INLAND WETLANDS AND WATERCOURSES REGULATIONS

OF THE

TOWN OF MONTVILLE, CONNECTICUT

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APPENDIX A

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 ground water; 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 water courses 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 Montville."

1.3 The Inland Wetlands Commission of the Town of Montville was established in accordance with an ordinance adopted April 8, 1974, and shall implement the purposes and provisions of the Inland Wetlands and Watercourses Act in the Town of Montville.

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 Commission shall enforce all provisions of the Inland Wetlands and Watercourses Act and shall issue, issue with terms, conditions, limitations or modifications, or deny permits for all regulated activities in the Town of Montville, pursuant to Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended.

SECTION 2

DEFINITIONS

2.1 As used in these Regulations:

a. **"Act"** means the Inland Wetlands and Watercourses Act, Sections 22a-36 through 22a-45, inclusive, of the Connecticut General Statutes (CGS), as amended.

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

c. **"Clear-cutting"** means the harvest of timber in a fashion which removes all trees down to a two-inch (2") diameter at breast height.

d. **"Commission"** means the Inland Wetlands Commission of the Town of Montville.

e. **"Commission Member"** means a member of the Inland Wetlands Commission of the Town of Montville.

f. **"Commissioner of Energy & Environmental Protection"** means the Commissioner of the State of Connecticut Department of Energy & Environmental Protection.

g. **"Continual Flow"** means a flow of water which persists for an extended period of time; this flow may be interrupted during periods of drought or during the low flow period of the annual hydrological cycle, June through September, but it recurs in prolonged succession.

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

i. **"Designated Agent"** means an individual designated and duly authorized by the Commission to carry out its functions and purposes as authorized by the Act and/or by these Regulations.

j. **"Discharge"** means emission of any water, substance, or material into waters of the state whether or not such substance causes pollution.

k. **"Disturbing the natural and indigenous character of the wetland or watercourse"** means that the activity will significantly alter the inland wetlands and watercourses by reason of removal or deposition of material, clear-cutting, alteration or obstruction of water flow, or will result in the pollution of the wetland or watercourse.

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

m. **"Farming"** shall be consistent with the definition as noted in Section 1-1(q) of the Connecticut General Statutes. See Appendix A.

n. **"Feasible"** means able to be constructed or implemented consistent with sound engineering principles.

o. **"License"** means the whole or any part of any permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these Regulations under the authority of the Inland Wetlands Commission and Section 22a-36 to 22a-45 of the Connecticut General Statutes, inclusive.

p. **"Management Practice"** means a practice, procedure, activity, structure or facility designed to prevent or minimize pollution or other environmental damage or to maintain or enhance existing environmental quality. Such management practices include, but are not limited to: erosion and sedimentation controls; restrictions on land use 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 flow are low and fish and wildlife will not be adversely affected.

q. **"Marshes"** means watercourses that are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year, and areas of open water six inches (6") or more in depth are common, but seasonal water table fluctuations are encountered.

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

s. **"Municipality"** means the Town of Montville, New London County, Connecticut.

t. **"Nurseries"** means places where plants are grown for sale, transplanting, or experimentation.

u. **"Permit"** See License

v. **"Permittee"** means the person to whom a permit has been issued.

w. **"Person"** means any person, firm, partnership, association, corporation, company, limited liability company ,organization or legal entity of any kind, including municipal corporations, governmental agencies, or subdivisions thereof.

x. **"Pollution"** means 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 the waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing, or excavation activity.

y. **"Prudent"** means economically and otherwise reasonable in light of 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.

z. **"Regulated Activity"** A regulated activity is any action that can impact a wetland or watercourse, that is not permitted by right. This includes any activity that occurs in or within 50 feet of the wetland or watercourse. Regulated activities also include any activity that causes or may cause an impact to the wetland or watercourse including, but not limited to, drainage, discharges that may include oil, silt, or sewage, or which direct or limit water flow into the wetland or watercourse - regardless of how far away from the wetland or watercourse the activity occurs, or whether or not the wetland or watercourse is on the applicants property.

aa. **"Regulated Area"** means any inland wetland or watercourse, upland review area, and/or non-wetland or non-watercourse area which proposed activities are likely to impact or effect wetlands or watercourses as defined in these Regulations, including without limitation in Subsection 2.1(z)

bb. **"Remove"** includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, clear-cut timber, bulldoze, dragline or blast.

