OF ENVIRONMENTAL PROTECTION**

The Commissioner of the State of Connecticut Department of Environmental Protection.

### **COMMISSION MEMBER**

A member of the Conservation Commission/Inland Wetlands and Watercourses Agency of the Town of Bethel.

### **CORE ACTIVITIES**

A. Any activity involving the deposition of 100 cubic yards or more of material within a regulated area or any deposition that will have a substantial adverse effect on the regulated area or on another part of the inland and watercourse system.

B. Any activity involving removal of 100 cubic yards or more of material within a regulated area or any removal that will have a substantial effect on the regulated area or on another part of the inland wetland and watercourse system.

C. Any activity which substantially changes the natural channel of a watercourse or the limits and/or form of an inland wetland.

D. Any activity which diminishes substantially the natural capacity of a watercourse or an inland wetland to support desirable biological life, prevent flooding, supply water, facilitate drainage and provide recreation and open space.

E. Any activity which would result in degrading a watercourse or the surface or ground water of an inland wetland, such degradation to be measured by the standards of the Water Compliance Division of the Department of Environmental Protection, where applicable.

F. Any activity which may have a significant impact or major effect on an inland wetland or watercourse.

### **DEPOSIT**

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

### **DISCHARGE**

Emission of any water, substance or material into wetlands or watercourses, whether or not such substance causes pollution.

**DISTURBING THE NATURAL AND INDIGENOUS CHARACTER OF THE LAND**

The activity will significantly alter the inland wetlands and watercourses by reason of removal or deposition of material, clear-cutting, alteration or obstruction of water flow or will result in the pollution of the wetland or watercourse.

**ESSENTIAL TO THE FARMING OPERATION**

The activity proposed is necessary and indispensable to sustain farming activities on an existing farm.

**FARMING**

Use of land for the growing of crops, raising of livestock or other agricultural use.

**INLAND WETLANDS AGENCY**

The Bethel Conservation Commission established pursuant to and acting under Section 7-131a of the Connecticut General Statutes, as amended, and as empowered by a certain ordinance of the Town of Bethel passed by a Special Town Meeting on October 26, 1973, and referred to in these regulations as the "Commission."

**INTERMITTENT WATERCOURSE**

Those watercourses which are characterized by nonpersistent flow. For purposes of these regulations, "intermittent watercourses" are delineated by two or more of the following characteristics:

**[Amended 9-23-2002]**

- A. A defined permanent channel with the 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. Ordinarily, the presence of water is supported by a component, however small, of groundwater outflow or exfiltration.
- C. The presence of or ability to support the growth of hydrophytic vegetation.

**LICENSE**

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 these regulations under the authority of the Conservation Commission/Inland Wetlands Agency.

**MARSHES**

Areas with soils that exhibit aquatic moisture regimes that are distinguished by the absence of trees and shrubs and are dominated by soft-stemmed herbaceous plants. The water table in marshes is at or above the surface throughout the year, but seasonal fluctuations are encountered and areas of open water six inches or more in depth are common.

**MATERIAL**

Any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, peat, mud, debris, sand, refuse or waste.

**MUNICIPALITY**

The Town of Bethel, Fairfield County, Connecticut.

**NURSERIES**

Land used for propagating trees, shrubs or other plants for transplanting, sale or for use as stock for grafting.

**PERMIT**

The whole or any part of any license, certificate or approval or similar form of permission which may be required of any person by the provisions of these regulations under the authority of the Conservation Commission/Inland Wetlands Agency.

**PERMITTEE**

The person to whom such permit has been issued.

**PERSON**

Any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

**POLLUTION**

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.

*Editor's Note: The definition for "prohibited activities," which immediately followed this definition, was repealed 1-27-2003.*

**REGULATED ACTIVITY**

Any operation within or use of a wetland or watercourse involving removal or deposition of material or any obstruction, construction, alteration or pollution, of such wetlands or watercourses or any operation within or use of land which may disturb the natural and indigenous character of a wetland or watercourse, but shall not include the specified activities in § 115-6 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of stormwater on the land within 100 feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Commission may rule that any other activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses is a regulated activity.

**[Amended 9-23-2002]**

**REGULATED AREA**

Any wetlands or watercourses as defined in these regulations.

**[Amended 9-23-2002]**

**REMOVE**

Includes but shall not be limited to drain, excavate, mine, dig, dredge, suck, grub, clear-cut timber, bulldoze, dragline or blast.

