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**BY-LAWS OF THE POMFRET
INLAND WETLANDS AND WATERCOURSES
AGENCY**

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Pomfret Inland Wetlands and Watercourses Commission Effective date: March 1, 2005,
2005, Adopted at the regular monthly meeting on February 9, 2005.

TOWN OF POMFRET
By-Laws
Inland Wetlands and Watercourses Agency

Section 1. Purpose and Authorization

The objectives and purposes of the Town of Pomfret Inland Wetlands and Watercourses Commission are those set fourth in the Connecticut General Statutes Section 22a-36 through 22a-45 as amended and those powers and duties delegated to the Town of Pomfret Inland Wetlands and Watercourses Commission by the aforementioned statutes and by ordinances enacted by the Town of Pomfret.

Section 2. Name

The Town of Pomfret Inland Wetlands and Watercourses Commission hereafter is also known as “Agency”.

Section 3. Location and Records

The office of the Agency shall be the Town Office Building, 5 Haven Road; Pomfret Center, 06259 where all official Agency records, documents and maps, etc., will be kept and filed or recorded by the office of Town Clerk as appropriate.

Section 4. Membership

- A. The Agency shall consist of seven (7) members and three (3) alternate members appointed by the Board of Selectmen with terms of four (4) years or as prescribed by the ordinance as amended establishing the Agency.
- B. Resignation from the Agency shall be in writing and submitted to the Chairman and/or the First Selectman.
- C. The chairman will inform the First Selectman of any member or alternate member who misses three (3) consecutive meetings or 50 % of the Agency’s regular meetings in one calendar year, and that unless there are compelling and/or extenuating circumstances as determined by a two thirds vote by the members, that member or alternate member shall be considered to have resigned from the Agency and may be replaced by the Board of Selectmen. The member affected by this action will be notified by the chairman in writing promptly but not later than ten (10) days after such action by the Agency.

Section 4. Officers and Their Duties

- A. The officer’s of the Agency shall consist of a Chairman, a Vice Chairman, and a Secretary.

1. The Chairman shall preside at all meetings and hearings of the Agency and shall exercise those duties normally conferred by parliamentary custom and usage. The Chairman shall have the authority to appoint committees, boards of inquiry, certify expenditures of funds up to \$150.00 without prior approval of the Agency, call special meetings of the Agency, delegate signature authority to specified agency officers and generally perform other duties as related to wetlands and watercourses issues.
 2. The Chairman shall keep the Board of Selectmen informed of significant wetlands and watercourses issues and other business matters deemed by the Agency important to the Town of Pomfret and shall have the privilege of discussing all issues before the Agency and of voting thereon. The Chairman may not assume powers not granted by the Agency as executive privilege.
 3. Should the Chairman find it necessary to reclude himself or otherwise leave a meeting in progress; the Chairman shall designate the next senior officer present as Acting Chairman. If no other officer is present, the Chairman may designate a member as Acting Chairman during his or her absence.
- B. In the absence of the Chairman, the Vice Chairman shall preside and have all the powers and responsibilities of the Chairman as stated in these by-laws. However, should the Chairman arrive after the start of the meeting he or she shall be recognized by the Acting Chairman. The Chairman shall then preside over the remainder of the meeting.
- C. In the event all elected officers are absent at the start of a meeting, any member may be elected as Acting Chairman for the meeting by a majority vote of those members present and there is a quorum (4 members) present.
- D. In addition to serving as Acting Chairman when circumstances dictate, the Secretary shall be responsible for insuring that all official Agency correspondence is properly and timely executed in accordance with Connecticut state statutes, the Agency's regulations, the Agency's by-laws, written communication with the town's citizens concerning wetlands or watercourses issues and most importantly to address through the local media a public relations initiative so as to inform and educate the public concerning wetlands and watercourses concerns, regulated activities, the permitting process and the restrictions involved where wetlands anywhere may be adversely impacted. In addition, the Secretary will monitor the Agency's financial status and submit reports to the Agency as appropriate but not later than January 1 annually.