cc. **"Rendering unclean or impure"** means any alteration of the physical, chemical, or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste.

dd. **"Significant Impact"** means any activity, including, but not limited to, the following activities which may have a major effect:

1. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to aquatic, plant or animal life and habitats, prevent flooding, supply water, assimilate waste, facilitate drainage, provide recreation or open space or other functions..
4. Any activity which is likely to cause or has the potential to cause a substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which destroys unique wetland or watercourse areas or such areas having demonstrable scientific or education value.

ee. **"Soil Scientist"** means an individual duly qualified in accordance with standards set by the Office of Personnel Management.

ff. **"Swamps"** means watercourses that are distinguished by the dominance of wetland trees and shrubs.

gg. **"Submerged Lands"** means those lands which are inundated by water on a seasonal or more frequent basis.

hh. **"Town"** means the Town of Montville, New London County in the State of Connecticut.

ii. **"Upland Review Area"** Shall be any area within (50) feet measured horizontally from the boundary of any wetland or watercourse.

jj. **"Waste"** means 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.

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

ll. **"Wetlands"** means land, including submerged land as defined in this section, not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey, as 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 map of wetlands and watercourses, entitled "Inland Wetlands and Watercourses Map, Montville, Connecticut," delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection in the office of the Town Clerk or the 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. The Commission may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or other information in determining the location of the boundaries of wetlands and watercourses.

3.2 Any person may petition the Commission for an amendment to the map. All petitions for a map change shall be submitted in writing and shall include all relevant facts and circumstances which support the change. The petitioner shall bear the burden of proof regarding the proposed map amendment. Such proof may include, but not be limited to: aerial photography, remote sensing imagery, resource mapping or other available information. The Commission may require such person to provide an accurate delineation of regulated areas in accordance with Section 15 of these Regulations.

3.3 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.

3.4 All map amendments are subject to the public hearing process outlined in Section 15 of these Regulations.

SECTION 4

PERMITTED USES AS OF RIGHT AND NON-REGULATED USES

4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:

a. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three (3) acres or less essential to the farming operation, and activities conducted by, or under the authority of the Department of Energy and Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this section shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, or the mining of topsoil, 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, provide the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, 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, not to include dredging or dock construction;

d. Uses incidental to the enjoyment or maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality. 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 into a wetland or watercourse, or diversion or alteration of a watercourse;

e. Construction and operation, by water companies as defined in by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102of 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 General Statutes;

f. Maintenance relating to any drainage pipe which existed before the effective date of any Municipal Regulations adopted pursuant to Section 22a-42 of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this section, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place; and

g. Withdrawals of water for fire emergency purposes.

4.2 The following operations and uses shall be permitted as non-regulated 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 watercourses.

a. Conservation of soil, vegetation, water, fish, shellfish, and wildlife;

b. Outdoor recreation including the use of play and sporting areas, golf courses, field trails, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water-skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated; and

c. 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) provided 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, excavation, dredging, clear cutting, clearing or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a Regulated Activity by these Regulations shall require a permit from the Commission in accordance with Section 6 of these Regulations or for certain regulated activities located outside of wetland and watercourses from the Designated Agent in accordance with Section 12 of these Regulations.

4.4 To carry out the purposes of this section, any person proposing a permitted operation and use or a non-regulated operation and use , shall, prior to commencement of such operation or use, notify the Commission on a form provided by it, and provide the Commission with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or non-regulated use of the wetland or watercourse. The Commission or its Designated Agent shall rule that the proposed

operation or use is a permitted or a non- regulated use or operation or that the proposed operation and use is a Regulated Activity and a permit is required. Such ruling shall be in writing and shall be made no later than the next regularly scheduled meeting of the Commission following the meeting at which the request is received. The Designated Agent for the Commission may make such ruling on behalf of the Commission at any time. Any such ruling shall be subject to limitation or revocation if it is later shown that a Regulated Activity is a consequence of that proposed activity or use.

SECTION 5

ACTIVITIES REGULATED EXCLUSIVELY BY THE COMMISSIONER OF ENERGY & ENVIRONMENTAL PROTECTION

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

5.2 The Commissioner of Energy & Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.

5.3 The Commissioner of Energy & Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Energy & Environmental Protection under Section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Energy & 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 Commission 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 Energy & Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

SECTION 6

REGULATED ACTIVITIES TO BE LICENSED

6.1 No person shall conduct or maintain a Regulated Activity without first obtaining a permit for such activity from the Inland Wetlands and Watercourses Commission of the Town of Montville.