**RENDERING UNCLEAN OR IMPURE**

Any alteration of the physical, chemical or biological properties of any waters of the Town, including but not limited to change in odor, color, turbidity or taste.

**SIGNIFICANT ACTIVITY**

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 wetland or watercourse system:

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

B. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.

C. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to support desirable fisheries, wildlife or other biological life; or to prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space; or to perform other functions.

D. Any activity which causes substantial turbidity, siltation or sedimentation in a wetland or watercourse.

E. Any activity which causes a substantial diminution of flow of a natural watercourse or groundwater levels of the regulated area.

F. Any activity which causes or has the potential to cause pollution of a wetland or watercourse.

G. Any activity which destroys unique wetland or watercourse areas having demonstrable scientific or educational value.

**SOIL SCIENTIST**

An individual duly qualified in accordance with standards set by the Office of Personnel Management (formerly the United States Civil Service Commission).

**SUBMERGED LANDS**

Those lands which are inundated by water on a seasonal or more frequent basis.

**SWAMPS**

Areas with soils that exhibit aquatic moisture regimes and are dominated by wetland trees and shrubs.

**TOWN**

The Town of Bethel, Fairfield County, in the State of Connecticut.

**UPLAND REVIEW AREA**

The area of land within 100 feet measured horizontally from the boundary of any wetland or watercourse.

**[Added 9-23-2002]**

**UPLANDS**

Any land not designated as "wetlands" or "watercourses" under the definitions of § 115-4 of these regulations.

**[Added 9-23-2002]**

**WASTE**

Sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands or watercourses of the Town.

## WATERCOURSES

Rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, springs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to Sections 22a-28 through 22a-35 of the General Statutes, as amended, and which generally are shown for informational purposes only on a map on file in the Town Clerk's office entitled "Official Wetlands Map, adopted by the Inland Wetlands Commission on 6/11/1979, Bethel, CT." Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics:

- A. Evidence of scour or deposits of recent alluvium or detritus;
- B. The presence of standing or flowing water for a duration longer than a particular storm incident; and
- C. The presence of hydrophytic vegetation.

## WETLANDS

Land, including submerged land as defined in this section, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as it may be amended from time to time, of the Soil Conservation Service of the United States Department of Agriculture (USDA), and in general shown for informational purposes only on a map on file in the office of the Town Clerk, entitled "Official Wetlands Map, Dated 6/11/79, Bethel, CT." In each instance, however, the actual character of the soil shall determine whether the land in question is a wetland as defined in these regulations and shall be determined in the field by a soil scientist. Such areas may include filled, graded or excavated sites which possess an aquatic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

### § 115-5. Inventory of regulated areas.

- A. The map of regulated areas entitled "Official Inland Wetlands and Watercourses Map, Bethel, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Town Clerk or the Inland Wetlands Agency. In all cases, the precise location of regulated areas shall be determined by the actual character of the land, the distribution of wetland soil types and locations of watercourses. Such determinations shall be made by field inspection and testing conducted by a soil scientist where soil classifications are required or, where watercourse determinations are required, by any qualified individual(s).
- B. Any property 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 § 115-29 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 § 115-27 of these



regulations may be required of the property owner when the Commission requires an accurate delineation of regulated areas.

- C. The Conservation Commission/Inland Wetland Agency shall inventory and maintain current records of all 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 watercourses within the Town. Such map amendments are subject to the public hearing process outlined in § 115-29 of these regulations.

### § 115-6. Permitted and nonregulated uses.

- A. The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- (1) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation. The provisions of this subsection shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear-cutting of timber except for the expansion of agricultural crop land or the mining of topsoil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale.
  - (2) A residential home:
    - (a) For which a building permit has been issued; or
    - (b) On a subdivision lot, provided that the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to Subsection (b) of Section 22a-42a of the General Statutes, or as of July 1, 1974, whichever is earlier, and further provided that 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. The individual 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 entitlement.
  - (3) Boat anchorage or mooring, not to include dredging or dock construction.
  - (4) Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality, provided that in any Town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres, and containing a residence. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or

deposition of substantial amounts of material from or into a wetland or watercourse or diversion or alteration of a watercourse.

- (5) Construction and operation by water companies, as defined by Section 16-1 of the General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-410 of the General Statutes.

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

- (1) Conservation of soil, vegetation, water, fish, shellfish, 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.
- (2) Outdoor recreation, including the use of play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin and scuba diving, camping, boating, waterskiing, trapping, hunting, fishing and shellfishing and cross-country skiing, where otherwise legally permitted and regulated.

