

IWWC#24-10RA

Memo Regarding Attorney Avena Review of Proposed Regulations Amendments to Ledyard Inland Wetlands & Watercourses Regulations.

Prepared by Attorney Robert Avena & Wetlands Agent, Hannah Gienau

February 4, 2025 IWWC Public Hearing

Listed: Current language, IWWC Proposed language & Atty. Avena Recommended Proposed language

Bold = Proposed Language

~~Strikethrough~~ = Deleted Language

Green = Accepted changes

1. Modify Section 2.1:

Current: “Regulated activity” means any operation within or use of a wetland or water course involving removal or deposition of material, or any obstruction, construction, alteration or pollution of such wetlands or water courses, or any other activity which may impact or effect the wetlands, but shall not include the specified activities in Section 22a-40 of the Connecticut General Statutes. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging of storm water on the land within 100 feet, measured horizontally from the boundary of any wetland or water course, is a regulated activity.”

IWWC Proposed: “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 wetlands or watercourses, but shall not include the specified activities in sections 22a-40 of the Connecticut General Statutes or section 4 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 IWWC 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 and is a regulated activity.~~

Atty. Avena Proposed: “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 wetlands or watercourses, but shall not include the specified activities in sections 22a-40 of the Connecticut General Statutes or section 4 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, **or any other upland activity outside the 100' upland review area which is likely to impact or affect a wetlands or watercourse is a regulated activity.**

Current: ““Watercourses” means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes.”

IWWC Proposed: “Watercourses” means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all the 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-38 through 22a-35, inclusive, of the Connecticut General Statutes. **Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.**

Atty. Avena: Ok.

2. Modify Section 7.5.b as follows:

Current: “7.5 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. Water drainage from the project site will flow through and impact the drainage system within the adjoining municipality; or,
- c. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.”

IWWC Proposed: 7.5 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. Sewage or Water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
- c. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Attv. Avena Proposed: 7.5 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. Any **Sewage or Water** drainage from the project site will flow through and impact the **sewage sewer line, septic system,** or drainage system within **the an** adjoining municipality; or,
- c. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

3. Add New Section 7.6.1:

Current: No Section 7.6.1.

IWWC Proposed: 7.6.1 An Applicant may be required to provide the IWWC with digital data provided to the Land Use Department after all signatures have been obtained by the appropriate authorities. The digital data shall be in a format specified by the Land Use Dept.

Attv. Avena: Ok.

4. Modify Section 7.8:

Current: “7.8 Any application to renew a permit shall be granted upon request of the permit holder unless the IWWC 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 (See 11.6 to 11.9). Such application to renew a permit can be approved provided (a) no permit issued during the time period from July 1, 2006 to July 2009, inclusive shall be valid for more than eleven years; (b) no permit issued prior to July 1, 2006 or after July 1, 2009 may be valid for more than ten years and (c) permits issued prior to July 1, 2011, if not expired as of May 9, 2011, may be valid for up to 14 years.”

IWWC Proposed: 7.8 Any application to renew a permit shall be granted upon request of the permit holder unless the IWWC finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued **provided no permit may be valid for more than ten years.** ~~(See 11.6 to 11.9). Such application to renew a permit can be approved provided (a) no permit issued during the time period from July 1, 2006 to July 2009, inclusive shall be valid for more than eleven years; (b) no permit issued prior to July 1, 2006 or after July 1, 2009 may be valid for more than ten years and (c) permits issued prior to July 1, 2011, if not expired as of May 9, 2011, may be valid for up to 14 years.~~

Attv. Avena: Ok.

5. Delete Section/Table 7.9.

Current: “Table: 7.9. Permit Renewals Permit Approved Valid for Prior to 7-1-06 10 years Between 7-1-06 to 7-1-09 11 years After 7-1-09 10 years Prior to 7-1-11 (if not expired as of 5-9-11) Up to 14 years Everything else 2-5 years.”

IWWC Proposed: ~~7.9. Permit Renewals Permit Approved Valid for Prior to 7-1-06 10 years Between 7-1-06 to 7-1-09 11 years After 7-1-09 10 years Prior to 7-1-11 (if not expired as of 5-9-11) Up to 14 years Everything else 2-5 years~~

Atty. Avena: Ok.

6. Modify Section 11.6:

Current: 11.6 Any permit issued by the IWWC prior to July 1, 2006 or after July 1, 2009 for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the IWWC may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the IWWC for any other activity not requiring approval under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for not less than two years and not more than five years. Any permit issued by the IWWC prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine (9) years after the date of such approval.

IWWC Proposed: ~~11.6 Any permit issued by the IWWC prior to July 1, 2006 or after July 1, 2009 for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the IWWC may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the IWWC for any other activity not requiring approval under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for not less than two years and not more than five years provided the IWWC may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the IWWC prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine (9) years after the date of such approval.~~

Atty. Avena Proposed: 11.6 Any permit issues by the IWWC for the development of land for which an approval is required under section 8-3, 8-25, per 8-26 of the Connecticut General Statutes shall be valid for five years provided the IWWC may establish a specific time period within which any regulated activity shall be conducted. **Any permit issued by the IWWC for**

any other activity shall be valid for not less than two years and not more than five years, without an extension granted in accordance with Section 7.8 of these Regulations.

7. **Modify Section 19.B:**

Current: “B. IWWC Application fees are listed in Town Ordinance 300-013 and its appendix.”

IWWC Proposed: Application Fees shall be based on the schedule in the Town of Ledyard Ordinance #300-013, as may be amended.

Atty. Avena: Ok.

8. **Modify to Add New Section 20:**

Current: No Section 20.

IWWC Proposed: Effective Date of these Regulations: November 24, 1982, Amended through ADD EFFECTIVE DATE OF NEW AMENDMENTS.

Atty. Avena: Ok.