6.2 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.

SECTION 7

APPLICATION REQUIREMENTS

7.1 Any person intending to conduct a Regulated Activity or to renew or amend a permit to conduct such Regulated Activity shall apply for a permit on a form provided by the Commission. The application 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 Planning Department.

7.2 If the application to the Town of Montville Planning and Zoning Commission for a subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3(c) or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Commission in accordance with this section, no later than the day the application is filed with such Planning and Zoning Commission.

7.3 All applications shall contain such information that is necessary for a fair and informed determination of the issues.

7.4 A prospective applicant may 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 or on maps or drawings:

a. The applicant's name, home and business mailing addresses, email and telephone numbers; if the applicant is a Limited Liability Corporation or a Corporation, the managing member or responsible corporate officer's name, address, and telephone number;

b. The owner's name, address and telephone number and written consent of the property owner if the applicant is not the owner of the property on which the subject activity is proposed;

c. Applicant's interest in the land;

d. The geographical location of the property which is the subject of the proposed activity, including, but not limited to; a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, a computation of the area(s) (in acres or square feet) of wetland or watercourse disturbance, soil type(s) and 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 and watercourse resources;

f. Alternatives which would cause less or no environmental impact to wetlands or watercourses and why the alternative as set forth in the application was chosen; all such alternatives shall be diagramed on a site plan or drawing;

g. A site plan showing the proposed activity and existing conditions in relation to wetlands and watercourses and identifying any further 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;

h. Names and addresses of adjacent property owners;

i. Certification that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;

j. Authorization for the Commission Members and Agents of the Commission to inspect the subject lands, at reasonable times, during the pendency of an application and for the life of the permit;

k. Any other information the Commission deems necessary to the understanding of what the applicant is proposing;

l. Submission of the appropriate filing fee;

m. A completed DEEP reporting form. The Commission shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Energy & Environmental Protection in accordance with Section 22a-39-14 of the Regulations of State Agencies.

7.6 At the discretion of the Commission or its Agents, or when the proposed activity involves a Significant Impact, additional information, based on the nature and anticipated effects of the activity, including but not limited to the following, is required:

a. Site plans for the proposed activity and the land which will be affected, thereby which show existing and proposed conditions, wetland and watercourse boundaries, land contours, boundaries of land ownership, proposed alterations and use of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a land surveyor, professional engineer or landscape architect licensed in the State of Connecticut or by such other qualified person;

b. Engineering reports and analyses and additional drawing to fully describe the proposed activity including any filling, excavation, drainage or hydraulic modifications to watercourses and the proposed erosion and sedimentation control plan;

c. Mapping of soil types consistent with the categories established by the National Cooperative Soil Survey of the U. S. Soil Conservation Service (the Commission shall require the applicant to have the wetlands delineated in the field by a soil scientist and that the field delineation be incorporated onto the site plan);

d. Description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed regulated activities on these communities and wetlands functions;

e. Description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application, and each alternative which would cause less or no environmental impact to wetlands and watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent;

f. Analysis of chemical or physical characteristics of any fill material;

g. Management practices and other measures designed to mitigate the impact of the proposed activity.

7.7 The applicant shall certify whether:

a. Any portion of the property on which the Regulated Activity is proposed is located within 500 feet of the boundary of an adjoining municipality;

b. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;

c. Sewer or water drainage from the project 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;

e. Any portion of the Regulated Activity is proposed to be conducted within a public drinking water supply source area. " An application is filed to conduct or cause to be conducted a Regulated Activity upon which an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in Connecticut General Statues 25-32a."

7.8 Nine (9) copies of all application materials shall be submitted to comprise a complete application or as is otherwise directed by the Commission. If it is necessary for the application material to be sent out for review by other agencies, additional copies may be required.

7.9 Any application to renew of amend an existing permit shall be filed with the Commission in accordance with Section 8 of these Regulations at least sixty-five (65) days prior to the expiration date of the permit. Any application to renew or amend such an existing permit shall contain the information required under Section 7 of these Regulations provided:

a. The application may incorporate the documentation and record of the prior application;

b. The application shall describe the extent of work completed at the time of filing and the schedule for completing the activities authorized in the permit;

c. The application shall state the reason why the authorized activity was not initiated or completed within the time specified in the permit;

d. The application shall describe any changes in facts or circumstances involved with or affecting wetlands or watercourses or the property 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.

