

Town of Monroe



Inland Wetlands and Watercourses Regulations

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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 Wetlands and Watercourses Regulations of the Town of Monroe."
- 1.3 The Inland Wetlands and Watercourses Commission of the Town of Monroe, established in accordance with an ordinance adopted June 22, 1987 as further amended and hereby referred to as the Inland Wetlands Commission, shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act.
- 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 Inland Wetlands Commission (The Commission) shall enforce all provisions of the Inland Wetlands and Watercourses Act pursuant to sections 22a-28 *et seq.* inclusive, as same may be amended from time to time (hereinafter "the Act") and shall:
- a. Provide subdivision and re-subdivision reports with recommendations to the Planning and Zoning Commission;
 - b. Issue approvals/permits, or denials for regulated activities within all inland wetlands, watercourses, upland review areas and other regulated areas as further defined in these regulations and the Act;
 - c. Consider requested amendments to the regulations or the Town Wetlands Map;
 - d. Resolve issues relative to violations;

- e. Provide determinations for uses termed "as of right" and/or "non-regulated" (See also Sec. 4.4);
- f. Hear appeals relative to decisions of the wetlands agent;
- g. Any other action for which the Commission has been granted authority.

Section 2 Definitions as used in these Regulations

2.1 "Act" - the Inland Wetlands and Watercourses Act, sections 22a-28 *et seq.*, inclusive, of the *Connecticut* General Statutes (CGS), as may be amended from time to time.

"Agency" - the Inland Wetlands Commission of the Town of Monroe.

"Agent" ("duly authorized agent") - an individual designated by the Commission to carry out its functions and purposes. Said agent shall complete the comprehensive training program developed by the Commissioner pursuant to Connecticut General Statute section 22a-39, as amended.

"Bogs" - watercourses distinguished by evergreen trees and shrubs underlain by peat deposits, poor or very poor drainage, and highly acidic conditions.

"Buffer" - an area determined by the Commission within the upland review area adjacent to the edge of a wetland and/or watercourse, whose purpose it is to provide a protective barrier. This barrier can be left as an undisturbed, natural area or can be of plants/materials that the Commission deems suitable.

"Clear-cutting" - the harvest or removal of timber in a fashion which removes substantially all trees two inches or greater in diameter at breast height from wetlands and watercourses, upland review area, or any other area which may affect wetlands and watercourses.

"Commission member" - a person appointed to the Inland Wetlands Commission of the Town of Monroe.

"Commission" - the Inland Wetlands Commission of Monroe.

"Commissioner of Environmental Protection" - the Commissioner of the State of Connecticut Department of Energy & Environmental Protection.

"Conservation Easement" - a restriction placed on a piece of property to protect its associated resources. The easement is voluntarily offered, lists the Town of Monroe as a party to the easement and constitutes a legally binding agreement that limits certain types of uses or prevents development from taking place on the land in perpetuity.

"Continual flow" - 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.

"Deposit" - includes, but shall not be limited to fill, grade, dump, place, discharge or emit.

"Discharge" - emission of any water, substance, or material into regulated areas whether or not such substance causes pollution.

"Essential to the farming operation" means that the proposed activity is necessary and indispensable to sustain farming activities on the farm.

"Farming" shall be consistent with the definition as noted in section 1-1 (q) of the Connecticut General Statutes.

"Feasible" - able to be constructed or implemented consistent with sound engineering principles.

"Filling" – The act of adding and/or depositing any material (see definition for "Deposit").

"Floodplain" - the area bordering a watercourse or wetland subject to flooding. The 100 year floodplain and special flood hazard areas have been determined for certain watercourses in the Flood Insurance Study, Town of Monroe, Connecticut prepared by the Federal Emergency Management Agency (FEMA) and are shown on the official Flood Insurance Rate Maps (FIRM) and flood hazard boundary maps of the Town as amended.

"Habitat" - areas or environments in which an organism or biological population normally lives or occurs.

"Intermittent watercourses" - See "Watercourses"

"Intervene" - to submit a verified pleading in accordance with CGS section 22a-19.

"Intervenor" - a third party, authorized by the court, with interest in the proposed activity in an application, having the same rights to be heard and to receive copies of all documents presented by the applicant, his representatives and experts.

"Landscaping" - the modification of land surfaces and/or functions by the planting of trees, shrubs, plants, grass and other ground cover, and/or altering the contour of the ground. Such landscaping included in an application must be detailed and may include a written plan or report by an appropriate professional.

"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 and the Act. (see also "Permit").

"Management practice" - a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use or development; construction setbacks from wetlands 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 so that fish and wildlife will not be adversely affected.

"Marshes" - watercourses 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 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.

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

"Mitigation" - actions taken to minimize the effect of wetland loss.

"Municipality" - the Town of Monroe

"Nurseries" - only the portions of land actually used for propagating trees, shrubs or other plants for transplanting, sale, or for use as stock for grafting.

"Permit" - the authorization to proceed with regulated activities as further defined in section 11.6.
See also "License"

"Permittee" - the person to whom a license has been issued.

"Person" - 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.

"Pollution" - harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state 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 and pesticides, herbicides and/or fertilizers not applied in compliance with federal, state and local standards.

"Prudent" - 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.

"Regulated activity" - any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration, modification or pollution, of such wetlands or watercourses, but shall not include the specified activities in section 4 of these regulations. Regulated activity includes, but is not limited to any clearing, grubbing, filling, grading, re-grading, paving, excavating, constructing, depositing, or removing of material and/or discharging of storm water on the land within the established upland review areas as defined in these regulations. The Commission may determine that any other activity located within such upland review area or in any other area is likely to impact or affect wetlands or watercourses and is a regulated activity.

"Regulated Area" - any wetland or watercourse or upland review area as defined by these regulations.

"Regulations" - the Inland Wetlands and Watercourses Regulations of the Town of Monroe, as amended.

"Remediation" - the act or process of correcting a violation or unsatisfactory environmental condition In order to restore the land, wetlands and/or watercourses essentially to their original form and function.

"Restoration" - replacement of physical attributes to achieve conditions and/or functions that essentially match those in existence prior to any disturbance.