C. All activities in wetlands or watercourses involving filling, excavation, dredging, clear cutting, grading and excavation or any other alteration or use of a wetland or watercourse not specifically permitted by this section shall require a permit from the Commission in accordance with § 115-7 of these regulations.

D. To carry out the purposes of this section, any person proposing to carry out a permitted or nonregulated operation or use of a wetland or watercourse that may disturb the natural and indigenous character of the wetland or watercourse or increase water runoff shall, prior to commencement of such operation or use, notify the Commission on a form provided by it and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of the wetland or watercourse. The Commission shall rule that the proposed operation or use is or is not a permitted or a nonregulated use or operation or that a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Commission following the meeting at which the request was received.

## § 115-7. Regulated activities.

- A. No person shall conduct or maintain a regulated activity without first obtaining a permit for such activity from the Conservation Commission/Inland Wetlands Agency of the Town of Bethel.
- B. The Agency shall regulate any operation within or use of a wetland or watercourse involving removal or deposition of material or any obstruction, construction, alteration or pollution

of such wetlands or watercourses and any other regulated activity, unless such operation or use is permitted or nonregulated pursuant to § **115-6** of these regulations.

- C. Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission or violating any other provision of these regulations shall be subject to the enforcement proceedings and penalties prescribed in § **115-28** of these regulations and any other remedies as provided by law.

### § 115-8. Application requirements.

- A. Any person wishing to undertake a regulated activity shall apply for a permit on a form entitled "Town of Bethel Conservation Commission/Inland Wetlands and Watercourses Agency Application for Permit." An application shall include an application form and such information as prescribed by § **115-8C** and, in the case of a significant activity, by § **115-9** of these regulations. Application forms may be obtained in the offices of the Conservation Commission/Inland Wetlands Agency.
- B. All applications shall contain such information as is necessary for a fair and informed determination of the issues.
- C. Application contents; fee.
- (1) All applications shall include the following information in writing or on maps or drawings:
- (a) The applicant's name, home and business addresses and telephone numbers.
  - (b) The owner's name, address and telephone number and written consent if the applicant is not the owner of the property involved in the application.
  - (c) The applicant's interest in the land.
  - (d) The geographical location of the property which is to be affected by the proposed activity, including but not limited to a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, a computation of the area(s) (in acres or square feet) of wetlands or watercourses disturbance, soil type (s) and wetland vegetation.
  - (e) The purpose and a description of the proposed activity and proposed erosion and sedimentation controls.
  - (f) Alternatives considered by the applicant and why the proposal to alter wetlands set forth in the application was chosen.
  - (g) A site plan showing existing and proposed conditions in relation to wetlands and watercourses drawn by a licensed professional engineer or surveyor.
  - (h) Site plan. A map of the proposed use or effects of an intended activity, drawn by a licensed surveyor, professional engineer or professional architect, who must be

registered in the State of Connecticut, and which is based upon a monumented Class A-2 survey. The map shall be drawn to a scale of not more than one inch to 50 feet, shall have a contour interval of two feet and shall show:

- [1] Structures existing and proposed on the subject parcel and property lines.
  - [2] Areas of proposed changes in use or activity.
  - [3] Locations on or near the affected property of any wetlands and watercourses, bogs, marshes and swamps as defined in § 115-4.
  - [4] Locations of all boring and soil sample data presented by the applicant, documented by a soil scientist.
  - [5] Engineered drainage design (e.g., culverts, catch basins, drainage calculations, etc.).
  - [6] Proposed wells.
  - [7] Locations of all waste treatment facilities, existing and proposed.
  - [8] Areas where material may be deposited or removed.
  - [9] All construction within a watercourse (e.g., bulkheads, piers, etc.).
  - [10] Significant vegetation, including all trees over a six-inch caliper.
  - [11] Proposed grading, by two-foot contours, of any earth movement anticipated.
  - [12] Wetlands, flagged and delineated on the site plan by a certified soil scientist with signature of soil scientist annotated thereon.
  - [13] Runoff calculations showing a zero increase in the rate of flow from the undeveloped condition of the property site to the developed condition of the property site during construction and after completion of the project.
  - [14] Soil and erosion control measures and notes in accordance with the Soils Conservation Service Bulletin No. 55.
- (i) The names and addresses of adjacent property owners.
  - (j) A certification 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 commissioners and agents of the Commission to inspect the property, at reasonable times, both before and after a final decision has been issued.

(1) Any other information the Commission deems necessary to the understanding of what the applicant is proposing.

