

PROPOSED LOCAL LAW __ – 2020

A Proposed Local Law to amend Chapter 192 of the Code of the Village of Mamaroneck
(Freshwater Wetlands).

**BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK
AS FOLLOWS:**

*(Language in strike-through ~~abedefghijk~~ to be deleted; language in **bold** is to be added)*

Section 1.

Section 192-1 of the Code of the Village of Mamaroneck is amended as follows:

§ 192-1 Legislative intent.

- A. The Board of Trustees of the Village of Mamaroneck hereby finds that wetlands **and watercourses and their designated buffers** play a fundamental role in the environment of the Village of Mamaroneck. Wetlands ~~provide a~~ **in their natural state can serve multiple functions including, but not limited to, the goals of:** ~~habitat for many forms of wildlife; aid flood control and storm drainage by absorbing and storing excess precipitation; protect subsurface water resources and recharge groundwater supplies; protect water quality by functioning as sedimentation and filtration basins; facilitate recreational and educational activities; and offer natural open spaces where such open spaces are in very short supply. Therefore, the Board of Trustees of the Village of Mamaroneck, pursuant to Article 24 of the Environmental Conservation Law of the State of New York, declares that it is the intent of this chapter to promote these public purposes through the creation of procedures to ensure the preservation, restoration, enhancement and proper utilization of wetlands and the natural resources and processes attendant thereto. This chapter shall be known as the "Wetlands Protection Law."~~

- (1) Providing for enhanced scenic vistas;
- (2) Protecting water sources by providing sources of surface water, recharging groundwater and aquifers, serving as chemical and biological oxidation basins and/or functioning as settling basins for naturally occurring sedimentation;
- (3) Controlling flooding and stormwater runoff by storing or regulating natural flows;
- (4) Providing nesting, migratory and wintering habitats for diverse wildlife species;
- (5) Supporting vegetative associations specifically adapted for survival in low-oxygen environments and/or brackish water or saltwater;
- (6) Providing areas of unusually high plant productivity, which support significant wildlife diversity and abundance;
- (7) Providing breeding and spawning grounds for aquaculture, nursery habitats and food for various species of fish;

- (8) Serving as nutrient traps for nitrogen and phosphorous and filters for surface water pollutants;**
- (9) Helping to maintain biospheric stability by supporting particularly efficient photosynthesizers capable of producing significant amounts of oxygen and supporting bacteria which process excess nitrates and nitrogenous pollutants and return them to the atmosphere as inert nitrogen gas;**
- (10) Providing open space and visual relief from development;**
- (11) Providing recreational and aesthetic enjoyment for area residents;**
- (12) Serving as outdoor laboratories and living classrooms for the study and appreciation of natural history, ecology and biology; and**
- (13) Supporting water-dependent recreational activities.**

B.

- (1) It is the intent of the Village to preserve, enhance and improve our wetlands and watercourses and their associated buffer areas, and to open vistas and where possible access to our wetlands and watercourses and their associated buffer areas. These areas include both tidal and freshwater wetlands, and their associated buffer areas.**
- (2) It is the further intent of the Village that activities in wetlands, watercourses and wetland/watercourse buffers conform with all applicable building codes, sediment control regulations and other regulations and that such activities not threaten public safety, the natural environment or cause nuisances by:**
 - (a) Impeding stormwater and flood flows, reducing stormwater and flood storage areas or destroying storm barriers, thereby resulting in increased flood heights, frequencies or velocities on other lands;**
 - (b) Increasing water pollution through location of domestic waste disposal systems in wet soils; inappropriate siting of stormwater control facilities; unauthorized application of fertilizers, pesticides, herbicides and algicides; disposal of solid wastes at inappropriate sites; creation of unsterilized fills; or the destruction of wetland soils and vegetation serving pollution and sediment control functions;**
 - (c) Increasing erosion;**
 - (d) Decreasing breeding, nesting and feeding areas for many species of waterfowl and shorebirds, including those rare and endangered;**
 - (e) Interfering with the exchange of nutrients needed by fish and other forms of wildlife.**
 - (f) Decreasing the habitat for fish and other forms of wildlife.**

- (g) Adversely altering the recharge or discharge functions of wetlands, thereby impacting groundwater or surface water supplies;
- (h) Significantly altering the wetland hydroperiod and thereby causing either short or long-term changes in vegetational composition, soils characteristics, nutrient cycling or water chemistry;
- (i) Destroying sites needed for education and scientific research, such as outdoor biophysical laboratories, living classrooms and training areas;
- (j) Interfering with public rights in navigable waters and the recreation opportunities provided by wetlands for fishing, boating, hiking, bird watching, photography, camping and other passive uses;
- (k) Destroying or damaging aesthetic and property values, including significant public viewsheds; and
- (l) Allowing cumulative loss of wetlands or buffers through incremental encroachment on wetland or buffer areas.

C. Therefore, the Board of Trustees of the Village of Mamaroneck, pursuant to Article 24 of the Environmental Conservation Law of the State of New York, declares that it is the intent of this chapter to promote these public purposes through the creation of procedures to ensure the preservation, restoration, enhancement and proper utilization of wetlands and the natural resources and processes attendant thereto. This chapter shall be known as the "Wetlands Protection Law."

Section 2.

Section 192-2 of the Code of the Village of Mamaroneck is amended as follows:

§ 192-2 Definitions.

The following terms, phrases, words and their derivatives shall have the meanings given terms, herein:

ADJACENT AREA

~~Any land in the Village of Mamaroneck immediately adjacent to a wetland or lying within 400 feet, measured horizontally, of the boundary of a wetland.~~

See "WETLAND/WATERCOURSE BUFFER".

AGENCY

~~The Planning Board.~~

APPLICANT

Any person **or entity** who files an application for any permit **under** issued by the Agency pursuant to this chapter; and **who is either** includes the agent of the owner **of the land on which the proposed regulated activity would be located, or a contract vendee, a**

lessee of the land, the person or entity who actually controls and directs the proposed activity or the authorized agent of such person.

AQUACULTURE

Cultivating and harvesting products, including fish and vegetation, that are produced naturally in wetlands and installing cribs, racks and other in-water structures for cultivating these products, but does not include any filling, dredging, peat mining, clear-cutting or the construction of any buildings or any water-regulating structures such as dams.

BOARD

The Wetlands Appeals Board established by Article 24 of the State Environmental Conservation Law.

BOUNDARIES OF A WETLAND

The outer limits of the **soils and vegetation as shown on any of the Village's, County of Westchester's, State of New York's and federal agency's map, or as defined under "WETLAND."** ~~specified in Subdivisions 1(a) and (b) of § 24-0107 of the State Environmental Conservation Law and of the waters specified in Subdivision 1(c) of such section.~~

CLEAR CUTTING

The removal of all trees in a contiguous area containing more than ten trees.

COMMISSION

The Harbor and Coastal Zone Management Commission.

CONTROLLED AREA

~~A wetland and its adjacent area, as defined herein.~~

See "WETLAND/WATERCOURSE BUFFER."