"Remove" includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, grub, clear, bulldoze, dragline or blast.

"Rendering unclean or impure" - 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.

"Significant impact" - substantial effect or change that may be the result of any activity, including, but not limited to, the following:

- a. 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;
- 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 aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions;
- d. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse;
- e. Any activity which is likely to cause substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse;
- f. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse;
- g. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

"Soil scientist" - an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

"Staff" - administrative and/or professional personnel employed by the town to administer the application and permitting process for the Commission and to advise the Commission on technical matters.

"Structures" - any man made objects, usually having a footing, foundation or bedding; Anything constructed or erected, the use of which requires (a) location on, in or under the ground or water or, (b) attachment to something having location on the ground or water.

"Swamps" - watercourses that are distinguished by the dominance of wetland trees and shrubs. and/or are areas with saturated soils that exhibit aquatic moisture regimes.

"Submerged lands" - those lands which are inundated by water on a seasonal or more frequent basis.

"Town" - the Town of Monroe

"Upland Review Area" - all areas adjacent to wetlands or watercourses including those that are not upgradient. These areas include but are not limited to:

- a. Within 100 feet measured horizontally from the boundary of any wetland or watercourse;
- b. Within 150 feet measured horizontally from the ordinary high water mark of the following watercourses:
 1. Beardsley Brook
 2. Boys halfway River
 3. Copper Mill River
 4. Great Pine Swamp
 5. Halfway River
 6. Housatonic River
 7. Lake Zoar
 8. Pequonnock River
 9. Means Brook
 10. Mill River
 11. West Branch of the Pequonnock River
- c. Within 200 feet measured horizontally from the mean high water mark of any public water supply reservoir;
- d. Within 500 feet measured horizontally of any vernal pool or any area displaying some of the characteristics or indicators of a vernal pool;
- e. Any area defined by the Commission or the Commission's staff (after an initial review of materials submitted by an applicant) that is greater than the above mentioned distances due to special circumstances that may include, but shall not be limited to: steep slopes, impervious surfaces, topographical features, undersurface water, underground aquifers or any other reason the agency's staff or agency may deem necessary to include for the purpose of conducting its review operations.

"Vernal Pool" - a seasonal or permanent watercourse in a depression or basin that lacks a fish population and supports or is capable of supporting breeding and development of amphibian or invertebrate species recognized as obligate to such watercourses.

"Waste" - sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the wetlands and watercourses of the Town.

"Watercourses" - 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 the Act. " 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" - watercourses and land, including submerged land as defined in this section, not regulated pursuant to the Act, 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 Natural Resources 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 Inland Wetlands and Watercourses

- 3.1 The inventory of wetlands and watercourses is shown on the map entitled "Inland Wetlands and Watercourses Map, Monroe, Connecticut" dated 1986, as amended, which 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 Inland Wetlands Commission.

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. For the purpose of mapping wetland areas, the Commission may use previous application data, field inspections, testing by a certified soil scientist, aerial photography, remote sensing imagery, resource mapping, soils maps, site observations or other information in determining the location of the boundaries of wetlands and watercourses.

- 3.2 The Commission shall maintain a current inventory of regulated areas within the town. The Commission may amend its map as more accurate information becomes available. In the event that an applicant's proof of wetlands delineation is different than that of the delineation on the Town map, the Commission may require that an application for a boundary map amendment be submitted in conjunction with the pertinent permit application pursuant to section 15 of these regulations.
- 3.3 Any person may also petition the Commission for an amendment to the map in writing, in the form of an application, pursuant to section 15.
- 3.4 All boundary map amendments are subject to the application and public hearing process outlined in section 15 of these regulations.

Section 4 Permitted Uses as of Right & Non-regulated Uses

- 4.1 The following operations and uses shall be permitted in wetlands and watercourses, 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:
1. Road construction or the erection of buildings not directly related to the farming operation,
 2. Relocation of watercourses with continual flow,
 3. Filling or reclamation of wetlands or watercourses with continual flow,
 4. Clear cutting of timber except for the expansion of agricultural crop land,
 5. The mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale.

- b. A residential home (a) for which a building permit has been issued or (b) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by the Planning and Zoning Commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;
- c. Boat anchorage or mooring;
- 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 of Monroe. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or onto 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 and;
- f. Maintenance relating to any drainage pipe or man-made drainage way which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe or drainage way is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subsection, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place;
- g. Withdrawal of water for fire purposes, Public Act 11-184.

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 diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated;
- c. Maintenance by the Town of Monroe or its agents of man-made drainage structures including detention and retention basins, manholes, catch basins, pipes, inlets and outlets, level spreaders, riprap stabilization areas, energy dissipation provisions, drainage ditches and/or swales, stormwater quality control structures, drywells, recharge structures. When access to said maintenance will directly impact wetlands or watercourses, the Commission must be consulted prior to commencing activity to determine if specific permitting is required.
- d. The installation of a dry hydrant by or under the authority of a municipal fire department provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a non-pressurized pipe system that: (A) Is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

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 area not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Commission or its agent in accordance with these regulations.

- 4.4 To carry out the purposes of this section, any person proposing a permitted operation/use or a non-regulated operation/use shall, prior to commencement of such operation/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/use is a (1) "permitted as of right" or (2) non-regulated use of a wetland or watercourse. The Commission or its agent shall determine whether the proposed operation/use or portion of it is either a (1) "permitted as of right" or non-regulated operation/use or that the proposed operation/use is (2) a regulated activity and a permit is required.
- 4.5 Any change of use of a property may void its "permitted as of right" and/or non-regulated status. In such case, the owner shall request a permit determination from the Commission.

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 the Act.
- 5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to the Act.
- 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

Activities Requiring Action by the Commission

- 6.1 **Regulated Activities:** Any person intending to conduct, or cause to be conducted, a regulated activity as defined in section 2 or to renew or amend a permit to conduct such activity shall, prior to the commencement of such activity, apply for a permit on a form provided by the Commission.
- 6.2 **Subdivisions:** Any person intending to subdivide or re-subdivide a previously approved subdivision or re-subdivision on land, or any portion of it, that contains regulated areas shall first apply to the Commission for a recommendation report to be submitted to the Planning and Zoning Commission for further action as may be required by said commission.
- 6.3 **Violations:** 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 section 14 of these regulations and any other remedies as provided by law.
- 6.4 **Amendments:** Any person(s) requesting amendments of these regulations and/or the Town Wetlands Map shall, in accordance with section 15.3 of these regulations, apply on a form provided by the Commission.