7.10 Any application to renew a permit shall be granted upon request of the permit holder unless the Commission 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 shall be valid for more than ten (10) years, and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.

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

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

b. For purposes of this section, "preservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of land, 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 preserve historically significant structures or sites.

c. No person shall file a permit application, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of such existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limed to, any state agency that holds such restriction, not later than sixty days prior to the filing of the permit application.

d. In lieu of such notice pursuant to Subsection 7.11(c), 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 pursuant to Section 12.2 from decisions of the Commission's Designated Agent shall be submitted to the Inland Wetlands and Watercourse Commission of the Town of Montville by filing them in the Planning Department.

8.2 The Commission shall, in accordance with the Connecticut General Statutes Section 8-7(d)(f), notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:

a. Any portion of the property affected by a decision of the Commission is located within five hundred (500) feet of the boundary of an adjoining municipality;

b. A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;

c. A significant portion of the sewerage or water drainage from the project site will flow through and significantly impact the sewage or drainage system within the adjoining municipality; or

d. Water runoff from the improved site will impact streets or other municipal pr private property within the adjoining municipality.

Such notice of the pendency of such application shall be made certified mail, return receipt requested, and shall be mailed within seven (7) 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 a watershed of a water company as defined in Section 25-32a of the Connecticut General Statutes, the applicant shall provide written notice in accordance with Section 22a-42f of the Connecticut General Statutes, as amended, 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 Commission of such municipality. Such notice shall be made certified mail, return receipt requested, and shall be mailed no later than seven (7) days after the date of the application. The water company and the Commissioner of Public Health,

through a representative, may appear and be heard at any hearing on the application. Documentation of such notice shall be provided to the 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 Designated Agent of such petition, application, request or appeal or thirty-five (35) days after such submission, whichever is sooner.

8.5 At any time during the review period, the Commission may require the applicant to provide additional information about the Regulated Area or Regulated Activity which is the subject of the application, or wetlands and watercourses affected by the Regulated Activity. 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 Incomplete applications may be denied.

SECTION 9

PUBLIC HEARINGS

9.1 The Inland Wetlands Commission shall not hold a public hearing on an application unless the Commission determines that the proposed activity may have a Significant Impact on wetlands or watercourses, or a petition signed by at least twenty-five (25) persons who are eighteen (18) years of age or older and who reside in the municipality in which the Regulated Activity is proposed, requesting a hearing is filed with the Commission no later than fourteen (14) days after the receipt of such application, or the Commission finds that a public hearing regarding such application would be in the public interest. The Commission may issue a permit without a public hearing provided no petition provided for in this section is filed with the Commission on or before the fourteenth (14) day after the date of receipt of such application. Such hearing shall be held no later than sixty-five (65) days after the receipt of such application. All applications and maps and document relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard.

9.2 Notice of a public hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days and the last not less than two (2) 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.

SECTION 10

CONSIDERATIONS FOR DECISION

10.1 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 and Commissions including but not limited to the Town of Montville:

1. Conservation Commission
2. Planning and Zoning Commission
3. Building Official
4. Health District

c. The Commission may also consider comments on the application from the New London County Soils and Water Conservation District, The Southeastern Connecticut Council of Governments 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. Non-receipt of comments from state agencies and Commissions listed in Section 10.1b. and c. above within the prescribed time shall neither delay nor prejudice the decision of the Commission;

e. For an application on which a public hearing is held, public comments, evidence and testimony.

10.2 Criteria for Decision.

In carrying out the purpose and policies of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Commission shall take into consideration all relevant facts and circumstances including, but not limited to:

a. The environmental impact of the proposed Regulated Activity on a wetlands or watercourse;

b. The applicant's purpose for, and feasible and prudent alternatives to, the proposed Regulated Activity which alternatives would cause less or no environmental impact to wetlands and watercourses;

c. The relationship between the short-term and long term impacts of the proposed Regulated Activity on wetlands and watercourses and the maintenance and enhancement of long-term productivity of such wetlands and 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, including abutting or downstream property, which would be caused or threatened by the proposed Regulated Activity, or the creation of conditions which may do so. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and wildlife and their habitat, loss of unique habitat having demonstrable natural, scientific or education value, loss or diminution of beneficial aquatic organisms and wetland plants, the dangers of flooding and pollution, and the destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and watercourses to the community; and

f. Measures which would mitigate the impacts of proposed Regulated Activities 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 wetland or watercourses.