DAMS AND WATER-CONTROL MEASURES

Barriers used or intended to be used as, or which, even though not so intended in fact do, obstruct the flow of water or raise, lower or maintain the level of water.

DEPOSIT/DEPOSITING

To fill, place, eject or dump any liquid, solid or gaseous material, but not including stormwater.

GOVERNMENT

Village, County, State of New York or federal agency.

GRADING/REGRADE

To adjust the degree of inclination of the natural contours of the land, including leveling, smoothing or other modification of the natural land surface.

GROWING SEASON

The portion of the year when soil temperatures are above biologic zero (5° Celsius) and in the Village, the growing season shall be defined as March through October.

HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION

The Harbor and Coastal Zone Management Commission (H&CZMC) of the Village or its successor.

HYDRIC SOIL

A soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part, and as further defined under "WETLAND."

HYDROPERIOD

The seasonal pattern of the water level of a wetland, which defines the rise and fall of the wetland surface and subsurface water.

HYDROPHYTIC VEGETATION

Macrophytic plant life growing in water or on soils that are at least periodically anaerobic as a result of excessive water content, and as further defined under "WETLAND."

FEDERAL AGENCY

Any agency with the U.S. government such as, but not limited to, the Army Corps. of Engineers, the Environmental Protection Agency, Fish & Wildlife Services, National Ocean and Atmospheric Administration.

FRESHWATER WETLANDS MAP

~~A map on which are indicated the boundaries of any freshwater wetland and which has been filed with the Clerk of the Village of Mamaroneck by the State Department of Environmental Conservation pursuant to § 24-0301 of the State Environmental Conservation Law, as such map may from time to time be amended.~~

LOCAL GOVERNMENT

~~A city, county, town or village.~~

LANDWARD BOUNDARIES OF A WETLAND OR WETLAND LANDWARD BOUNDARY

The most landward limit of:

- A. The Spring Tide Line, vegetation, submerged lands and water, specified in the definition of "freshwater," "brackish" or "tidal" wetlands;

- B. The point where existing wetland indicator species and/or hydric soils no longer have a competitive advantage over upland species or non-hydric soils as determined by the same methodology utilized in the New York State Department of Environmental Conservation ("NYSDEC") Technical Methods Statement relating to the Freshwater Wetlands Act; to wit, if the innermost portion of a wetland is effectively 100% wetland plants, the concentric ring shows an area of 75% wetland species, the outer ring is a 50% mix where the competitive advantage of an upland species is demonstrated, the boundary line will be drawn at the midpoint of the outer ring; or such other approach adopted by the Commission; or
- C. Where a site is dominated by a facultative species, which are characteristics of Westchester wetlands, a community approach shall be used in determining the wetland boundary or the presence of hydric soils, whichever is more restrictive. The test of what constitutes a wetland community will be satisfied if the species are those included in the description of natural wetland community types as documented by the New York Natural Heritage Program in the March 1990 manual entitled "Ecological Communities of New York State" or other such approach adopted by the Commission.

MACROPHYTIC

Referring to any plant species that can be readily observed with the naked eye.

MATERIAL

Liquid, solid or gaseous substances including, but not limited to, soil, silt, gravel, rock, sand, clay, peat, mud, debris and refuse; any organic or inorganic compound, chemical agent or matter; sewage, sludge or effluent material; or industrial or municipal solid waste.

PARTY IN INTEREST

The applicant, the **Commission Agency**, the State Department of Environmental Conservation, each local government in which the regulated activity or any part thereof is located, **any property owner within the specified application public notification area** and any person who appears and wishes to be a "party in interest" at the public hearing held pursuant to § 192-13.

PERSON

~~Any corporation, firm, partnership, association, trust, estate, one or more individuals and any unit of government or agency or subdivision thereof.~~

POLLUTION

The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to humans, plants, animals or property.

PROJECT

Any **proposed or ongoing** action which may result in direct or indirect physical or **chemical** impact on a ~~freshwater~~ wetland, including but not limited to any regulated activity.

REGULATED ACTIVITY

Within a wetland or wetland buffer, Any any form of draining, dredging, excavation or removal of soil, mud, sand, shells, gravel or other aggregate from any wetland, either directly or indirectly; any form of dumping, filling or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly; **clearcutting of living trees, cutting or removal of living trees with a trunk diameter of eight inches or more as measured five feet from the base;** erecting any **buildings**, structures or roads; the ~~driving of pilings or the placing of any other~~ obstructions **other than those requiring a marine structure permit**, whether or not changing the ebb and flow of the water; any form of pollution, including, but not limited to, installing a septic tank, running a sewer outfall and discharging sewage treatment effluent or other liquid wastes directly into or so as to drain into a wetland; that portion of any subdivision of land that involves any land in any wetland or adjacent area; and any other activity which substantially impairs any of the several functions served by wetlands or the benefits derived therefrom, which are set forth in § 24-0105 of the State Environmental Conservation Law.

REMOVE

~~To dig, dredge, bulldoze, dragline, blast or otherwise excavate or regrade.~~

To take out of the wetland.

SELECTIVE CUTTING

~~The annual or periodic removal of trees, individually or in small groups, in order to realize the yield and establish a new crop and to improve the forest, which removal does not involve the total elimination of one or more particular species of trees.~~

Any cutting of trees within the boundaries of a wetland or wetland/watercourse buffer that is not “clear-cutting” as defined in this section.

SOLID WASTE

Ashes, rubbish, refuse, grass cuttings, tree cuttings, leaves, garbage, waste matter, offal or discard matter of any type.

STATE

The State of New York, **including any state department, bureau, commission, board or other agency, public authority or public benefit corporation.**

STATE AGENCY

~~Any state department, bureau, commission, board or other agency, public authority or public benefit corporation.~~

STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQRA")

Article 8 of the New York State Environmental Conservation Law providing for environmental quality review of actions that may have a significant adverse effect on the environment.

STRUCTURE

Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground, including but not limited to, buildings, tennis courts and swimming pools.

SUBDIVISION OF LAND

~~Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy, including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division, by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. "Subdivision of land" shall include any map, plat or other plan of division of land, whether or not previously filed. "Subdivision of land" shall not include the lease of land for hunting and fishing and other open space recreation uses and shall not include the division of land by bona fide gift, devise or inheritance.~~

See Chapter A348 of the Code of the Village of Mamaroneck.

VILLAGE

The Village of Mamaroneck.

WETLANDS

Any area ~~which meets within and adjacent to the Village boundaries which meet~~ one or more of the following criteria:

A-

~~Lands and waters of the state that meet the definition provided in § 25-0103, Subdivision 1, of the New York State Tidal Wetlands Act (Article 25 of the Environmental Conservation Law). The approximate boundaries of such lands and waters are indicated on the official tidal wetlands inventory promulgated by the Commissioner pursuant to § 25-0201 of the Act or such an inventory that has been amended or adjusted pursuant to § 25-0201, Subdivision 6, of said Act.~~

B-

- A.** All ~~other~~ areas, ~~2,500~~ **1,000** square feet or larger, that comprise hydric soils or are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation, as defined by the technical publication, Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) **or other such approach adopted by the Commission.**

B. All other areas that are comprised of hydric soils or are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation, all as defined by the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) or such other approach adopted by the Commission.