(2) The appropriate filing fee based on the fee schedule established in § **115-33** of these regulations shall be submitted.

### § 115-9. Core or significant activity requirements.

If the proposed activity involves a core or a significant activity as determined by the Commission and defined in § **115-4** of these regulations, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:

- A. Site plans for the proposed use or operation and the property which will be affected 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 development drawn by a licensed surveyor, professional engineer or landscape architect registered in the State of Connecticut or by such other qualified person.
- B. Engineering reports and analyses and additional drawings to fully describe the proposed project and any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan.
- C. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the United States Soil Conservation Service (the Commission shall require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated onto the site plans and signed by a certified soil scientist).
- D. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetland functions.
- E. Description of how the applicant will change, diminish or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and with each alternative and a description of why each alternative considered was deemed neither feasible nor prudent.
- F. Analysis of chemical or physical characteristics of any fill material to be deposited. If any materials are to be deposited at any point within the subject parcel, the applicant is required to describe the materials in terms of:
  - (1) Volume, in cubic yards.
  - (2) Nature of materials (e.g. sand, gravel, loam, rock, limited to clean fill as defined by industry standards).

G. Measures which mitigate the impact of the proposed activity. Such measures include but are not limited to plans or actions which avoid destruction or diminution of wetland or watercourse functions, recreational uses and natural habitats, which prevent flooding, degradation of water quality, erosion and sedimentation and obstruction of drainage or which otherwise safeguard water resources.

H. Stream characteristics. If a proposed activity affects a watercourse lying within, partly within or flowing through the subject parcel or affects the water table, submission of anticipated changes in the following are required to be submitted:

- (1) Alkalinity/acidity level or pH.
- (2) Turbidity or solids in parts per million.
- (3) Bacteria count, in coliforms per milliliter.
- (4) The rate of flow, if any, in cubic feet per second prior to construction.

**§ 115-10. Certifications.**

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. Sewer or water drainage from the project site will flow through and impact on the sewage or drainage system within the adjoining municipality.
- C. Water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality.

**§ 115-11. Submission of copies.**

Ten copies of all application materials shall be submitted to comprise a complete application or as is otherwise directed, in writing, by the Commission.

**§ 115-12. Extensions.**

Any application to extend the expiration date of a previously issued permit or amend an existing permit shall be filed with the Agency at least 65 days prior to the expiration date for the permit in accordance with §§ **115-25** and **115-26** of these regulations. Any application for amendment, renewal or extension shall be made in accordance with these sections, provided that:

- A. The application may incorporate by reference the documentation and record of the original 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 application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses on the property for which the permit was issued.

- D. The Commission may accept an untimely application to extend the expiration date of a 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 extended 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.
- E. The Commission shall evaluate the application pursuant to § 115-21 of these regulations and grant the application as filed, grant it with any terms or limitations or deny it.

### § 115-13. Reporting form.

- A. A reporting form shall be completed during the application process which provides the Commissioner of the Department of Environmental Protection with information necessary to properly monitor the inventory of state wetlands. The reporting form shall be part of the application, and the following information shall be provided by the applicant:
  - (1) The name of the applicant.
  - (2) The location and name of the project.
  - (3) Project and site description.
  - (4) The area of wetlands and/or linear feet of watercourse proposed to be altered.
- B. The Commission shall be responsible for the remaining information and any corrections on the form and for filing it in accordance with Section 22a-39-14 [22a-29(m)-1] of the Inland Wetlands and Watercourses Regulations of the Department of Environmental Protection.

### § 115-14. Application procedures.

- A. All applications shall be submitted to the Conservation Commission/Inland Wetlands Agency of the Town of Bethel.
- B. In the case of any application where any portion of the wetland or watercourse on which the regulated activity is proposed is located within 500 feet of the boundary of Danbury, Brookfield, Redding or Newtown, the applicant shall give written notice, in accordance with Public Act 87-533, of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetlands agency on the same day of filing an inland wetland permit application with the Bethel Conservation Commission/Inland Wetlands Agency. Documentation of such notice shall be provided to the Conservation Commission/Inland Wetlands Agency in accordance with Section 22a-42c of the General Statutes.
- C. The Conservation Commission/Inland Wetlands Agency shall, in accordance with Connecticut General Statutes, Section 22a-42b (Public Act No. 87-307), notify the Clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:

- (1) Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- (2) 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
- (3) Water runoff from the improved site will impact on streets or other municipal or private property within the adjoining municipality.

D. Notice of the pendency of such application shall be made by registered mail and shall be mailed within seven days of the date of receipt of the application.