- 6.5 “As of Right” Determinations: Any person(s) proposing to conduct uses that are permitted as of right shall, prior to the commencement of any activity, make a request to the Commission for a determination of compliance in accordance with section 4 of these regulations.
- 6.6 Appeals: Any person intending to appeal an action of the Inland Wetlands Agent shall apply for such appeal on a form provided by the Commission.

Section 7 Application Requirements

- 7.1 Applications shall contain the information described in this section and any other information the Commission may reasonably require. Application forms may be obtained in the office of the Inland Wetlands Commission.
- 7.2 If the land or any portion thereof involved in an application to the Town of Monroe Planning and Zoning Commission for subdivision or re-subdivision of land, or site plan, subdivision or re-subdivision changes, special permit, special exception or variance contains any regulated areas, the applicant shall, in accordance with section 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, as applicable, submit the appropriate application to the Commission in accordance with this section, no later than the day the application is filed with the Planning and Zoning Commission.
- 7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the Commission. All information submitted in the application for review shall be considered factual. A failure of the applicant or his/her representative to provide correct and complete information shall be sufficient grounds for the revocation of any permit under these regulations and/or for actions to be imposed in accordance with section 14 of these regulations.
- 7.4 A prospective applicant shall request the Commission to determine whether or not a proposed activity involves a significant impact.
- 7.5 All applications shall include the following information in writing and/or on maps or drawings:
- a. The applicant’s name, home and business mailing addresses, email addresses (if available) and telephone and fax 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(s), mailing address(s), telephone number(s) 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, watercourses and upland review areas, the area(s) (in acres or square feet) of wetlands or watercourses and upland review areas to be disturbed, soil type(s), and wetland vegetation;
 - e. The purpose and a description of the proposed activity and proposed erosion and sedimentation controls 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. A minimum of two (2) other feasible alternative site plans that were considered relative to impacts on wetlands and watercourses and an explanation as to why the proposed plan was considered the most feasible and prudent alternative resulting in the least amount of impact to said wetlands and watercourses;

- g. Site Plan showing:
1. Clear representation of the property boundaries, including survey dimensions/data for each property line and a notation referencing the source of the survey information;
 2. A location map drawn to a minimum scale of 1" = 800';
 3. Title including the property address, name of the property owner, name of the applicant, indication of proposed activity, name of preparer, scale and date;
 4. Appropriate live certification (embossed, or stamped seal with ink signature) by an appropriate licensed professional, including embossed seal with ink signature;
 5. Certified depiction of wetlands & watercourses including flagging and flag numbers, including reference to a current soils report. The certification shall include a statement from a licensed land surveyor indicating that the wetlands were accurately located in the field;
 6. Location of the "Designated Wetlands" as shown on the Town Wetlands Map;
 7. Limits of all regulated upland review areas outlined in red;
 8. Existing and proposed development including grading, two foot maximum interval contours, utilities, layout of buildings and paved areas, roadways, landscaping, drainage facilities, sedimentation and erosion control, a list of all regulated activities and appropriate dimensioning;
 9. Existing land features such as rock walls, limits of wooded areas, large trees, rock outcroppings, wooded areas, specimen trees, large trees (30" caliper or greater) within 10 feet of the proposed limits of disturbance;
 10. Proposed landscaping plantings (including seeding) to provide for enhancement, buffer establishment, food source, habitat, restoration, etc.
- h. Copy of the Assessors map depicting parcel numbers of current abutting property owners of record, and all properties within 500 feet and names and mailing addresses of:
1. Adjacent land owners within 100' as listed on the current Grand List of the Town;
 2. Any municipality within five hundred (500) feet of the subject property, or through which municipality any significant portion of the traffic, sewage, drainage or runoff will pass if the project is approved as proposed;
 3. The water company, if any, within whose watershed boundary any portion of the subject property exists.
- i. Authorization for the members and agents of the Commission to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;
- j. A completed D.E.E.P. reporting form which provides the Commissioner of the Department of Energy & 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: name of applicant; location and name of the project; project and site description; area of wetlands and/or linear feet of watercourse proposed to be altered. The Commission shall be responsible for the remaining information and any corrections on the form which shall be promulgated in accordance with Regs., Conn. State Agencies §22a-39-14, as may be amended from time to time by the Inland Wetlands and Watercourses [sic] Regulations of the Connecticut Department of Environmental Protection [sic];
- k. Any other information the Commission deems necessary to the understanding of what the applicant is proposing;
- l. Submission of the appropriate filing fee based on the fee schedule established in section 19 of these regulations;
- m. 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;
- n. An affidavit verifying the installation of a property address sign, including lot #, readable from the street and prominently posted at the site;

- o. Description/narrative of storm water quality control measures chosen in accordance with the current CT Storm water Control Quality Manual and the CT Storm water Control Quality worksheet;
- p. A completed bond form listing all wetlands related work and protective measures for same. Bond estimate forms are available with the application package in the Inland Wetlands office;
- q. Verification of easements or other rights by adjacent or other land owners, where applicable.