10.3 In the case of any application which received a public hearing pursuant to a finding 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. In making this finding, the Commission shall consider the facts and circumstances set forth in Section 10.2 of this Section. This finding and the reasons therefore shall be stated in the record of the decision by the Commission.

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 and watercourses, the Commission shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed Regulated Activity.

10.5 For purpose of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means area or environments in which an organism or biological population normally lives or occurs.

10.6 The Commission shall not deny or condition an application for a Regulated Activity in an area outside wetlands and watercourses on the basis of an impact or effect on aquatic plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.

10.7 In reaching its decision on any application after a public hearing, the 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.

10.8 In the case of an application where the applicant has provided written notice pursuant to Subsection 7.11(c) of these Regulations, the holder of the restriction may provide proof to the Commission that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the Commission shall not grant the permit approval.

10.9 In the case of an application where the applicant fails to comply with the provisions of Subsections 7.11 (c) or 7.11 (d) of these Regulations, (i) the party holding the conservation or preservation restriction, other than a state agency that holds such restriction, may, not later than fifteen (15) days after receipt of actual notice of permit approval, file an appeal with the Commission, subject to the rules and regulations of such Commission relating to appeals. The Commission shall reverse the permit approval upon finding that the requested land use violates the terms of such restriction: or (ii) the state agency that holds such restriction may, not later than thirty (30) 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 agency relating to appeals. The inland wetlands commission shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction.

10.10 Nothing is subsections 7.11(c) or 7.11(d) of these regulations shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

SECTION 11

DECISION AND PERMIT

11.1 The Commission may, in accordance with Section 10 of these Regulations, grant the application as filed, or grant it upon such 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. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the Commission, or its agent, determines that such restrictions are necessary to carry out the policy of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

11.2 No later than sixty-five (65) days after receipt of an application, the Agency may hold a public hearing on such application. At such hearing any person or persons may appear and be heard and may be represented by an agent or attorney. The hearing shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within thirty-five (35) days after completion of a public hearing. In the absence of a public hearing, action shall be taken on applications within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of the periods specified in this subsection for the holding of the hearing and for action on such application, provided the total extension of any such period shall not be for longer than sixty-five (65) days, or may withdraw such application. The 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 application. An application deemed incomplete by the Commission must either be withdrawn by the applicant or denied by the Commission.

11.3 The Commission shall state upon its record the reasons and basis for its decision and, in any case where a public hearing is held, such decision shall be based fully on the record of such hearing and shall be in writing and shall incorporate a statement relative to the consideration of feasible and prudent alternatives.

11.4 The Commission shall notify the applicant and any named parties to the proceeding 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 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 the inland wetlands permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision shall be filed with the Montville Planning and Zoning Commission within fifteen (15) days of the date of decision.

11.6 Any permit issued by the Commission for the development of land for which an approval is required under chapters 124, 124b, 126 or 126a of the Connecticut General Statutes shall be valid until the approval granted under such chapter expires or for ten (10) years, whichever is earlier. Any permit issued by the Commission for any activity for which an approval is not required under chapter 124, 124b, 126, or 126a shall be valid for not less than two (2) years and not more than five (5) years.

11.6.1 Notwithstanding the provisions of Section 11.6 of these regulations, any permit issued by the Commission prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period of not less than nine years after the date of such approval.

11.7 No permit 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 is provided.

11.9 General provisions in the issuance of all permits:

a. 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.

b. All permits issued by the Commission are subject to and do not derogate any present or future rights or powers of the Inland Wetlands and Watercourse Commission or the Town of Montville, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state and municipal laws or Regulations pertinent to the subject land or activity.

c. If the activity authorized by the inland wetlands permit also involves an activity or a project which requires zoning or subdivision approval, special permit,

variance or special exception under Sections 8.3(g), 8-3(c), or 8-26 of the Connecticut General Statutes, no work pursuant to the wetlands permit may begin until such approval is obtained.

d. In constructing the authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.

e. Permits are not transferable without the prior written consent of the Commission.

SECTION 12

ACTION BY DESIGNATED-AGENT

12.1 The Commission may delegate to its Designated Agent the authority to approve or extend a license for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in 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 Energy & 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.