E. If an activity submitted to the Conservation Commission/Inland Wetlands Agency also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the application shall be filed with the Town of Bethel Planning and Zoning Commission and/or Zoning Board of Appeals within 10 days of the date of the submittal to the Conservation Commission/Inland Wetlands Agency.

### **§ 115-15. Notice of application.**

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 General Statutes, the applicant shall provide written notice of the application to the water company, provided that such water company has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the Conservation Commission/Inland Wetlands Agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company, through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the Commission.

### **§ 115-16. Date of receipt.**

The date of receipt of any application shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission to the Commission, provided that such meeting is no earlier than three business days after receipt or 35 days after such submission, whichever is sooner.

### **§ 115-17. Required additional information.**

At any time during the review period, the Commissioner may require the applicant to provide additional information about the regulated area or regulated activity which is the subject of the application or the wetlands or watercourses affected by the regulated activity. Requests for additional information shall not stay the time limitations of 65 days in taking action on an application pending the receipt of additional information.



### **§ 115-18. Public inspection.**

All applications shall be open for public inspection.

### **§ 115-19. Applications to be complete.**

Incomplete applications shall be denied.

### **§ 115-20. Public hearings.**

- A. A public hearing shall be held on all applications involving a core and/or significant activity. A public hearing may be held on applications which do not involve core and/or significant activities if the Commission determines it is in the public interest. A petition containing the names of 25 or more persons may be considered as adequate interest for the purpose of scheduling a public hearing. All applications and maps and documents relating thereto shall be open for public inspection. Any person may appear and be heard at any public hearing.
- B. Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than 15 days and not less than 10 days and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in the Town where the affected wetland and watercourse is located.
- C. Notice of the public hearing shall be mailed to the owner(s) of record of property within 500 feet on which activity is proposed not more than 15 days nor less than 10 days prior to the day of the hearing.
- D. In the cases of any application which is subject to the notification provisions of § 115-14 of these regulations, a public hearing shall not be conducted until the Clerk of the adjoining municipality(ies) has received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record.

### **§ 115-21. Considerations for decision.**

- A. The Commission shall consider the following in making its decision on an application:
- (1) The application and its supporting documentation.
  - (2) Public comments, evidence and testimony.
  - (3) Reports, if any, from other agencies and commissions, including but not limited to the Town of Bethel.
  - (4) All relevant facts and circumstances, including but not limited to the following:
    - (a) The environmental impact of the proposed action.
    - (b) The alternatives to the proposed action.
    - (c) The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity.

- (d) Irreversible and irretrievable commitments of resources which would be involved in the proposed activity.
  - (e) The character and degree of injury to or interference with safety, health or the reasonable use of property which is caused or threatened.
- B. The Commission may also consider comments on any application from the Fairfield County Soil and Water Conservation District, the Housatonic Valley Council of Elected Officials and agencies in adjacent municipalities which may be affected by the proposed activity.
- C. Nonreceipt of comments from agencies and commissions listed above within the prescribed time shall neither delay nor prejudice the decision of the Commission.

### **§ 115-22. Standards and criteria for decision.**

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 action, including the effects on the inland wetlands and watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities and to promote public health and safety.
- B. The alternatives to the proposed action, including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include but is not limited to the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- C. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity, including consideration of the extent to which the proposed activity involves tradeoffs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses or predetermines future options.
- D. Irreversible and irretrievable commitments of resources which would be involved in the proposed activity. This requires recognition that the inland wetlands and watercourses of the State of Connecticut are an indispensable, irreplaceable and fragile natural resource and that these areas may be irreversibly destroyed by deposition, filling and removal of material, by the diversion, diminution or obstruction of water flow, including low flows, and by the erection of structures and other uses.
- E. The character and degree of injury to or interference with safety, health or the reasonable use of property, including abutting or downstream property, which would be caused or threatened by the proposed activity or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific

or educational value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community.

- 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 Town 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. Measures which would mitigate the impact of any aspect of the proposed regulated activity. Such measures include, but are not limited to, actions which would avoid adverse impacts or lessen impacts to wetlands and watercourses and which could be feasibly carried out by the applicant and would protect the wetlands' or watercourse's natural capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sedimentation, to prevent erosion, to assimilate wastes, to facilitate drainage, to control pollution, to support recreational activities and open space and to promote public health and safety.