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

- a. Site plans for the proposed land which will be affected as outlined in section 7.5 which show existing and proposed conditions, wetland and watercourse boundaries, upland review areas, if applicable, delineated in red, 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 an appropriate professional such as a professional engineer, land surveyor, architect and landscape architect licensed by the state of Connecticut or by such other qualified person;
- b. Certificate or Conditional Certificate of Zoning Compliance;
- c. Engineering reports and analyses and additional drawings to fully describe the proposed activity including any construction, structures, clearing, grubbing, filling, excavation, grading, regrading, paving, depositing, or removing of material, drainage, discharging of storm water or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;
- d. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U.S. Natural Resources Conservation Service; the wetlands shall be delineated in the field with numbered flags by a soil scientist and the soil scientist's field delineation shall be depicted by flag numbers on the site plans;
- e. A current A-2 survey and/or appropriately certified topographic survey which shall be in compliance with Connecticut General Statutes, section 20 - 300b -11(d) "Standards for surveys and maps, Classes of Accuracy". Appropriate certification relative to topographic information must provide for assurance that a submitted plan depicts accurate representation of actual field conditions (either generated or verified by field measurements). The contour interval shall be no greater than two feet, unless a variance from same is specifically requested and accepted by the Commission;
- f. An environmental impact study by an appropriate professional (including but not limited to the following):
 - 1. A description of the ecological communities and functions and values of the wetlands or watercourses involved with the application;
 - 2. Effects of the proposed activity(ies) on these communities and wetland functions;
 - 3. A narrative of how the applicant will change, diminish, or enhance the ecological communities and functions and values of the wetlands or watercourses involved in the application;
 - 4. Alternative which would cause less or no environmental impact to wetlands or watercourses;
 - 5. A description of why each alternative considered was deemed neither feasible nor prudent.
- g. A current Wetland Assessment by an appropriate professional (including but not limited to the following):
 - 1. General site description;
 - 2. Wetland, watercourse and plant inventories;
 - 3. Wetland associated wildlife;
 - 4. Wetland Functionality (rated in areas such as Ecological Integrity, Wildlife Habitat, Educational Potential, Visual/Aesthetic Quality, Flood Control, Nutrient Retention Opportunity/Removal Efficiency, Groundwater Recharge/Discharge);
 - 5. Potential direct and indirect impacts of proposed activities on the wetlands;
 - 6. Recommendations and/or possible alternatives to reduce impacts to regulated areas;
 - 7. Mitigation Measures/Recommendations.

- h. Analysis of chemical or physical characteristics of any fill material; The applicant may be required to describe any materials to be deposited on the affected property in terms of volume, composition, potential contaminants as revealed by laboratory analysis and the possibility of erosion or leaching from deposited materials;
- i. Description of management practices and other measures designed to mitigate the impact of the proposed activity. Such measures could include but are not limited to plans or actions that:
 - 1. Avoid destruction or diminution of the wetland and/or watercourse functions;
 - 2. Create or enhance natural habitats and provide for recreational use;
 - 3. Prevent flooding, degradation of water quality, erosion and sedimentation, and obstruction of drainage;
 - 4. Safeguard water resources;
 - 5. Provide for wetland/watercourse enhancement;
 - 6. Restore or more than replace lost wetland/watercourse habitat and functions;
 - 7. Are other legal measures designed to preserve and protect adjacent wetland and watercourse areas and natural buffers.
- j. Submission of recent photographs of the areas in question from multiple angles sufficient to illustrate all pertinent aspects of the proposed activities and potential impacts;
- k. Aerial photograph;
- l. Additional reports by appropriate professionals, as referenced in section 19.5 of these regulations;
- m. The Commission or its staff may require that the site plan and supporting documentation also be prepared and submitted in electronic versions, such as PDF files, power point files, or other formats compatible with software utilized by the Town;
- n. A report from the Monroe Health District and/or appropriate agency having jurisdiction.

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 or otherwise required by law;
- 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;
- d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

7.8 Multiple copies of application materials as indicated on the application form shall be submitted to comprise a complete application unless an applicant is otherwise directed, in writing, by the Commission.

7.9 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;

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;

- b. No person shall file a permit application, other than for interior work in an existing building or for exterior work that does not expand or alter the footprint of such existing building, relating to that portion of the 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 an 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;
- c. In lieu of such notice pursuant to subsection 7.9c, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.

Section 8 Application Procedures

- 8.1 All petitions, applications, requests or appeals of actions of the agent shall be submitted to the Inland Wetlands Commission of the Town of Monroe. Appeals on actions of the Commission shall be made in accordance with section 16 of these regulations.
- 8.2 The Commission shall, in accordance with Connecticut General Statutes section 8-7d(f), notify the Town Clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
 - a. Any portion of the property affected by a decision of the agency is within five hundred 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 on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality;
 - d. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

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

- 8.3 When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 22-42f of the Connecticut General Statutes, 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. For purposes of this subsection the date of the application shall be the same as the date of receipt as defined in Section 8 "Application Procedures". 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 Commission.

- 8.4 The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of the Commission, immediately following the day of submission to the Commission or its agent of such petition, application, request or appeal. There must be a minimum of 24 hours between the application submission and the meeting of the Commission.
- 8.5 At any time during the review period, the applicant shall provide such additional information as the Commission may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection.
- 8.7 Public Notice of Application:
- a. The Commission shall cause to be published, in a newspaper having general circulation within the Town of Monroe, within fifteen (15) days after the submission of an application, a notice indicating receipt of an application to conduct a regulated activity. For the purposes of this section, the submission date shall be the date the agent received the application, not the date of receipt of the application by the Commission;
 - b. The notice shall provide for the public to petition for a public hearing on the application and the Commission must consider the petition if it is endorsed by at least twenty-five (25) persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, and received no later than fourteen (14) days after the publication date of such notice. The Commission may hold the meeting to determine whether or not a public hearing will be held. If a valid petition is received in accordance with this section, a public hearing shall be held.
- 8.8 Any application to amend an existing permit shall be on the same form as a new application and filed with the Commission in accordance with section 8 of these regulations prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under section 7 of these regulations provided:
- a. The application may incorporate the documentation and record of the prior permit;
 - 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; and if requesting an amendment, why changes to the original permit are needed;
 - d. The application shall describe any changes in facts or circumstances involved with or affecting wetlands, watercourses or upland review areas or the use of the land for which the permit was issued;
 - e. The Commission may, prior to the expiration of a permit, accept an untimely application to renew such permit if the authorized activity is ongoing and allow the continuation of work beyond the expiration date if, in its judgment, the permit is likely to be renewed and the public interest or environment will be best served by not interrupting the activity.
- 8.9 Application for Permit Renewals:
- a. Any application to renew a permit shall be granted upon written request of the permit holder unless the Commission finds that:
 1. There has been a substantial change in circumstances which requires a new permit application;
 2. There is an increased potential for impact to the wetlands or watercourses due to the requested extension of time;
 3. There is an apparent need for an enforcement action or there is an enforcement action pending with regard to the regulated activity for which the permit was issued.