12.2 Any person receiving such approval from such agent shall, within ten (10) days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the Town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the Commission within fifteen (15) 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 (3) 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

131 . The Commission may require as a permit condition the filing of a bond with such surety in such amount and as to form approved by the Finance Director and the Town Attorney.

13.2 The bond or surety shall be conditioned on compliance with all provisions of these Regulations and the terms, conditions and limitations established in the permit.

13.3 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 to be determined by the Commission commensurate with the regulated activity.

SECTION 14

ENFORCEMENT

14.1 The Commission may appoint a Designated Agent or Agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and to carry out other actions or investigations necessary for the enforcement of these Regulations. In carrying out the purpose of this Section, the Commission or its Agent shall take into consideration the criteria for decision under Section 10.2 of these Regulations.

14.2 The Commission or its Designated Agent may make regular inspections, at reasonable hours, of all regulated activities for which permits have been issued with the consent of the property owner or the authorized agent of the owner during the life of the permit. This consent is granted when the property owner and/or authorized agent signs the Inland Wetlands Application.

14.3 In the case in which a permit a permit has not been issued or a permit has expired, the Commission or its Agent may make regular inspections at reasonable hours with the consent of the property owner or the authorized agent of the property owner.

14.4 If the Commission or its Designated Agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these Regulations, the Commission or its Designated Agent may:

a. Issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order, the 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 section shall not delay or bar an action pursuant to Sections 22a-44(b) of the Connecticut General Statutes, as amended, or any other enforcement proceedings as provided by law.

b. Suspend or revoke a permit if it finds that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Commission shall issue notice to the permittee, personally or by certified mail, setting forth the facts or conduct which warrants the intended action. The Commission shall hold a public hearing. At the public hearing, the permittee shall be given an opportunity to show that it is in compliance with its permit and any and all requirements for the retention of the permit. The Permittee shall be notified of the Commission's decision to suspend, revoke, or maintain a Permit by personal service or certified mail within fifteen (15) days of its decision. The Commission shall publish notice of its decision in a newspaper having general circulation in the Town.

c. Issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands and watercourses. 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 filing a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in subsection (a) of this Section or other enforcement proceedings as provided by law.

14.5 The permit shall expire if the activity authorized therein is not initiated within the specified duration, as provided by law. The Commission may suspend or revoke a permit if it finds after giving notice to the permittee of the facts or conduct which warrant the intended action and after a hearing at which the permittee is given an opportunity to show compliance with the requirements for retention of the permit, that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The applicant shall be notified of the Commission's decision by certified mail within fifteen days of the date of the decision and the Commission shall cause notice of their order in issuance, denial, revocation or suspension of a permit to be published in a newspaper having a general circulation in the Town wherein the wetland and 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.

SECTION 15

AMENDMENTS

15.1.a These Regulations and the Inland Wetlands and Watercourses Map for the Town of Montville may be amended, from time-to-time, by the Commission in accordance with changes in the Connecticut General Statutes or Regulations of the State Department of Energy and Environmental Protection or as new information regarding soils and inland wetlands and watercourses becomes available.

15.1.b An application filed with the Commission which is in conformance with the applicable inland wetlands Regulations as of the date of receipt of such Commission with respect to such application shall not be required thereafter to comply with any change in inland wetlands regulation, (or boundaries) including changes to setbacks and buffers, taking effect on or after the date of such decision. Any appeal from the decision of such Commission with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of receipt. The provisions of this subdivision shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in Regulations necessary to make such Regulations consistent with the provisions of Chapter 440 of the General Statutes as of the date of receipt.

15.2 These Regulations and the Town of Montville Inland Wetlands and Watercourses Map shall be amended in the manner specified in Section 22a-42a of the Connecticut General Statutes as amended. The agency shall provide the Commissioner of Energy & Environmental Protection with a copy of any proposed Regulations and notice of the public hearing to consider any proposed Regulations or amendments thereto, except map amendments pursuant to subsection 15.3 of this section, at least 35 days before the public hearing on their adoption.