Section 5. Members, Alternate Members and their Duties

- A. For the purpose of these by-laws Agency members and alternate members are considered the same with equal responsibilities and obligations unless otherwise stated.

- B. The primary function of an Agency member is to listen, question, consider, judge and finally to decide and then vote to approve or deny an application for a wetlands permit. However, Agency members also have the following responsibilities.
 - 1. Attend all meetings and public hearings.
 - 2. Notify the Chairman or the Agency's Clerk when one's absence or late attendance at a scheduled meeting or public hearing is anticipated.
 - 3. Members are encouraged to review pending applications along with their associated documents and site plans prior to meetings or public hearings in which those applications are scheduled for review and discussion by the Agency and to participate in site walks pertaining to same when feasible. However, not more than 3 members shall be present during the site walk so as to avoid the site walk from becoming a public meeting. A special site walk may be requested by any member or alternate member and arranged by the Agency's Clerk.
 - 4. If a public hearing is not scheduled to take place, questions may be asked of the applicant or his or her representative during a site walk to clarify details not made clear in the application or site plan. However, expression of opinions, advice or other extraneous comments or any other discussion concerning the application is improper and to be avoided. Members are reminded that if the site walk is part of the public hearing process, no questions or comments are appropriate. See Section 12. Conduct of Public Hearings.
 - 5. All members should seek the knowledge needed to fully participate in meeting deliberations and to address pertinent questions to applicants and witnesses so as to make informed decisions concerning wetlands and watercourses issues. In this respect personal research, attendance at workshops, seminars and conferences dealing with land use and wetlands and watercourses issues is fundamental to meeting one's responsibilities as an Agency member.
 - 6. Use of personal knowledge is allowed when considering a pending application. Agency members are not required to accept the testimony of any witness to include staff, consultants or any so called expert witnesses. However, unless such testimony is challenged at the public meeting a member may not disregard the only expert testimony oral or written on an issue. Members who do possess expert or exceptional

knowledge derived from professional, academic or practical experience must disclose such knowledge on the record during the hearing. Members may submit a resume documenting their expertise and/or experience to the Agency, and are encouraged to do so, to be entered into the public record as appropriate in order to qualify as an expert witness or at least to be recognized as an informed member as opposed to the assumption that all laymen are uninformed.

- C. The Agency does not assume that its members must have no opinion on public or environmental matters that may impact the public interest in the Town of Pomfret. A legal challenge alleging prejudice (predisposition) by an Agency member concerning a wetlands issue or concerns about a project's merits must be proved in a court of law to overturn an Agency decision. Members are reminded that in order to avoid the potential for legal challenge to its mission to protect Connecticut's wetlands and watercourses they must not discuss Agency business with anyone outside of the public hearing process (ex parte communications). If they do, they expose themselves, the Agency and the Town of Pomfret, and the applicant to potentially expensive and embarrassing litigation. Members must keep opinions to themselves but make every effort to know the facts concerning an issue and then act and vote using this knowledge as a matter of good conscious to decide the issue.
- D. Any regular or alternate member acting on matters where he or she was absent from a meeting or public hearing must affirm on the record that he or she has listened to the taped testimony as presented during the hearing or reviewed all documents presented at the hearing in which the absence occurred and that he or she therefore is qualified to participate and vote on the matter under discussion.
- E. Members shall not serve more than three (3) consecutive four (4) year terms, except that if the Agency agrees by two thirds vote of its regular commission members present, that the member should be reappointed for an additional term by the Board of Selectmen.
- F. Any member who feels that he or she can no longer meet the responsibilities of the appointed office due to illness, change in circumstance, or because of disinterest or for any other reason should inform the chairman and the First Selectman in writing and remove his or herself from membership. It is the noble and right thing to do, and there is no dishonor in doing so.