- b. Any application for renewal must be received in the Inland Wetlands office prior to the regularly scheduled meeting before expiration of said permit;
 - c. Any permit issued for the development of property for which an approval is required under chapter 124, 124b, 126 or 126a of the Act shall be valid until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued under this section for any activity for which an approval is not required under the Act shall be valid for not less than two years and not more than five years. Any such permit shall be renewed upon request of the permit holder unless the agency finds that there has been a substantial change in circumstances 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;
 - d. Notwithstanding the provisions of Section 8.9(c), any permit issued prior to July 1, 2011, that has not expired prior to May 9, 2011, shall expire not less than nine years after the date of such approval. Any such permit shall be renewed upon request of the permit holder unless the agency finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no such permit shall be valid for more than fourteen years.
- 8.10 The Commission may charge fees sufficient to cover the cost of reviewing and acting on applications involving issues that the Commission determines by a majority vote that additional analysis is required in order to assist the Commission regarding information submitted by the Applicant. Such fees may include, but are not limited to, the cost of retaining appropriate professionals to analyze, review, and report on issues warranting such analysis. Said fees will be established by the Commission and/or its agent, based on preliminary estimates from such professionals, and said estimate of fees times 150% will be paid to the Town by the applicant. The fees shall be paid pursuant to section 19 of these regulations within 10 days of the applicant's receipt or notice of the amount due. Any portion of the fees in excess of the actual cost shall be refunded to the applicant after the publication of the Commission's decision. The failure by the applicant to make this payment as required shall render the application incomplete. Therefore, said application shall be denied by the Commission or withdrawn by the applicant.

Section 9 Hearings

- 9.1 Public Hearings:
- a. The Commission shall not hold a public hearing on an application unless:
 1. The Commission determines that the proposed activity may have a significant impact on wetlands or watercourses or;
 2. A petition is submitted as detailed in Public Notice of Application (section 8.7 of these regulations) as they may be amended or;
 3. The Commission finds that a public hearing regarding such application would be in the public interest or;
 4. A public hearing is mandatory as detailed in section 15.7.
 - b. Time Limitations:
 1. Public hearings shall be initiated no later than sixty-five (65) days after receipt of an application;
 2. The hearing shall be completed within thirty five (35) days of its commencement;
 3. Action shall be taken on such application within thirty-five (35) days after the completion of a public hearing;
 4. The applicant may consent to one or more extensions of the periods specified in this section provided the total extension of all such periods shall not be for longer than 65 days or may withdraw such application, petition, request or appeal.

- c. Public Inspection and Participation: All applications, maps and documents relating thereto shall be open for public inspection at the Inland Wetlands office prior to the hearing. At such public hearing any person or persons may appear and be heard;
- d. Newspaper Notice: Notice of public hearings 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;
- e. Notice to Neighbors: The Applicant shall give notice of the public hearing to all land owners within 100' of the property by certified mail no less than fifteen days prior to the day of the hearing. In giving such notice the applicant shall rely on the last completed grand list for the town. Such notice shall be at the expense of the applicant. Failure of the above referenced landowners to receive notice shall not deprive the Commission of jurisdiction to hear and act on the application and shall not be grounds for appeal. Verification that the notice was sent via certified mail/return receipt requested must be provided;
- f. Notice to Others: In the case of any application which is subject to the notification provisions of Subsections 8.2 and 8.3 of these regulations, a public hearing shall not be conducted until the Town Clerk of the adjoining municipality(ies), water companies and the Commissioner of Public Health have received notice of the pendency of the application. Proof of such notification shall be entered into the hearing record;
- g. Notice at the Site: A sign shall be posted on each parcel respective to the application indicating the general nature of the proposed activity for which a permit is being sought and shall state the date, time and place of the public hearing. Such sign will be provided by the applicant and shall be weather resistant, no smaller than two square feet and no greater than four square feet, visible and legible to passers-by on the principal street on which the property is located. The sign shall be posted at least 10 days prior to the public hearing and shall remain in place until the public hearing is closed at which time the sign will be removed;
- h. Required forms for notices: The Commission or its designated agent shall specify the forms to be used for required notifications;
- i. Submission of Evidence:
 - 1. All documentary evidence submitted by the applicant and/or respective consultants shall be filed with the Commission and available for public inspection no less than five (5) business days prior to the day of the hearing or reconvening thereof;
 - 2. All other documentary evidence in the proceeding shall be filed on or before the date on which the public hearing is commenced or reconvened;
 - 3. Should the public hearing extend to the last meeting within the final statutory limits:
 - a. The applicant and/or respective consultants shall file all additional documentation with the Commission no later than seven (7) business days prior to said meeting;
 - b. All other persons wishing to present documentary evidence in the proceeding shall file such evidence no later than two (2) business days prior to the scheduled meeting.
 - 4. Nothing in this section shall prohibit the Commission, in the exercise of its discretion, from receiving evidence at any time prior to the close of the hearing. However, the Commission may refuse to consider such information and documentary evidence that is submitted after the aforesaid dates if it determines that the Commission's members, staff or consultants would not have sufficient time to review such information or evidence properly or thoroughly before the public hearing is closed;
 - 5. The Commission and/or its agent is not responsible for providing notification of new documentary evidence received.