C. All other marsh areas with tidal or freshwater vegetation.

D. Brooks, creeks, lakes, ponds, reservoirs, rivers, streams, and tidal waters.

Section 3.

Section 192-3 of the Code of the Village of Mamaroneck is amended as follows:

§ 192-3 Prohibitions.

No person shall be allowed to undertake or cause to be undertaken in the wetlands and ~~the adjacent areas to such~~ **buffer areas** any of the following activities:

- A. Placement or deposition of any solid waste.
- B. Discharge of any organic or inorganic chemical, diluted or undiluted, or of any chemical waste, which will cause deleterious environmental consequences.
- C. Discharge of any **new** effluents ~~having a temperature of 65° C. or more~~ in the wetland, ~~pond, lake, reservoir~~ or tributary thereto deleterious to indigenous plants, fish and/or wildlife.

Section 4.

Section 192-4 of the Code of the Village of Mamaroneck is amended as follows:

§ 192-4 Permit required; exceptions.

Any regulated activity in, on, over or within the regulated area, entirely or in part, shall required a wetlands permit unless it is specifically exempted or allowed without a permit, as indicated in the following table. Any regulated activity for which a permit is required which is carried out without a permit or in violation of the conditions of a permit is a violation of this Village Code and subject to criminal and civil penalties.

- A. Except as provided in Subsection B below, no person shall conduct a regulated activity on any ~~controlled~~ **regulated** area unless such person has first obtained a permit pursuant to this chapter. No permits can be issued for activities prohibited by § 192-3 above.
- B. No permit under this chapter shall be required for:
 - (1) The deposition or removal of the natural products of wetlands and adjacent areas of recreational or commercial fishing, shellfishing, agriculture, hunting or trapping where otherwise legally permitted and regulated.
 - (2) Maintenance of lawns, ~~grazing, farming,~~ gardening and harvesting of crops where otherwise legally permitted, except for the use of chemicals as provided in § 192-3B.

- (3) Public health activities, orders and regulations of the State Department of Health or the County Department of Health undertaken in compliance with § 24-0701, Subdivision 5, of the State Environmental Conservation Law.
- (4) Activities subject to the review jurisdiction of the State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment under Article 7 or Article 8 of the State Public Service Law, respectively. The standards and restrictions of this chapter will be applied by said bodies in determining whether to issue a certificate of environmental compatibility and public need under such articles.
- (5) Any emergency activity which is immediately necessary for the protection of life, property or natural resources. Within 48 hours of the commencement of such emergency activity, the person conducting such activity shall notify the ~~Agency~~ **Commission** that such activity is being conducted. Within five days of the cessation of such emergency activity, the person conducting such activity shall provide the ~~Agency~~ **Commission** with a full written report specifying the need for the activity and including the information required in § 192-5.
- (6) ~~Any activity located in a wetland where such wetland is located in more than one city, town or village.~~ **Dredging for boat navigational purposes is specifically exempted as a regulated activity as set forth in the Village's Local Waterfront Rehabilitation Program due to significant regulations by state and federal agencies.**
- (7) ~~The conservation of soil, water, vegetation, fish and wildlife.~~ **Marine dependent structures, such as docks, piles and shoreline interfaces subject to a marine structure permit.**
- (8) Outdoor recreation, including play and sporting activities, field trails for nature study, hiking, horseback riding restricted to trails established for that purpose, swimming, camping, boating, trapping, hunting and fishing where otherwise legally permitted and regulated.
- (9) Ordinary repair and maintenance of existing structures or improved areas which ~~does~~ not involve expansion or substantial restoration, reconstruction, rehabilitation, or modification, including but not limited to bridges, roads, highways, railroad beds, bulkheads, ~~docks, piers~~ or paved areas.
- (10) Scientific and educational pursuits not inconsistent with the intent of this chapter.

Section 5.

Section 192-5 of the Code of the Village of Mamaroneck is amended as follows:

§ 192-5 Application for permit.

- A. Any person proposing to conduct or cause to be conducted a regulated activity requiring a permit under this chapter upon any ~~controlled~~ **regulated** area shall file an application for a permit with the ~~Clerk~~ **Building Department** of the Village of Mamaroneck **as prescribed in the application form and instructions adopted by the Commission, as well as**

sending a copy to any non-Village governmental agency that may have jurisdiction over the proposed activity, including all local governments where the proposed activity or any part thereof is located or immediately adjacent to the Village. The ~~Clerk~~ Building Department shall immediately review the application and accompanying documents to ensure materials have been provided per the application checklist and as soon as the Building Inspector deems the information to be reasonably responsive to the application requires, he shall forward such application to the Commission Agency.

B. Information required.

- (1) An application for a wetlands permit shall be filed by the applicant on a forms prescribed by the Commission Agency. ~~Such~~ At a minimum, such application shall set forth:

(a) Applicant's full contact information;

(b) Description, purpose, character, ~~and~~ extent and location of the proposed regulated activity; ~~The application shall include a detailed description of the regulated activity,~~

(c) Scale drawings, including:

1. Vicinity map showing the location of the project;
2. Existing conditions, including the area of wetland ~~or~~ and adjacent area directly affected, with the location of the proposed regulated activity thereon;,-
3. Proposed conditions showing the proposed regulated activity thereon.

(d) A discussion of the handling of stormwater for the subject project and where appropriate, plans and a stormwater prevention pollution plan ("SWPPP");

(e) A signed and sealed survey by a New York State licensed professional within one (1) year of the application unless otherwise waived by the Commission;

(f) An aerial showing of the proposed project area and view lines from adjacent properties;

(g) Color pictures of the proposed project area, adjacent properties, as well as view lines from adjacent properties to the project area;

(h) A deed, ~~or~~ other legal description or plans by a professional describing the subject property;

(i) ~~and such~~ Such additional information as the ~~Agency~~ Commission deems sufficient to enable it to make the findings and determinations required under this chapter.

- (2) The application shall be accompanied by a list of the names of the owners and addresses of record of lands adjacent to the subject property including the wetland or adjacent areas upon which the project is to be undertaken and the names of known claimants of water rights, of whom the applicant has notice, which relate to any land within or within

4400 feet of the boundary of the property on which the proposed regulated activity will be located.

- (3) An application shall not be deemed to be "complete" or received until the ~~Agency~~ **Commission** determines, **in a public meeting**, that all such information, including any additional information requested, has been supplied in a complete and satisfactory form. Until such application is deemed "complete," no statutory time limits will be in effect. **In the interests of expediency, the Commission may, but is not required to, start to review an application in public meetings or through public hearings prior to determining the application "complete."**
- C. ~~The Clerk of the Village of Mamaroneck~~ **Building Inspector** shall cause a copy of **the** ~~filed such completed application to be mailed distributed to all local governments where the various departments and Village consultants that could reasonably be assumed to potentially have constructive comments. proposed activity or any part thereof is located.~~

Section 6.