### **§ 115-23. Decision based on lack of alternative.**

In the case of any application which received a public hearing, a permit shall not be issued unless the Commission finds that the proposed alteration or destruction of wetlands or watercourses is unavoidable and that a feasible and prudent alternative to the alteration or destruction of wetlands or watercourses does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in § 115-21 of these regulations. This finding and the reasons therefor shall be stated in the record of the decision by the Commission.

### **§ 115-24. Decision based on public record.**

In reaching its decision on any application after a public hearing, the Commission 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 Commission in its decision. However, the Commission is not precluded from seeking advice from its own experts on information already in the record of the public hearing.

### **§ 115-25. Decision procedures; permit.**

- A. The Commission may grant the application as filed, grant it upon such terms, conditions, limitations or modifications necessary to carry out the purposes of the Act or deny it.
- B. No later than 65 days after receipt of an application, the Commission may hold a public hearing on such application. The hearing shall be completed within 45 days of its commencement. Action shall be taken on applications within 35 days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within 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 for the holding of the hearing and for action on such application, provided that the total extension of any such

period shall not be for longer than the original period as specified in this subsection or may withdraw such application. The failure of the Conservation Commission/Inland Wetlands Agency to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the application. An application deemed incomplete by the agency must be either withdrawn by the applicant or denied by the Commission.

- C. The Commission shall state upon its record the reasons and basis for its decision and, in the case of any public hearing, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.
- D. The Commission shall notify the applicant and any named parties to the proceeding of its decision within 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 the publication of such notice within 10 days thereafter.
- E. If an activity authorized by the inland wetland permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed with the Town of Bethel Planning and Zoning Commission and/or Zoning Board of Appeals, as the case may be, within 15 days of the date of the decision.
- F. If the Commission denies the permit or if it grants a permit with terms, conditions, limitations or modifications, the applicant may attempt to modify the proposal to the Commission's satisfaction. The Commission shall determine whether the proposed modification requires the filing of a new application. The rejection of a modified or corrected application by the Commission shall be equivalent to the denial of an application for the purposes of appeal.
- G. If the Commission denies a permit, the application shall not be resubmitted unless the proposal is modified in a fashion that substantially changes the impacts which resulted in the denial. Such submittal shall take the form of a new application.
- H. Unless it is renewed by the Commission, the permit shall expire if the activity authorized therein is not initiated within one year from the date the permit was issued. Permit renewal and extensions shall be at the discretion of the Commission and may be subject to the calling of an additional public hearing. All permits shall expire upon the completion of the acts specified therein.
- I. The original Mylar subdivision plan and site plans shall be signed by the Chairman of the Conservation Commission.

- J. No permit shall be assigned or transferred without the written permission of the Commission.
- K. If a bond or insurance is required in accordance with § 115-27 of these regulations, no permit shall be issued until such bond or insurance is provided.

### **§ 115-26. Issuance of permits.**

General provisions in the issuance of all permits are as follows:

- A. In evaluating applications in which the Commission 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 Bethel and convey no rights in real estate or material nor any exclusive privileges and are further subject to any and all public and private rights and to any federal, state and municipal laws or regulations pertinent to the property or activity.
- C. If the activity authorized by the inland wetland permit also involves an activity or a project which requires zoning or subdivision approval, special permit, variance or special exception, no work pursuant to the wetland permit may begin until such approval is obtained.
- D. The permittee shall take such necessary steps consistent with the terms and conditions of the permit to control stormwater discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.

### **§ 115-27. Bonds; insurance.**

- A. Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Commission, be required to file a bond with such surety in such amount and in a form approved by the Commission.
- B. 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.
- C. The Commission may require the applicant to certify that it has public liability insurance against liability which might result from the proposed operation or use of the wetlands or watercourses covering any and all damage which might occur within two years of completion of such operations, in an amount commensurate with the regulated activity.

### **§ 115-28. Enforcement; inspections.**

- A. The Chairman may appoint an agent or agents to act on his/her behalf as Enforcement Officer with the authority to inspect an applicant's 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.

- B. As a condition of an application or permit, the Chairman or his/her agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been applied for and/or issued under these regulations.
- C. If the Chairman becomes aware that any person is maintaining any facility or condition which can be expected to impair, alter or destroy the wetlands and watercourses of the Town or which is creating or reasonably can be expected to create a source of pollution to the wetlands and watercourses of the Town, the Chairman or designated agent may:
- (1) Issue a written cease-and-desist 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. If an emergency situation is present, the order shall be hand-delivered by an authorized agent. Within 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 10 days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect or that the order has been withdrawn. The Commission shall publish notice of its decision in a newspaper having general circulation in the municipality. The original order shall be effective upon issuance and shall remain in effect until the 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.
  - (2) Suspend or revoke a permit if it is found that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application, including application plans. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. However, if the Chairman finds the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in the order, the Chairman may order summary suspension of a permit pending proceedings for the revocation or other action. The permittee shall be notified of the Commission's decision to suspend, revoke or maintain a permit by personal service or certified mail within 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.
  - (3) 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 shall request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity and/or provide a

written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Subsection **C(1)** or other enforcement proceedings as provided by law.