9.2 Regular Hearings:

- a. Regular Hearings are open for public attendance, noting that the public is not permitted to submit data or provide testimony or comment;
- b. Regular Hearings will be held for all applications other than those requiring a Public Hearing or agent approvals;

- c. Time Limitations:
 - 1. Such hearing shall be held no later than sixty-five days after the receipt of an application;
 - 2. Action on applications considered at regular hearings shall be taken within 65 days of receipt of the application;
 - 3. The applicant may consent to one or more extensions of the periods specified in this Subsection provided the total extension of all such periods shall not be for longer than 65 days or may withdraw such application, petition, request or appeal.
- d. All applications and maps and documents relating thereto shall be open for public inspection at the Inland Wetlands office;
- e. Submission of Evidence:
 - 1. All documentary evidence submitted by the applicant and/or respective consultants shall be filed with the Commission and available for public inspection no less than five (5) business days prior to the day of the hearing or reconvening thereof;
 - 2. Nothing in this section shall prohibit the Commission, in the exercise of its discretion, from receiving evidence at any time prior to the close of the hearing. However, the Commission may refuse to consider such information and documentary evidence that is submitted after the aforesaid dates if it determines that the Commission's members, staff or consultants would not have sufficient time to review such information or evidence properly or thoroughly before the public hearing is closed;
 - 3. The Commission and/or its agent is not responsible for providing notification of new documentary evidence received.

Section 10

Considerations, Standards and Criteria for Decision

10.1 Considerations for Decision:

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

- a. The application and its supporting documentation;
- b. Reports from other agencies, commissions and officials including but not limited to the:
 - 1. Monroe Conservation Commission
 - 2. Monroe Planning and Zoning Commission
 - 3. Monroe Town Engineer
 - 4. Monroe and/or State Health Department
 - 5. Applicable state agencies and/or commissions
- c. Comments on any application from agencies including but not limited to the Southwest Conservation District, the Connecticut Metropolitan Council of Government, Aquarion Water Company or other regional organizations; 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 ;
- d. For an application for which a public hearing is held, public comments, evidence and testimony;
- e. The current Plan of Conservation and Development for the Town of Monroe.

Non-receipt of comments from state agencies and commissions listed in 10.1. b and c above within the prescribed time shall neither delay nor prejudice the decision of the Commission.

10.2 Standards and Criteria for Decision

In carrying out the purposes and policies of the Act, including matters relating to regulating, permitting and enforcing of the provisions thereof, the Commission shall take into consideration all relevant facts and circumstances, which may include, but not be limited to:

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses including the effects on the inland wetland's and watercourse's;
- 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 or 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;
- f. 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 and watercourses;
- g. Measures which would mitigate the impact of any aspect of the proposed regulated activity.

- 10.3 In the case of an application which included a public hearing pursuant to a decision by the Commission that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Commission finds on the basis of the record that a feasible and prudent alternative does not exist. However, 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 the application is consistent with the purposes and policies of the Inland Wetlands and Watercourses Regulations of the Town of Monroe and the Act. In making this decision, the Commission shall consider the facts and circumstances set forth in subsection 10.2 of this section of these regulations. The decision and the reasons therefore 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 Commission shall propose on the record in writing the types of alternatives which the applicant may investigate. This subsection shall not be construed to shift the burden from the applicant in proving entitlement to the permit or in presenting alternatives to the proposed regulated activity.
- 10.5 The Commission shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses. 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 In reaching its decision on any application, 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.

- 10.7 An application may be denied without prejudice when a new/revised map and/or other new/revised information is submitted on the consideration deadline day, the last day of the hearing, or too close to the aforementioned days to permit adequate review of said information/map by commissioners, staff and/or public.
- 10.8 No permit to commence activity shall be issued until all applicable fees are paid.
- 10.9 In the case of an application where the applicant has provided written notice pursuant to subsection 7.9c of these regulations, the holder of the restriction may provide proof to the inland wetlands 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 inland wetlands commission shall not grant the permit approval.
- 10.10 In the case of an application where the applicant fails to comply with the provisions of subsections 7.9c or 7.9d of these regulations, the party holding the conservation or preservation restriction may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the inland wetlands commission, subject to the rules and regulations of such commission relating to appeals. The inland wetlands commission shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction.

Section 11 Decision Process and Permit

- 11.1 The Commission, 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) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2 Decision Time Limits
- a. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing unless extensions are granted as specified in section 9.1b of these regulations;
 - b. 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 unless extensions are granted as specified in section 9.2 of these regulations;
 - c. If action is not taken within the time periods including extensions as specified in these regulations, the application shall be withdrawn by the applicant or shall be denied by the Commission. The failure of the Commission to act within any time period specified in this subsection shall not be deemed to constitute approval of the application, as further detailed in CGS 22a-42a(c).
- 11.3 The Commission shall state upon its record the reasons and bases for its decision.
- 11.4 The Commission shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Commission shall cause notice of its order in the issuance or denial of the permit, to be published in a newspaper having a 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 wetlands permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Commission shall file a copy of the decision and report on the application with the Town of Monroe Planning and Zoning Commission within fifteen days of the date of the decision thereon.

- 11.6 Approval Expiration/Permit Issuance: The conditions of an approval must be met and the final plans accepted and signed by the Wetlands Agent within 270 days of the date of approval or said approval becomes null and void. The aforementioned plans (once stamped, signed and dated), and a completed permit form, constitute a permit.
- 11.7 No permit issued by the Commission shall be assigned or transferred without the written permission of the Commission.
- 11.8 If a bond or insurance is required in accordance with section 13 of these regulations, the Commission may withhold issuing the permit until such bond or insurance is provided.
- 11.9 If the Commission denies an application, the application shall not be resubmitted unless the proposal is modified in a fashion that reduces the impacts which resulted in the denial and/ or addresses the reason for the denial. Such re-submission shall take the form of a new application.
- 11.10 General provisions in the issuance of all permits:
- a. No permits to commence construction shall be issued until all the appropriate pre-construction conditions of the approval have been met;
 - b. The Commission has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked;
 - c. 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 Monroe 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;
 - d. If the activity authorized by the Commission's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under sections 8-3g, 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such other approval(s) is (are) obtained;
 - e. In conducting the authorized activities, the permittee shall implement Best Management Practices (BMP's) consistent with the terms and conditions of the permit as needed to control storm water discharges, to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses;
 - f. Upon the completion of permitted activities, the Commission or its agent may require the installation of permanent markers indicating "Regulated Area". Details of specific marker requirements may be obtained from the Inland Wetlands office.
- 11.11 An application deemed incomplete by the Commission shall be withdrawn by the applicant or denied by the Commission.