Section 192-6 of the Code of the Village of Mamaroneck is amended as follows:

§ 192-6 Notice of application, **meeting and hearing**.

A. Newspaper Publication Requirement.

1. Within five **(5) business** days of its receipt of an ~~completed~~ application, **the Building Inspector shall make a determination if the applicant has supplied enough information and in the requisite format for a permit regarding a proposed regulated activity, the Agency referral to the Commission, at which point, the Building Department** shall provide the applicant with a notice of application, **meeting or hearing**, which the applicant shall publish, at his or her own expense, at least once in the official newspaper of the Village ~~of Mamaroneck~~.
2. ~~B-~~ Said notice of application **and meeting** shall be in a form prescribed by the ~~Commission Agency~~ and shall:
 - (1) **Be published not less than twenty-one (21) calendar days before the specified meeting.**
 - (2) ~~4-~~ Specify that persons wishing to object to the application should file a notice of objection by a specified date, together with a statement of the precise grounds of objection to the application, with the ~~Agency~~ **Commission**.
 - (3) ~~2-~~ **Said notice of application shall be in a form prescribed by the Commission and shall specify** specify that if no notices of objection are timely filed or if the ~~Agency~~ **Commission** determines that the proposed activity is of such a minor nature as to not affect or endanger the balance of systems within any wetland, then the ~~Agency~~ **Commission**, in its discretion, may determine a hearing is not necessary and dispense with the public hearing.

- (4) ~~3.~~ Specify that the application, including all documents and maps therewith, is available for public inspection at the office of the **Building Department Clerk of the Village of Mamaroneck**.

3. **Provide an affidavit of publication to the Commission not less than seven (7) days prior to the Commission's hearing date.**

4. ~~C.~~ Notwithstanding any other provisions of this section, the **Commission Agency** may, in its discretion, dispense with the requirement for a public notice of application, meeting ~~and or require a notice of~~ hearing pursuant to § 192-8.

B. Mailed Notice to Other Governmental Agencies.

1. **At least twenty-one (21) calendar days prior to the date set for the public meeting/hearing, the Applicant shall, by mail or delivery service, provide a notice of the public meeting/hearing to each adjacent local government within whose boundaries of the proposed regulated activity or any portion thereof will be located as well as to all involved county, state and federal agencies having regulatory jurisdiction.**
2. **Said notice will include the Notice from the Building Inspector provided to the Applicant as well as a full set of the Application filed to the Building Department for the Commission.**
3. **Applicant is required to provide proof of notifications to the agencies not less than seven (7) days prior to the published Commission's meeting date.**

C. Mailed Notice of Adjacent Property Owners.

1. **At least fifteen (15) calendar days prior to the date set for the hearing, the Commission shall, by mail, provide a notice of complete application, meeting and hearing to all owners of record of land adjacent to the subject property within 400 feet of the boundary of the property on which the proposed regulatory activity will be located.**
2. **The notice of hearing shall:**
 - (1) **State the name of the applicant.**
 - (2) **Specify the location and outline the scope of the proposed regulated activity.**
 - (3) **Specify the date, time and place of the public hearing on the application.**
 - (4) **Specify that persons wishing to be parties in interest and eligible to be heard at such public meeting/hearing, if any, should either send a communication to the Commission or appear in person or through a representative of the meeting together with the precise concerns, grounds of support or opposition to or interest in the application.**

- (5) Specify that any person who wishes to be a party in interest file such a notice with the Commission in writing or may do so by appearing at the public meeting/hearing and indicating his or her desire to be a party in interest.
- (6) Specify that the application, including all documents, drawings and maps therewith, is available for public inspection at the office of the Building Inspector.
3. Within fifteen (15) calendar days, provide to the Commission a Proof of Mailing showing the date and to whom the notice was mailed.

Commented [CM1]: I'm not sure what this means since the Commission is notifying the adjacent land owners.

D. Sign Notice.

1. Every applicant must post a notification sign on the property which is the subject of said application at least 10 calendar days prior to the public meeting/hearing date and must maintain the posted sign in place until the Harbor and Coastal Zone Management Commission has rendered its final decision approving or denying said application.
2. The sign shall be erected not more than 10 feet from the front yard boundary of the property that abuts a public road and must be conspicuous to the public. The bottom edge of the sign so erected shall be positioned no less than 2.5 feet and no more than three feet above the ground. If the sign's visibility is obscured by vegetation, the applicant must cut the vegetation to a degree sufficient to maintain clear visibility of the sign from the road. If the front yard of the property does not abut a public road, a sign shall be posted in a location that can readily be seen by the public.
3. A sign erected under this provision must be removed within 10 calendar days after the Harbor and Coastal Zone Management Commission has rendered its final decision approving or denying said application.
4. In the event that an application shall be withdrawn or become inactive, the applicant shall remove the sign within five(5) business days of withdrawing the application or of receiving notice from the Harbor and Coastal Zone Management Commission that the application has been designated withdrawn. For the purposes of this section, any application which has not appeared on the Harbor and Coastal Zone Management Commission's agenda for six or more months shall be designated withdrawn. The Harbor and Coastal Zone Management Commission shall notify the applicant, in writing, that the application has become withdrawn and instruct the applicant to remove the sign until such time as the application shall desire to reapply.
5. Said sign shall be at least 30 inches by 20 inches in size, consist of sturdy and serviceable material containing a white background with black letters and shall read as follows, in legible lettering at least two inches high:

"ON THIS SITE A (describe action set forth in the application) IS

PROPOSED. THIS MATTER WILL BE DISCUSSED AT A HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION MEETING ON (give date) AT (give time) AT (give location)."

6. The applicant shall update said sign at least two weeks prior to every Commission meeting in which the applicant's matter will be heard.
7. With fifteen (15) calendar days or each meeting/hearing, the Applicant shall provide to the Commission submit a sworn certification verifying placement and maintenance of the required notice sign.

Section 7.

Section 192-7 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

§ 192-7 Public hearing required; exceptions Application fee.

- ~~A. No sooner than 30 days and not later than 60 days after its receipt of a completed application for a permit regarding a proposed regulated activity and after the publication of a notice of application pursuant to § 192-6, the Agency shall hold a public hearing on such application at a suitable location in the Village of Mamaroneck, which hearing shall be held pursuant to the provisions of § 192-13.~~
- ~~B. Notwithstanding the provisions of Subsection A above, where no notice of objection to the notice of application published pursuant to § 192-6 shall have been filed within the time specified by that notice or where the Agency determines that the proposed activity is of such a minor nature as not to affect or endanger the balance of systems within any wetland, the Agency may, in its discretion, dispense with such hearing. Where the Agency finds that a public hearing is not necessary, it shall publish a decision setting forth its reasons therefor, which decision shall be a matter of public record and shall be mailed to each local government where the proposed regulated activity or any part thereof will be located. Public notice of such decision that a public hearing is not necessary shall be provided in the same manner as notice of application set forth in § 192-6.~~

An application fee in the amount as set forth in Chapter A347, Fees, shall be required at the time application for a wetland permit is submitted to the Commission. Any inspection costs required and incurred in inspecting the property are to be charged to the applicant and are payable prior to the issuance of a permit. Said costs shall be determined by the Village Engineer.