## § 115-29. Amendments.

- A. These regulations and the Inland Wetlands and Watercourses Map for the Town of Bethel may be amended, from time to time, by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the State Department of Environmental Protection or as new information regarding soils and inland wetlands and watercourses becomes available.
- B. An application filed with the Conservation Commission/Inland Wetlands Agency which is in conformance with the applicable inland wetlands regulations as of the date of the decision of the Commission with respect to such application shall not be required thereafter to comply with any change in inland wetland regulations or boundaries, including changes to setbacks and buffers, taking effect on or after the date of such decision, 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 decision. The provisions of this section shall not be construed to apply:
- (1) To the establishment, amendment or change of boundaries of inland wetlands or watercourse; or
  - (2) To any change in regulations necessary to make such regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of such decision.
- C. These regulations and the Town of Bethel Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes, as amended. The Commission shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments pursuant to Subsection **D** of this section, at least 35 days before the public hearing on their adoption. Application forms and fee schedules shall be adopted and considered as part of the Commission regulations or as otherwise provided by municipal ordinance.
- D. Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Bethel, Connecticut" shall contain at least the following information:
- (1) The applicant's name, address and telephone number.
  - (2) The owner's name (if not the applicant), address, telephone number and a written consent to the proposed action set forth in the application.
  - (3) The applicant's interest in the land.

- (4) The geographic location of the property involved in the petition, including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas.
  - (5) The reasons for the requested action.
  - (6) The names and addresses of adjacent property owners.
  - (7) A map showing proposed development of the property.
- E. The Conservation Commission/Inland Wetland Agency may require the petitioner to present documentation by a soil scientist that the land in question does not have a soil type classified by the National Cooperative soils survey as poorly drained, very poorly drained, alluvial or floodplain. Such documentation includes a map of the land in question signed by a soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted.
- F. Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
- G. 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 substantial circulation in the municipality at least twice at intervals of not less than two days, the first not more than 25 days nor less than 15 days and the last not less than two days before such hearing. A copy of such proposed boundary change shall be filed in the office of the Town Clerk for public inspection at least 10 days before such hearing.
- H. Within 90 days after receipt of a petition for a change in the mapped boundaries of any wetland or watercourse, the Commission shall hold a public hearing to consider the petition. The Commission shall act upon the changes requested in such petition within 60 days after the close of the hearing. The public hearing shall be concluded within 45 days. The petitioner 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 petition, provided that the total extension of any such period shall not be for longer than the original period as specified in this section or may withdraw such petition. The failure of the Conservation Commission/Inland Wetlands Agency to act within any time period specified in this section or any extension thereof, shall not be deemed to constitute approval of the petition.
- I. The Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

### **§ 115-30. Appeals.**

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



### § 115-31. Conflict; severability.

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, sentence, section, part, subsection, subdivision or provision of these regulations shall not affect the validity of any other part which can be given effect without such valid part or parts.

### § 115-32. Other permits.

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

### § 115-33. Application fees.

- A. Method of payment. Application fees required by these regulations shall be submitted to the Commission by certified check or money order payable to the Town of Bethel at the time the application is filed with the Commission.
- B. No application shall be granted or approved by the Commission unless the correct application fee is paid in full or unless a waiver has been granted by the Commission pursuant to § **115-33G** of these regulations.
- C. The application fee is not refundable.
- D. Definitions. As used in this section, the following terms shall have the meanings indicated:

#### **COMMERCIAL USES**

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**

Activities other than residential uses or commercial uses.

#### **RESIDENTIAL USES**

Activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

- E. Fee schedule.

(1) Application fees shall be based on the following schedule:

(a) Permitted and unregulated uses (§ **115-6A** and **B** of these regulations):

[1] Permitted uses as of right: no charge.

[2] Nonregulated uses: \$50.