15.3 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map, Montville, Connecticut," shall contain at least the following information:

a. The petitioner's name, mailing address, email and telephone number;

b. The address, or location of the land affected by the petition.

c. The petitioner's interest in the land affected by the petition;

d. Maps showing the geographic location of the land affected by the petition and the existing and proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and

e. The reasons for the requested action;

15.4 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Montville, Connecticut, shall bear the burden of proof for all requested map amendments. Such proof may include, but is not limited to professional interpretation of aerial photography and remote sensing imagery, resource mapping, soils mapping, or other information acceptable to the 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 Subsection 15.3, the petition shall include:

a. The name, mailing address and telephone number of the owner(s) of such land and owner(s) agent or other representative;

b. The names and mailing addresses of the owners of abutting land.

c. Documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at minimum include the report of the soil scientist documenting the location of wetland soils on the land and a map of the said land indicating the flag locations set by the soil scientist and defining the boundaries of wetland soil types; and

d. Map(s) showing any proposed development of the land in relation to existing and proposed wetland and watercourse boundaries.

15.5 Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.

15.6 A public hearing shall be held on petitions to amend the Inland Wetlands and Watercourses Map. Notice of the hearing shall be published in a newspaper having a general circulation in the municipality where the land that is the subject of the hearing is located at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days, before such hearing. All materials including maps and documents relating to the petition shall be open for public inspection.

15.7 The Commission shall hold a public hearing on a petition to amend the Regulations and the Inland Wetlands and Watercourses Map within sixty-five (65) days after the receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Commission shall act upon the changes requested in such petition within sixty-five (65) days after the completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by an agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection for the holding of the hearing and for action on such petition, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such petition. The 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.

15.8 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 Appeals 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 any other party, in accordance with Section 22a-43(a) of the Connecticut General Statutes, as amended.

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

SECTION 19

EFFECTIVE DATE OF REGULATIONS

19.1 These Regulations amend and supersede Regulations previously adopted by the Montville Inland Wetlands Commission effective on August 28, 1974. These Regulations are effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having a general circulation in the Town of Montville, as provided by law.

Amended: February 28, 1990

Amended: March 20, 1996

Amended: May 3, 2012

SECTION 20

APPLICATION FEE SCHEDULE

20.1 **Method of Payment.** All fees required by these Regulations shall be submitted to the Commission by cash, check or money order payable to the Town of Montville. Map changes, regulation amendment petition and basic application fees must be paid at the time the application is submitted. Encroachment and significant activity fees may be paid following the decision to grant a permit but shall be paid in full before the issuance of said permit.

20.2 **Application Fee Waiver:** The applicant may petition the Commission to waive, reduce, or allow delayed payment of the fee as required by Town Resolution #1714, Application Fees for License to Perform Regulated Activities Under Inland Wetland and Watercourses Regulations, Town of Montville, Connecticut. Such petitions shall be in writing and state fully the facts and circumstances the Commission should consider in its determination under this section. The Commission may waive all or part of the application fee, if the Agency determines that:

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

b. The amount of the application fee is clearly excessive in relation to the cost to the Town for reviewing, processing the application, and monitoring the regulated activities for assurance that they are conducted in accordance with any permit granted pursuant to said application. The Commission shall state upon its record the basis for all actions under this subsection.

20.3 **Municipal Applications:** Municipal projects by Boards, Commissions, Councils, and Departments of the Town of Montville are exempt from application fees, but a Permit application must be submitted.

20.4 **Fee Refunds**: The fee is non-refundable unless the application is withdrawn before its receipt by the Commission.

20.5 **Definitions**: (As used in this section)

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

b. **"Commercial uses"** means activities carried out on property developed for industry, commerce, trade, business, or being developed to be occupied for such purposes, for either profit or non-profit.

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

d. **"Encroachment"** is the total square or lineal footage of wetlands and watercourses which will be disturbed or created by a proposed activity, including that area within 50' of wetlands and watercourses.

20.6 SUMMARY OF ORDINANCE NO. 2007-002

AN ORDINANCE REGARDING LAND USE APPLICATION PROCESSING FEES

214.020 Definitions.

"Preliminary Engineering Review" means the initial review of land use plans submitted to the Commissions for compliance with the Regulations. This term includes the first review of land use plans revisions after a return of the land use plans to the applicant for completion of revisions to the land use plans to conform those plans with the Regulations.

"Extended Engineering Review Services" means any follow-up review of revised land use plans for corrections identified during the Preliminary Engineering Review. This does not include the first review after revision made in accordance with the Preliminary Engineering Review.