Section 8.

Section 192-8 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

§ 192-8 Notice of hearing Distribution of application.

- ~~A. The Agency shall, within 21 days of receipt of a completed application, provide the applicant with a notice of hearing, which the applicant shall publish, at his or her own expense, at least 15 days prior to the date set for the hearing, at least once in the official newspaper of the Village of Mamaroneck.~~

~~B. At least 15 days prior to the date set for the hearing, the Agency shall, by certified mail, provide a notice of hearing to each local government within whose boundaries the proposed regulated activity or any portion thereof will be located.~~

~~C. At least 15 days prior to the date set for the hearing, the Agency shall, by certified mail, provide notice of hearing to all owners of record of land adjacent to the affected wetland or adjacent area and to all known claimants of water rights, of whom the applicant has notice, which relate to any land within or within 100 feet of the boundary of the property on which the proposed regulated activity will be located.~~

~~D. The notice of hearing shall:~~

- ~~(1) State the name of the applicant.~~
- ~~(2) Specify the location and outline the scope of the proposed regulated activity.~~
- ~~(3) Specify the date, time and place of the public hearing on the application.~~
- ~~(4) Specify that persons wishing to be parties in interest and eligible to be heard at such public hearing, if any, should file a notice of appearance by a specified date, together with a statement of the precise grounds of support of, opposition to or interest in the application, with the Agency.~~
- ~~(5) Specify that any person who wishes to be a party in interest without filing a notice of appearance may do so by appearing at the public hearing and indicating his or her desire to be a party in interest, if a public hearing is held.~~
- ~~(6) Specify that if no notices of appearance are timely filed by any party in interest and if the applicant waives any public hearing, then the public hearing may be canceled by the Agency.~~
- ~~(7) Specify that the application, including all documents and maps therewith, is available for public inspection at the office of the Clerk of the Village of Mamaroneck.~~

Where determined appropriate, the Commission may forward one copy of the application to the Commission's consultants, Village Engineer, the Building Inspector, the Department of Public Works, the applicable Fire District, the Police Department, the Westchester County Soil and Water Conservation District and any other local, state, county, regional and federal agencies having jurisdiction, for their report and recommendations, prior to the holding of a hearing.

Section 9.

Section 192-9 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

~~§ 192-9 Public access to application~~ **Public meeting/hearing procedure.**

~~The Agency shall make the application, including all documents and maps associated with it, available for public inspection at the office of the Clerk of the Village of Mamaroneck.~~

- A. Any public hearing held on a permit application received under this chapter shall be conducted by the Commission. The Commission shall have full authority to control the conduct and procedure of the hearing and shall be responsible that a complete record of the hearing is kept. The public hearing shall be held within the Village of Mamaroneck.**
- B. Any person may appear as a party in interest, notwithstanding the failure of such person to file a timely notice of appearance, by appearing at the hearing and making known his or her desire to be a party in interest. Persons who are not parties in interest may be allowed to participate in the hearing where the Commission finds that such participating would be in the public interest.**
- C. All parties in interest shall be afforded an opportunity to present oral or written arguments on issues of law and policy and an opportunity to call witnesses on their behalf and to present oral and written evidence on issues of fact. The Commission shall permit the parties in interest to cross-examine witnesses but may limit such cross-examination to avoid the introduction of irrelevant or repetitious material in the record of the hearing.**

Section 10.

Section 192-10 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

~~§ 192-10 Waiving of hearing; notice of cancellation~~ **Public meeting/hearing procedure.**

~~A. If no timely notice of appearance has been filed as provided in the notice of hearing published pursuant to § 192-8 and the applicant waives, in writing, any public hearing on his or her application, the Agency may dispense with a public hearing and, in such instance, shall provide public notice of the cancellation of the hearing.~~

~~B. For any notice canceling a hearing which has been scheduled, notice shall be given on the same basis as the notice of public hearing provided in § 192-8.~~

- A. Where a public hearing has been held regarding a permit application, the Commission shall either issue the permit requested, with or without conditions, or deny the application. The decision by the Commission to issue or deny a permit after public hearing shall be based on the record of the hearing and shall be made, in writing, within 32 calendar days of the Commission's receipt of the hearing record.**
- B. Where no public hearing regarding a permit application has been held, either because a hearing was determined not to be necessary pursuant to § 192-7(B) or because no notice of appearance was filed with regard to the public hearing and a hearing was canceled pursuant to § 192-10, the Commission shall compile an official file consisting of documents submitted by the applicant and any additional documents relied on by the Commission with respect to the application. The**

Commission may also take notice of the general, technical or scientific facts within the specialized knowledge of the Commission. Any document made part of such official file shall be available for inspection by the applicant and any interested member of the public. On the basis of such file, the Commission shall issue the permit requested, with or without conditions, deny the application or order a public hearing to be held pursuant to the provisions of this chapter. The decision by the Commission to issue or deny a permit or to order that a hearing shall be based on the official file and shall be made, in writing, within 30 days of its completion of the official file and, in any event, within 60 days of its receipt of a completed application, provided that, in the case where there have been no objectives filed regarding a proposed project, the issuance of a permit shall be deemed to be a written decision by the Commission.

- C. A copy of the decision of the Commission on each application for a permit under this chapter shall be mailed by the Commission, as soon as practicable following such decision, to the applicant and to each local government within whose boundaries the proposed regulated activity or any portion thereof is located and, if a public hearing has been held regarding the application, to each party in interest.
- D. In granting, denying or conditioning any permit, the Commission shall consider the effect of the proposed activity with reference to the public health and welfare, fishing, flood, hurricane and storm dangers and protection or enhancement of the several functions of the wetlands and the benefits derived therefrom, which are set forth in § 24-0105 of the State Environmental Conservation Law.
- E. Specific standards for permit decisions:
 - (1) In granting, denying or conditioning any permit, the Commission shall evaluate wetland and wetland buffer functions for consistency with the LWRP, and shall consider the role of the wetland and wetland buffer in the hydrologic and ecological system, the impact of the proposed activity upon public health and safety, rare and endangered species, water quality and additional wetland functions listed in § 195-1 of this chapter. The Commission shall further consider the following factors to the extent applicable:
 - (a) The impact of the proposed activity and existing and reasonably anticipated similar activities upon neighboring land uses and wetland functions as set forth in § 195-1 of this chapter, including but not limited to the following:
 1. The filling in of a wetland or other modification of natural topographic contours.
 2. Disturbance or destruction of natural flora and fauna.
 3. Influx of sediments or other materials causing increased water turbidity and/or substrate aggradation.