- (b) Regulated uses/noncore activities (§ **115-7**): \$100, plus the cost of legal notices.
- (c) Regulated uses/core activities (§ **115-9**):
- [1] Residential uses on a single lot: \$100, plus fee from Schedule A. *Editor's Note: Schedule A is included at the end of Subsection E(1).*
- [2] Commercial uses: \$200, plus fee from Schedule A. *Editor's Note: Schedule A is included at the end of Subsection E(1).*
- [3] Subdivision (one lot): \$100, plus:
- [a] Twenty-five dollars for each proposed additional subdivision lot, whether or not such lots contain wetlands or watercourses.
- [b] Ninety-five dollars for each lot on which a regulated activity is proposed.
- [c] The fee from Schedule A. *Editor's Note: Schedule A is included at the end of Subsection E(1).*
- (d) Significant activity fee (§ **115-9**): \$300, plus fee from Schedule A. *Editor's Note: Schedule A is included at the end of Subsection E(1).*
- (e) Map amendment petitions (§ **115-29**): \$100, plus fee from Schedule B. *Editor's Note: Schedule B is included at the end of Subsection E(1).*
- (f) Modification of previous approval (§ **115-12**): \$50. There shall be no fee for correcting typographical or other errors.

### Schedule A

Regulated Area (square feet)	Fee (per 1,000 square feet regulated area)
Less than 2,500	\$18.00
2,500 to 50,000	\$36.00 plus \$12.00 per 1,000 square feet
More than 50,000	\$600.00 plus \$6.00 per 1,000 square feet

NOTE: For the purposes of calculating the permit application fee, the regulated area in Schedule A is the total area of wetlands upon which a regulated activity is proposed.

### Schedule B

<b>Regulated Area (linear feet)</b>	<b>Fee (per 100 square feet regulated area)</b>
Less than 500	\$10.00
500 to 1,000	20.00
More than 1,000	30.00

NOTE: For the purpose of calculating the map amendment petition fee, the regulated area in Schedule B is the total length of wetlands and watercourses boundary subject to the proposed boundary change.

(2) All above fees are in addition to payment of the legal notice costs.

F. Exemption. Boards, commissions, councils and departments of the Town of Bethel are exempt from all fee requirements.

G. Waiver.

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

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

(b) The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.

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

H. The Commission may impose on an applicant special project review fees where additional technical assistance is required to evaluate an application submitted in accordance with these regulations. The need for such technical assistance will be based on a finding that the nature and intensity of the development may have one or more of the significant activities as defined in § 115-4 of the Inland Wetlands and Watercourse Ordinance of the Town of Bethel.

**[Added 5-20-2002]**

- (1) Before a special project review fee is imposed, it shall be determined that the Commission’s staff will not be able to complete a technical review of the application in a timely fashion or that the project is of such a nature as to require expertise not available from the staff. The Inland Wetlands Officer shall make the determination of the need for such technical assistance to be provided by non-Town personnel following a review of the application with other Town staff. The Inland Wetlands Officer shall estimate the cost of such services based upon information received from qualified technical experts. The applicant shall deposit 150% of the estimated cost of services with the Commission or its designated agent before review of the application by the Commission or the public hearing, if such hearing is necessary.
  
- (2) Upon completion of the technical review and final action by the Commission of the application, the Commission shall determine the costs incurred for the review and refund excess funds to the applicant. The applicant shall not be responsible for costs incurred for technical assistance that exceeds the amount deposited.

**§ 115-34. Records retention and disposition.**

- A. The Commission and the Town Clerk for the Town of Bethel shall retain complete administrative records of Commission actions and dispose of such records in accordance with the retention/disposition schedules set forth in § **115-34B**.
  
- B. The public records administrator of the Connecticut State Library established the following new record retention/disposition schedules for municipal Conservation Commissions/Inland Wetlands Agencies effective April 24, 1989:

**Minimum Retention Required**

<b>Record Title</b>	<b>In Agency</b>	<b>Town Clerk</b>
Applications (including supporting materials)	10 years	—
Decision letters	10 years	Permanent
Approved site plans	10 years	—
Legal notices	10 years	Permanent
Staff and public written testimony (hearing records)	10 years	—
Minutes of meeting and public hearings	15 years	Permanent

**Minimum Retention Required**

<b>Record Title</b>	<b>In Agency</b>	<b>Town Clerk</b>
Tapes, audio-inland wetland matters	4 years	—
Notices of violation orders	10 years	—
Text of changes adopted in regulations	Continuous update/permanent	
General correspondence issued or received	5 years	—

**§ 115-35. When effective.**

These regulations, including the Inland Wetlands and Watercourses 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 Bethel.