Section 12 Agent Approvals

- 12.1 The Commission may delegate to its duly authorized agent the authority to approve or extend a permit for an activity that is not located in a wetland or watercourse when such Commission finds that the conduct of such activity would result in 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 Commission and shall contain the information listed under section 7.5 of these regulations and any other information the Commission may reasonably require. Notwithstanding the provisions for receipt and processing applications prescribed in sections 8, 9 and 11 of these regulations, such agent may approve or extend such an activity at any time, and may require a bond to assure acceptable completion of approved activity. The value of the bond may be determined by the Commission and/or its Agent upon assessment of the project, generally not to exceed \$1,000.

Any bond exceeding \$1,000 must be approved by the Commission. The Commission has the right to control the requirements of any bond in accordance with section 13 of these regulations.

- 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 administrative approval in a newspaper having a general circulation in the town of Monroe and/or the towns in which the activity may have an effect.
- 12.3 Any person may appeal such decision of such agent to the Commission within fifteen days after the publication date of the notice and the Commission shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such Commission or its Agent of such appeal. Any person may appear and be heard at the meeting held by the Commission to consider the subject appeal. The Commission shall, at its discretion, sustain, alter, or reject the decision of its Agent or require an application for a permit in accordance with section 7 of these regulations.

Section 13 Bond and Insurance

- 13.1 Upon approval of the application and prior to issuance of a permit, the Commission may require as a permit condition the filing of a bond (or other form of financial security) with such surety in such amount and in a form approved by the Commission, and in such amount, as may be approved by the Commission, to guarantee that the applicant(s) and/or property owner(s) will complete all required work. A cash bond is the form of security generally preferable to the Commission, but the Commission may accept or require another form of security. The security shall guarantee, without limitation, erosion and sediment control, wetlands remediation, engineering and/or inspection fees, public noticing and costs associated with a cease and desist order and/or notice of violation.
- 13.2 The bond/security shall be conditioned on compliance with the provisions of these regulations and the terms, conditions and limitations established in the permit.
- 13.3 The bond shall be released to the permittee upon receipt by the Commission of a written request from the applicant and receipt of the bond report/recommendation from the Inland wetlands Agent including evidence that the proposed activities have been completed in a satisfactory manner. The Commission may, at its own discretion, release a portion of the bond amount if it is of the opinion that the permitted activities have been substantially completed and only a minor portion of the activities remain to be completed.
- 13.4 The bond can be called by the Commission to correct violations or compliance problems on a permitted site in accordance with the provisions of section 14 of these regulations.
- 13.5 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 (2) years of completion of such operations, in an amount commensurate with the regulated activity.

Section 14 Enforcement

- 14.1 The Commission may appoint an agent or agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Commission or its duly authorized agent shall take into consideration the criteria for decision under section 10.2 of these regulations.
- 14.2 The Commission or its agent may make regular inspections at reasonable hours of all regulated activities for which permits have been issued under these regulations with the consent of the property owner or the authorized agent of the owner during the life of the permit.

- 14.3 If the Commission or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, is exceeding the conditions or limitations placed on a permit or the scope of work as set forth in the application, or has obtained a permit through deception or through inaccurate information as to either the activity or its environmental impact, the Commission 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 and/or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing and within ten (10) days of 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 Commission 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 Connecticut 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 Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in regulated areas (wetlands, watercourses and upland review areas). The Commission may request that the individual appear at the next regularly scheduled meeting of the Commission to discuss the unauthorized activity, and/or provide a written reply to the notice 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 section 14.4.a or other enforcement proceedings as provided by law, including but not limited to, recording violations on the Town Land Records after notice and hearing, in accordance with Connecticut General Statutes, as amended.
- 14.4 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, the Commission may:
- a. Suspend or revoke a permit. 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 Commission 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. The permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Commission shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality;
 - b. Bring an action in Superior Court, pursuant to CGS section 22a-44 for the collection of all fines and penalties, together with all costs, fees and expense of such collection, including reasonable attorney's fees;
 - c. Bring an action pursuant to CGS section 22a-44 in the Superior Court, in all cases of continuing violation, for an order restraining such continuing violation and for such orders directing that the violation be corrected or removed as the Commission, pursuant to a public hearing, deems necessary and appropriate for the protection of inland wetlands and watercourses, and for the costs, fees and expenses of such action together with reasonable attorney's fees.
- 14.5 Nothing in these regulations shall be taken as limiting or excluding such other remedies as are available to the Commission for the protection of inland wetlands and watercourses, including, but not limited to, suits under CGS sections 22a-14 through 22a-20 for the protection of natural resources, and any legal or equitable powers or remedies that may be granted by a court of competent jurisdiction.

- 14.6 Any person who commits, takes part in, or assists in any violation of any provision of these regulations may be fined the maximum allowed by law as per CGS section 22a-44, and to such other penalties as the law may provide. Each violation of said regulations shall be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct violation. The Superior Court, in an action brought by the Commission, shall have jurisdiction to restrain a continuing violation of said regulations and to issue orders directing the violation to be corrected or removed. All costs, fees and expenses in connection with such action shall be assessed as damages against the violator.

Section 15 Amendments

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Monroe as may be amended, from time to time ("the Map"), by the Commission in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Energy & Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Commission which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks, upland review dimension requirements and buffers, taking effect on or after the date of such receipt. Any appeal of the decision of the Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply to:
- a. The establishment, amendment or change of boundaries of inland wetlands or watercourses;
 - b. Any change in regulations necessary to make such regulations consistent with the provisions of the Act as of the date of such receipt;
 - c. Applications dated after the adoption of these regulations as they may be amended from time to time for any regulated activity on the same property as previously submitted application(s).
- 15.3 These regulations and the 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, at least thirty-five days before the public hearing on their adoption.
- 15.4 Applications for amendments to the Map shall contain at least the following information:
- a. The petitioner's and/or applicant's name, mailing address and telephone number;
 - b. The address, or location, of the land affected by the petition;
 - c. The owner's name (if not the petitioner), mailing address, telephone number, and written consent to the proposed action set forth in the petition;
 - d. The petitioner's interest in the land affected by the petition;
 - e. Map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail and color coded together with the documentation supporting such proposed boundary locations;
 - f. The reasons for the requested action.