4. Removal or disturbance of wetland soils.
 5. Reductions in wetland water supply.
 6. Interference with wetland water circulation.
 7. Damaging reduction or increases in wetland nutrients.
 8. Influx of toxic chemicals and/or heavy metals.
 9. Damaging thermal changes in the wetland water supply.
 10. Destruction of natural aesthetic values.
- (b) Any existing wetland impacts and the cumulative effect of reasonably anticipated future wetland activities in the wetland subject to the application.
 - (c) The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage, storm barriers and water quality.
 - (d) The safety of the proposed activity from flooding, erosion, hurricane winds, soil limitations and other hazards and possible losses to the applicant and subsequent purchasers of the land.
 - (e) The adequacy of water supply and water disposal for proposed uses.
 - (f) Consistency with federal, state, county and local comprehensive land use plans and regulations.
 - (g) The availability of preferable alternative locations on the subject parcel, or in the case of activity which cannot be undertaken on the property without disturbance to the wetlands, the availability of other reasonable locations for the activity.
 - (h) Consistency with the Village's Local Waterfront Revitalization Program.

(2) The Commission shall deny a permit if:

- (a) It finds that it will threaten public health and safety, result in fraud, cause nuisances, impair public rights to the enjoyment and use of public waters, threaten a rare and endangered plant or animal species, violate pollution control standards or violate other federal, state or local regulations; or

(b) It finds that both the affected landowner and the Village have been notified by a duly-filed notice, in writing, that the state of any agency or political subdivision of the state is in the process of acquiring the wetland by negotiation or condemnation with the following provisions:

1. The written notice must include an indication that the acquisition process has commenced, such as that an appraisal of the property has been prepared or is in the process of being prepared.
 2. The Commission may grant the permit if the landowner receives no offer for the property within one year of the written notice.
 3. If the negotiations by the noticing agency terminate, the noticing agency shall, within six months of the end of the negotiation, either issue its findings and determination to acquire the property pursuant to § 204 of the Eminent Domain Procedure Law or issue a determination to acquire the property without public hearing pursuant to 206 of the Eminent Domain Procedure Law. If the applicant demonstrates to the Commission that six months have elapsed after termination of negotiations without either determination, the Commission may issue a permit to the applicant.
- (3) Special consideration will be given to activities that must have a shoreline or wetland location in order to function and that will have as little impact as possible upon the wetland, watercourse and wetland/watercourse buffer.
- (4) No permit shall be issued for dredging or ditching solely for the purpose of draining wetlands, controlling mosquitoes, lagooning, constructing factories, providing soil and dump sites or building roadways that may be located elsewhere.

F. Replacement/compensation plan requirements.

- (1) Where losses of wetlands or impacts on wetlands are deemed unavoidable by the Commission, the Commission may require the applicant to develop a replacement/compensation plan, which shall specify measures that provide for replacement wetlands that recreate, as nearly as possible, the original wetlands in terms of type, function, geographic location and setting. On-site replacement/compensation shall be the preferred approach; off-site replacement/compensation shall be permitted only in cases where an on-site alternative is not possible. In the case of applications for projects where the total amount of wetland or buffer area is disturbed is less than 2,000 square feet, the Commission may waive or modify the requirements outlined in this subsection.

- (2) Replacement/compensation plans developed to compensate for the loss of wetlands shall include the baseline data set forth in the Planning Commission's rules and regulations adopted pursuant to this chapter, as deemed necessary by the Commission.
- (3) The Commission shall monitor or shall cause to have monitored projects, according to the specifications set forth in the permit, to determine whether the elements of the plan and permit conditions have been met and whether the wetland acreage created replaces the wetland acreage lost. To this end, the Commission may contract with an academic institution, an independent research group or other qualified professionals, at the expense of the applicant, or may use its own staffs' expertise. The requirements for monitoring shall be specified in the plan and shall include but not be limited to the requirements set forth in the Commission's rules and regulations adopted pursuant to this chapter.
- (4) Any plan prepared pursuant to this section and accepted by the Commission shall become part of the permit for the application.

G. Permit conditions.

- (1) Any permit issued pursuant to this chapter may be issued with conditions. Such conditions may be attached as the Commission deems necessary and pursuant to § 195-50 to assure the preservation and protection of affected wetlands and to assure compliance with the policy and provisions of this chapter and the provisions of the Commission's rules and regulations adopted pursuant to this chapter.
- (2) Every permit issued pursuant to this chapter shall be in written form and shall contain the standard conditions and may contain the optional conditions set forth in the Commission's rules and regulations adopted pursuant to this chapter.

H. Performance bond.

- (1) A bond shall be posted with the Commission by the applicant, prior to the issuance of a permit, to secure to the Village the satisfactory installation and maintenance of structures and devices necessary to ensure protection of the wetland, watercourse and wetland/watercourse buffer during construction and satisfactory installation of permanent structures and devices necessary to ensure protection of the wetland, watercourse and wetland/watercourse buffer, which shall be in an amount equal to the cost to install and maintain said structures and devices during construction and the cost to install said permanent structures and devices, except as waived or reduced by the Commission. The bond shall be released by the Commission upon completion of the work permitted by said permit, provided that said work is found to be in accordance with the provisions of the permit and such other ordinances as may apply and is completed to the satisfaction

of the Building Inspector or other Village officials responsible for the enforcement of such Village ordinances. If the Village finds that said installation and maintenance is not being done by the applicant or is not satisfactory and the applicant fails to correct the situation in the time period specified by the Village, the Village may proceed against the bond in order to correct for any deficiencies. Not less than 10% of the bond shall be in cash.

I. Other laws and regulations.

- (1) No permit or waiver granted pursuant to this chapter shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other federal, state or local law or regulation, including but not limited to the Army Corps of Engineers, NYS Department of State, NYS Office of General Services, and the NYS Department of Environmental Conservation.

J. Stop-work order.

- (1) A stop-work order may be issued if the applicant or permittee has not complied with any or all terms of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the approved application.
- (2) If a stop-work order is issued it shall be set forth in writing, a copy of which shall be filed with the Commission, and shall contain the finding and reasons for issuing the stop-work order pursuant to this section.
- (3) A stop-work order shall be issued by the Building Department as well as when required by the Commission to the Building Department for any violation(s) of this Code.

Section 11.

Section 192-11 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

§ 192-11 Application fee Commission powers.

~~An application fee in the amount as set forth in Chapter A347, Fees, shall be required at the time application for a wetland permit is submitted to the Agency. Any inspection costs required and incurred in inspecting the property are to be charged to the applicant and are payable prior to the issuance of a permit. Said costs shall be determined by the Village Engineer.~~

In order to carry out the purposes and provisions of this chapter, the Commission shall have the following powers:

- A. To adopt, amend and repeal, after public hearing, except in the case of rules and regulations that relate to the organization or internal management of the Commission, such rules and regulations consistent with this chapter as it deems necessary to administer this chapter and to do any and all things necessary or convenient to carry out the purpose and policies of this chapter.**

B. To request the Village of Mamaroneck to contract for professional and technical assistance and advice.

C. To hold public meetings and/or hearings in exercise of its powers, functions and duties provided by this chapter.

Section 12.