214.030 Fee schedule.

C. ***Additional Expenses.*** In addition to the fixed fees set forth in subsection A of this section, the commissions may collect payment for direct costs of materials and services performed by other than town employees, including but not limited to specialized inspection, third party professional certifications, legal, stenographic and transcription services associated with any type of land use application, or require an applicant to provide certifications, inspections or professional consultant reports at the applicant's expense, where the fixed fees set forth in subsection A are not anticipated to cover, or do not in fact cover, such costs or expenses. **Additional Expenses shall include Extended Engineering Review Services.**

214.050 Payment of fees

C. Method and Timing of Payment, Failure to Pay. All Fixed Application Fees shall be paid by cash, check or money order made payable to the Town of Montville. Fees shall be paid at the time of application submission. The applicant shall be provided with invoices or other evidence of any Additional Expense(s) and reimbursement to the Town shall be made within thirty (30) days after presentation of such invoices or other evidence. Failure to comply with this subsection shall be grounds for denial of any application or revocation of any permit previously issued. Reimbursement of the Town under this subsection shall be a condition for the endorsement of any plan, the issuance of any final permit, or the issuance of any certificate of zoning compliance for an approved application, or the renewal of any periodic or temporary approval, as the case may be.

Effective 6/15/07

20.7 **Fee Schedule**

a. Pre-application .....No charge

b. Permitted and Non-regulated Uses (Defined in Section 4):

1. Permitted use as of right .....No charge

2. Non-regulated use .....No charge

c. Regulated uses (Defined in Section 6):

1. Residential Uses, Single Lot

Basic.....$45.00

Encroachment:

(1) Sq. Ft. of disturbed area fee/1000 sq. ft.

Less than 3000 sq. ft. $15.00

3000-10,000 " $10.00

Over 10,000 "....$ 5.00

(2) $1.00/linear feet of watercourse crossing*

(3) $1.00/linear feet of stream alteration

(4) Significant Activity Fee....$100.00

(5) Flagged wetlands delineation.....$100.00

Plus:

$.20/ft. for 1st 500' of proposed boundary associated with a regulated activity

$.15/ft. for 2nd 500' of proposed boundary associated with a regulated activity

$.10/ft. over 1000' of proposed boundary associated with a regulated activity

2. Residential Subdivision

Basic....$35.00

Plus $10.00/lot

Encroachment

(1) Sq. ft. of disturbed area fee/100 sq. ft.

Less than 3000 sq. ft $15.00

3000--10,000....$10.00

Over 10,000....$ 5.00

(2) $1.00/Linear feet of watercourse crossing*

(3) $1.00/Linear feet of stream alteration

(4) Significant Activity Fee....$100.00

(5) Flagged wetlands delineation....$100.00

Plus:

$.20/ft. for 1st 500' of proposed boundary associated with a regulated activity

$.15/ft. for 2nd 500' of proposed boundary associated with a regulated activity

$.10/ft. over 1000' of proposed boundary associated with a regulated activity

3. Commercial, Industrial, Mixed, all others

Basic.....$50.00

Encroachment

(1) Sq. ft. of disturbed area fee/1000 sq. ft.

Less than 3,000 .....$20.00

3,000 to 10,000 .....$15.00

More than 10,000.....$10.00

(2) 5.00/ln. ft. of water course crossing*

(3) 5.00/ln.ft. of stream alteration

*** A watercourse crossing is the sum of the width dimension and the length of stream alteration as determined by a culvert length requirement noted on the approved plan. The stream alteration is used alone when the course is straightened or its banks are resloped and no culverting or bridging is done.**

(4) Significant Activity Fee (Section 7.5 and 9.1).... $100.00

(5) Flagged wetlands delineation.....$100.00

Plus:

$.20/ft. for 1st 500' of proposed boundary associated with a regulated activity

$.15/ft. for 2nd 500' of proposed boundary associated with a regulated activity

$.10/ft. over 1000' of proposed boundary associated with a regulated activity

(6) Amendment of previous approval (Section 7.7)

a. Insignificant activity.....$25.00

b. Significant activity.....$100.00

(7) Renewal (Basic fee for the activity) ** Amended 9/23/92

APPENDIX A

Connecticut General Statute section 1-1(q)

Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by storm, as an incident to such farming operations; the production of harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits and vegetables for market or for direct sale. The term "farm" includes farm buildings , and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoophouses and other temporary structures or other structures used primarily for the raising and, as an incident of ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels, and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.