- 15.5 Any person who submits an application to amend the Map shall bear the burden of proof for all requested map amendments. Such proof shall include a comprehensive soils report by a certified soil scientist accompanied by a survey plan accurately depicting and including appropriate certification of all wetland areas in comparison with the location of "designated wetlands" (as currently shown on the Town Wetland Map.) In addition, such proof may also include professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the Commission. If such person is the owner, developer or contract purchaser of the land 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 section 15.4, the application 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 current 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;
 - d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.

In the event that an applicant's proof of wetlands delineation is different than that of the delineation on the Town map, the Commission may require an application for a boundary map amendment be submitted prior to or in conjunction with the pertinent permit application. Such proof may also include aerial photography, remote sensing imagery, resource mapping or other available information.

- 15.6 Watercourses shall be delineated by a certified soil scientist.
- 15.7 A public hearing shall be held on petitions to amend the regulations and the Map. Notice of the hearing shall be published in accordance with the provisions of section 9.1 of these regulations, as they may be amended. A copy of such proposed boundary change shall be filed in the office of the town clerk for public inspection at least ten days before such hearing. All materials including maps and documents relating to the petition shall be open for public inspection.
- 15.8 The Commission shall hold a public hearing on a petition to amend the regulations and the Inland Wetlands and Watercourses Map within sixty-five days after receipt of such petition. The hearing shall be completed within thirty-five days after commencement. The Commission shall act upon the changes requested in such petition within sixty-five days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition. Failure of the Commission to act within any time period specified in this subsection or any extension thereof, shall not be deemed to constitute approval of the petition.
- 15.9 The Commission shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

Section 16 Appeals

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

**Section 17
Conflict and Severance**

- 17.1 If there is a conflict among the provisions of these regulations, the provision 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 invalid part or parts.
- 17.2 If there is a conflict between the provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

**Section 18
Other Permits**

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

**Section 19
Fees**

- 19.1 Method of Payment. All fees required by these regulations shall be submitted to the Commission by check or money order payable to the Town of Monroe at the time the application is filed with the Commission.
- 19.2 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 subsection 19.7 of these regulations.
- 19.3 Fees are not refundable except as noted otherwise in these regulations.
- 19.4 Definitions. As used in this section:

"Residential Uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing.

"Commercial uses" means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.

"Other uses" means activities other than residential uses or commercial uses.

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

- a. Regulated Activities:

Residential Uses	\$300.00
Plus Fee from Schedule A, B and C	
Commercial Uses	\$500.00
Plus Fee from Schedule A, B and C	
All Other Uses ..	\$500.00
Plus Fee from Schedule A, B and C	
Approval by Duly Authorized Agent	\$100.00
Plus Schedule C	

Appeal of Duly Authorized Agent Decision \$200.00
 Plus Schedule C

(The fee for an appeal of an authorized agent decision shall be reimbursed upon reversal of such Agent Approval decision by the Commission. Said reimbursement shall not include the state D.E.E.P. surcharge fee)

b. Permitted and Nonregulated Uses :

Permitted Uses as of Right n/a
 Nonregulated Uses n/a

c. Regulation Amendment Petitions..\$500
 (Does not include Notices to or Regulation Advisories from D.E.E.P.)

d. Map Amendment Petitions:\$150
 Plus Fee from Schedule C

e. Modification of Issued Permit:\$100
 Plus Schedule A and C

f. Subdivision reports/recommendations* with regulated activity.....\$20 per lot,
Residential \$100 minimum, \$300 max
Commercial \$100 minimum, \$500 max
 Subdivision reports/recommendations with no regulated activity.....n/a

* Evaluation and report that is sent to the Planning and Zoning Commission as part of a subdivision or resubdivision process.

g. Renewal of Issued Permit.....\$100
 Plus Schedule C

SCHEDULE A. Additional Fees

- a. Regular Hearingn/a
- b. Public Hearing.....\$200
- c. Professional Analysis Fee.Varies

The Commission may charge fees sufficient to cover the cost of reviewing and acting on applications involving issues that the Commission determines by a majority vote that additional analysis is required in order to assist the Commission regarding information submitted by the Applicant. Such fees may include, but are not limited to, the cost of retaining appropriate professionals to analyze, review, and report on issues warranting such analysis. Said fees will be established by the Commission and/or its agent, based on preliminary estimates from such professionals, and said estimate of fees times 150% will be paid to the Town by the applicant. The fees shall be paid pursuant to section 19 of these regulations within 10 days of the applicant's receipt or notice of the amount due. Any portion of the fees in excess of the actual cost shall be refunded to the applicant after the publication of the Commission's decision. The failure by the applicant to make this payment as required shall render the application incomplete. Therefore, said application shall be denied by the Commission or withdrawn by the applicant.

SCHEDULE B. Additional Fees for areas of regulated activity. For the purpose of calculating the permit application fee, the area in Schedule B is the total area of wetlands, watercourses and upland review areas proposed to be disturbed. These fees shall be added to the fees as indicated in section 19.5a (Fee Schedule).

SQUARE FEET of DISTURBED AREA

- a. Less than 1,000\$ 50
 - b. 1,000 to 5,000.....\$100
 - c. More than 5,000\$100
- Plus \$5.00 for every additional 5,000 sq. ft., rounded up.

SCHEDULE C. Additional fees for D.E.E.P. reporting.....\$ 60

(or as amended by Connecticut General Statute)

State Environmental Fee, established by the State Department of Energy & Environmental Protection

19.6 Exemption: Boards, Commissions, Councils and Departments of the Town of Monroe are exempt from all fee requirements.

19.7 Waiver: 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;
- b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application; or
- c. The applicant has shown good cause.

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

**Section 20
Records Retention and Disposition**

20.1 The Agency and the Town Clerk for the Town of Monroe shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/disposition schedules set forth in the By-laws of the Inland Wetlands Commission.

**Section 21
Effective Date of Regulations**

21.1 These regulations are effective upon adoption and filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Monroe.