Section 192-12 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

§ 192-12 Distribution of application Effect of additional laws and regulations.

~~Where determined appropriate, the Agency may forward one copy of the application to the Village Engineer, the Building Inspector, the Department of Public Works, the applicable Fire District, the Police Department, the Westchester County Soil and Water Conservation District and any other local, state, county, regional and federal agencies having jurisdiction, for their report and recommendations, prior to the holding of a hearing.~~

A. To the greatest extent practicable, any public hearing held pursuant to § 192-10 shall be incorporated with any public hearing required by or pursuant to the New York State Town Law, Village Law, General City Law, General Municipal Law or Environmental Conservation Law relating to approvals or permits otherwise required for the undertaking of regulated activities on the wetland or adjacent area in question.

B. No permit granted pursuant to this chapter shall remove any person's obligations to comply in all respects with the applicable provisions of any other federal, state or local law or regulation, including but not limited to the acquisition of any other required permit or approval.

Section 13.

Section 192-13 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

§ 192-13 Public hearing procedure Bonding requirements.

~~A. Any public hearing held on a permit application received under this chapter shall be conducted by the Agency. The Agency shall have full authority to control the conduct and procedure of the hearing and shall be responsible that a complete record of the hearing is kept. The public hearing shall be held within the Village of Mamaroneck.~~

~~B. Any person may appear as a party in interest, notwithstanding the failure of such person to file a timely notice of appearance, by appearing at the hearing and making known his or her desire to be a party in interest. Persons who are not parties in interest may be allowed to participate in the hearing where the Agency finds that such participation would be in the public interest.~~

~~C. All parties in interest shall be afforded an opportunity to present oral and written arguments on issues of law and policy and an opportunity to call witnesses in their behalf and to present oral and written evidence on issues of fact. The Agency shall permit the parties in interest to cross-examine witnesses but may limit such cross-examination to avoid the~~

introduction of irrelevant or repetitious material in the record of the hearing.

- A. The Commission may require that, prior to commencement of work under any permit issued pursuant to this chapter, the permittee shall post a bond with the Commission in an amount determined by the Commission, conditioned upon the faithful compliance with the terms of such permit and for the indemnification of the Village of Mamaroneck for restoration costs resulting from failure to so comply. Such bond shall be issued by a corporate surety authorized to do business in the state and shall be in favor of the Village of Mamaroneck. It shall remain in effect until the Commission certifies that the work has been completed in compliance with the terms of the permit or the bond is released by the Commission or a substitute bond is provided.
- B. The Commission shall set forth, in writing, in the file it keeps regarding a permit application, its findings and reasons for imposing a bond pursuant to this section.

Section 14.

Section 192-14 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

§ 192-14 Decisions on permits; formulation, standards and distribution. Revocation and suspension of permits.

- A. ~~Where a public hearing has been held regarding a permit application, the Agency shall either issue the permit requested, with or without conditions, or deny the application. The decision by the Agency to issue or deny a permit after public hearing shall be based on the record of the hearing and shall be made, in writing, within 30 days of the Agency's receipt of the hearing record.~~
- B. ~~Where no public hearing regarding a permit application has been held, either because a hearing was determined not to be necessary pursuant to § 192-7B or because no notice of appearance was filed with regard to the public hearing and a hearing was canceled pursuant to § 192-10, the Agency shall compile an official file consisting of documents submitted by the applicant and any additional documents relied on by the Agency with respect to the application. The Agency may also take notice of the general, technical or scientific facts within the specialized knowledge of the Agency. Any document made part of such official file shall be available for inspection by the applicant and any interested member of the public. On the basis of such file, the Agency shall either issue the permit requested, with or without conditions, deny the application or order a public hearing to be held pursuant to the provisions of this chapter. The decision by the Agency to issue or deny a permit or to order that a hearing be held shall be based on the official file and shall be made, in writing, within 30 days of its completion of the official file and, in any event, within 60 days of its receipt of a completed application, provided that, in the case where there have been no objections filed regarding a proposed project, the issuance of a permit shall be deemed to be a written decision by the Agency.~~
- C. ~~A copy of the decision of the Agency on each application for a permit under this chapter shall be mailed by the Agency, as soon as practicable following such decision, to the applicant and to each local government within whose boundaries the proposed regulated activity or any portion thereof is located and, if a public hearing has been held regarding~~

the application, to each party in interest.

~~D. In granting, denying or conditioning any permit, the Agency shall consider the effect of the proposed activity with reference to the public health and welfare, fishing, flood, hurricane and storm dangers and protection or enhancement of the several functions of the wetlands and the benefits derived therefrom which are set forth in § 24-0105 of the State Environmental Conservation Law.~~

~~E. Specific standards of consideration:~~

~~(1) No permit shall be issued by the Agency pursuant to this chapter unless the Agency shall find that:~~

~~(a) — The proposed regulated activity is consistent with the policy of this chapter to preserve, protect and conserve wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of wetlands and to regulate the development of such wetlands in order to secure the natural benefits of wetlands consistent with the general welfare and beneficial economic, social and agricultural development of the Village of Mamaroneck.~~

~~(b) — The proposed regulated activity is consistent with the land use regulations applicable in the Village of Mamaroneck pursuant to § 24-0903 of Article 24 of the State Environmental Conservation Law.~~

~~(c) — The proposed regulated activity is compatible with the public health and welfare.~~

~~(d) — The proposed regulated activity is reasonable and necessary.~~

~~(e) — There is no reasonable alternative for the proposed regulated activity on a site which is not a wetland or adjacent area.~~

~~(2) The applicant shall have the burden of demonstrating that the proposed regulated activity will be in accord with the standards set forth in this section.~~

~~F. Duly filed written notice by the state or any agency or subdivision thereof to the Agency that the state or any such agency or subdivision is in the process of acquiring the affected wetland on which a proposed regulated activity would be located by negotiation or condemnation shall be sufficient basis for denial of a permit for such regulated activity. Such notice may be provided at any time prior to the Agency's decision to issue or deny a permit for the regulated activity.~~

A. The Commission may suspend or revoke a permit issued pursuant to this chapter where it finds that the permittee has not complied with any or all terms of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the application.

- B. The Commission shall set forth, in writing, in the file it keeps regarding a permit application, its finding and reason for revoking or suspending a permit pursuant to this section.**

Section 15.

