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TOWN OF VERNON

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OFFICE OF THE
TOWN PLANNER

NOTICE OF INLAND WETLANDS COMMISSION ACTION ADOPTION OF REGULATIONS

TO: Bernice Dixon, Town Clerk

FROM: Leonard K. Tundermann, Town Planner *LKT*

DATE: April 14, 2011

On March 22, 2011, the Vernon Inland Wetlands Commission adopted changes to the Inland Wetlands and Watercourses Regulations based on the following application:

Application [IWC-2011-01] of Town of Vernon Planning Department to amend the Vernon Inland Wetlands and Watercourses Regulations, specifically (1) Section 7.11.c to add clarifying language relative to exterior work relating to property subject to a conservation or preservation restriction, (2) section 10.9 to add clarifying language regarding permit reversals on appeals by holders of conservation or preservation restricts, and (3) adding section 10.10 regarding ability to file a permit application when the activity will occur on a portion of property not restricted by a conservation or preservation restriction.

The final approved text of those sections is attached. The amended text will become effective on April 15, 2011.

Please contact me if you have any questions.

cc: IWC-2011-01

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**Changes to the Vernon
Inland Wetlands and Watercourses Regulations
Application IWC-2011-01
Adopted March 22, 2011
Effective April 15, 2011**

New text shown as underlined; deletions shown in [brackets].

Section 7, Application Requirements

- 7.11 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 land, 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 [an] 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 filling of the permit application.
 - d. in lieu of such notice pursuant to subsection 7.11c, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.

Section 10, Considerations for Decision

- 10.8 In the case of an application where the applicant has provided written notice pursuant to subsection 7.11c of these regulations, the holder of the restriction may provide proof to the Commission 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 Commission shall not grant the permit approval.
- 10.9 In the case of an application where the applicant fails to comply with the provisions of subsections 7.11c or 7.11d of these regulations, (1) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the Commission, subject to the rules and regulations of such agency relating to appeals. The Commission shall reverse the permit approval upon 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 Commission, subject to the rules and regulations of the Commission relating to appeals. The Commission shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.
- 10.10 Nothing in subsections 7.11.c or 7.11.d 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.