Section 192-15 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

§ 192-15 Conditions binding permits ~~Sanctions and penalties.~~

- ~~A. Any permit issued pursuant to this chapter may be issued with conditions. Such conditions may be attached as are necessary to assure the preservation and protection of affected wetlands and to assure compliance with the policy and provisions of this chapter and the provisions of the Agency's rules and regulations adopted pursuant to this chapter.~~

- ~~B. Every permit issued pursuant to this chapter shall contain the following conditions:~~

- ~~(1) The Agency shall have the right to inspect the project from time to time.~~
- ~~(2) The permit shall expire on a certain date.~~
- ~~(3) The permit holder shall notify the Agency of the date on which project construction is to begin at least five days in advance of such date.~~
- ~~(4) The Agency's permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.~~

- ~~C. The Agency shall set forth, in writing, in the file it keeps regarding a permit application, its findings and reasons for all conditions attached to any permit.~~

A. Administrative sanctions.

- (1) Any person who violates, disobeys or disregards any provision of this chapter, including any provision of any permit issued pursuant to this chapter or any rule or regulation adopted by the Commission pursuant to this chapter, shall be liable to the people of the state for a civil penalty of not to exceed \$3,000 for every calendar day such violation, to be assessed, after a hearing or opportunity to be heard, upon due notice and with the rights to specification of the charges and representation by counsel at such hearing, by the Commission. Such penalty may be recovered in an action brought by the Attorney General at the request and in the name of the Commission in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Commission before the matter has been referred to the Attorney General, and such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Attorney General with the consent of the Commission. In addition, the Commission shall have the power, following a hearing held in conformance with the procedures set forth in § 71-1709 of the State Environmental Conservation Law, to direct the violator to cease his or her violation of this chapter and to restore the affected wetland to**

its condition prior to the violation, insofar as that is possible, within a reasonable time and under the supervision of the Commission. Any such order of the Commission shall be enforceable in an action brought by the Attorney General at the request and in the name of the Commission in any court of competent jurisdiction. Any civil penalty or order issued by the Commission pursuant to this subsection shall be reviewable in a proceeding pursuant to Article 78 of the State Civil Practice Law and Rules.

- (2) No building permit shall be issued within a regulated area unless a wetland permit is first issued pursuant to this chapter.
- (3) No certificate of occupancy for any structure or use within a regulated area shall be issued unless all of the required conditions of a permit issued pursuant to this chapter are first complied with. The continued validity of any certificate of occupancy shall be subject to continued conformance to this chapter and any permit issued pursuant hereto.
- (4) A wetland permit previously issued is subject to suspension or revocation pursuant to the provisions of this chapter.
- (5) Any revision of any approved activities with a regulated area shall be subject to the procedures provided under this chapter.

B. Criminal sanctions.

- (1) Any person who violates an order, permit or rule or regulation of the Commission regulating wetlands and adjacent areas pursuant to this chapter shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than \$500 nor more than \$1,000; for a second and each subsequent offense, he or she shall be guilty of a misdemeanor punishable by a fine of not less than \$1,000 nor more than \$2,000 or a term of imprisonment of not less than 15 days nor more than six months, or both. Instead of these punishments, any offender may be punishable by being ordered by the court to restore the affected wetland to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Agency. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- (2) In addition, any person found violating any provision of this chapter shall be liable to the Village of Mamaroneck for any expense, loss or damage resulting from the activity, in addition to any fine or other punishment which may be imposed hereunder.

Section 16.

Section 192-16 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

§ 192-16 Agency powers **Enforcement.**

~~In order to carry out the purposes and provisions of this chapter, the Agency shall have the following powers:~~

- ~~A. To adopt, amend and repeal, after public hearing, except in the case of rules and regulations that relate to the organization or internal management of the Agency, such rules and regulations consistent with this chapter as it deems necessary to administer this chapter and to do any and all things necessary or convenient to carry out the purpose and policies of this chapter.~~
- ~~B. To request the Village of Mamaroneck to contract for professional and technical assistance and advice.~~
- ~~C. To hold hearings and subpoena witnesses in the exercise of its powers, functions and duties provided for by this chapter.~~
- A. The Attorney General, upon his or her own initiative or upon complaint of the Commission, shall prosecute persons alleged to have violated any such order of the Commission pursuant to this chapter.**
- B. Notwithstanding the penalties hereinabove provided, the Village may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provisions of this chapter or any permit granted hereunder.**

Section 17.

Section 192-17 of the Code of the Village of Mamaroneck is repealed and replaced with the following:

§ 192-17 ~~Effect of additional laws and regulations~~ **Review and appeal.**

- ~~A. To the greatest extent practicable, any public hearing held pursuant to § 192-13 shall be incorporated with any public hearing required by or pursuant to the New York State Town Law, Village Law, General City Law, General Municipal Law, or Environmental Conservation Law relating to approvals or permits otherwise required for the undertaking of regulated activities on the wetland or adjacent area in question.~~
- ~~B. No permit granted pursuant to this chapter shall remove any person's obligation to comply in all respects with the applicable provisions of any other federal, state or local law or regulation, including but not limited to the acquisition of any other required permit or approval.~~
- A. Any decision or order of the Commission made pursuant to or within the scope of this chapter may be reviewed at the instance of any person affected thereby, including but not limited to any owner of the affected wetland or adjacent area and any resident or citizen of the Village of Mamaroneck, by the Board in accordance with Title 11 of Article 24 of the State Environmental Conservation Law, provided that such review is commenced by the filing with the Board of a notice of review**

within 30 days after service of such order or notice of such decision is given, as the case may be.

- B. Any party to any proceeding before the Commission may make an appeal to the Board, in accordance with Title 11 of Article 24 of the State Environmental Conservation Law, from any order or decision of the Commission issued or made pursuant to or within the scope of this chapter, provided that such appeal is commenced by the filing with the Board of a notice of appeal within 30 days after service of such order or after notice of such decision is given, as the case may be.**
- C. Any decision or order of the Commission made pursuant to or within the scope of this chapter may be reviewed at the instance of any person, including but not limited to any owner of the affected wetland or adjacent area and any resident or citizen of the Village of Mamaroneck, in accordance with Article 78 of the State Civil Practice Law and Rules, provided that such review is commenced within thirty (30) days of the filing of such decision or order; and the limitation upon the availability of such remedy as prescribed in § 7801 of the Civil Practice Law and Rules shall not be applicable to the applications for review of determinations and orders made pursuant to this chapter.**
- D. The institution of a judicial proceeding to review a determination or order of the Commission shall preclude the institution of a proceeding before the Board to review such a determination or order. The availability of such review by the Board shall not affect the right of any person to seek review of a determination of the Commission as provided in Article 78 of the State Civil Practice Law and Rules.**

Section 18.

Section 192-18 of the Code of the Village of Mamaroneck is repealed.

Section 19.

Section 192-19 of the Code of the Village of Mamaroneck is repealed.

Section 20.

Section 192-20 of the Code of the Village of Mamaroneck is repealed.

Section 21.

Section 192-21 of the Code of the Village of Mamaroneck is repealed.

Section 22.

Section 192-22 of the Code of the Village of Mamaroneck is repealed.

Section 23.

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the

remaining portions hereof, which will continue in full force and effect.

Section 24.

This law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10(1)(e)(3) and will supersede the provisions of the Village Law to the extent that they are inconsistent with this local law.

Section 25.

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.