Section 6. Staff and their Duties

- A. The Agency shall appoint a duly Authorized Agent(s) hereafter referred to as the Wetlands Enforcement Officer or the W.E.O. to carry out specific functions and duties authorized by the Agency. Such functions include but are not limited to the following:

1. Advise the public when one must apply to the IWWC for a wetlands permit in order to conduct activities in a regulated area or to apply for a ruling in order to proceed with a project that does not involve or affect a wetlands or watercourse in any way. Requests for a ruling shall be made on a form provided by the Agency. If a wetlands permit is not required, the Agent may make such ruling at no cost to the person(s) concerned. The Agent must document the reasons why his or her ruling was appropriate and submit a written report to the Agency for its review at its next regularly scheduled meeting. Section 12.2 of the regulations shall apply, with the exception that public notice of the ruling shall not be required. The recipient of the ruling will be informed that Agency review of the ruling will occur at its next regularly scheduled meeting. Should there be a question or problem, they will be informed promptly.
2. Make jurisdictional rulings in accordance with Section 12, Pomfret Inland Wetlands and Watercourses Regulations, except in Section 12.1 any impact on wetlands or watercourses whether minimal or not at any location on or off of the applicants property must be documented and explained to the Agency at its regular meeting. By rendering a ruling in favor of an applicant the W.E.O. certifies that the conditions set forth in Section 6, of the Agencies regulations and Sec. 22a-41, inclusive of the Connecticut General Statutes have been fully reviewed and met.
3. Issue orders to cease and desist any activity found injurious to a wetland or watercourse in the Town of Pomfret. Such order will be followed with a notice of violation as set forth in Section 22a-44a, Connecticut General Statutes and Section 14.3 of the Agency's Regulations.
4. Enforce permit compliance by regular inspections at work sites with particular emphasis on conditions imposed by the Agency as a condition of permit approval. The Agency shall be informed promptly if the W.E.O. finds a condition of noncompliance. Where technical matters are involved and which are not within the W.E.O.'s area of expertise, guidance from Town Staff should be obtained. A final inspection of the site in conjunction with the Town Engineer's on site compliance review, if required, shall be made in accordance with the Agency's wetlands permit approval and the Agency so informed by written report at its next monthly meeting.
5. Respond to and investigate promptly a citizen's complaint or report of an alleged wetlands or watercourses violation. If the complaint or condition is found to be valid the chairman will be informed immediately. Section 14.3 of the Agency's regulations shall apply. All findings will be documented in writing and a report made to the Agency at its next scheduled meeting so as to be formally entered into

the public record unless the chairman calls a special meeting. If personal safety is believed a factor during the conduct of an investigation, Connecticut State Police assistance should be requested.

6. The W.E.O. shall make a written report to the members at its regular meetings. The report shall consist of a description of the circumstances and the reasons for all jurisdictional rulings made and any other matters pertaining to wetlands and watercourses issues in which the agent was involved. Any ruling or decision made by the W.E.O. is subject to approval by the Agency. The W.E.O. may be assigned other duties as determined by the Agency. It is expected that the W.E.O. will make every effort to enhance his or her knowledge concerning inland wetlands and watercourses land use issues through academic programs, workshops, seminars conferences, etc.

B. The Agency shall have a recording staff clerk who shall attend all meetings and hearings, keep the minutes, transcribe testimony from public hearings as required or directed by the Agency and maintain the records of the Agency. should the clerk be unable to attend the meeting or public hearing alternate arrangements shall be made to insure the minutes are recorded and that other pertinent testimony and documents are preserved as part of the public record. In addition, the recording clerk shall:

1. Prepare the Agency's meeting agenda of regular, public and special meetings under the direction of the chairman or secretary and so inform the members and the public by the appropriate means.
2. Arrange and insure mandated legal notices, meeting announcements and all other administrative matters related to the Agency's public responsibilities are served and/or accomplished at the appropriate time.
3. Attend to Agency correspondence so as to insure that all correspondence addressed to the agency is entered into the public record as appropriate, that the conditions of the Freedom of Information Act (F.O.I) are met, and to inform the members of important issues or other significant inland wetlands and watercourses matters as circumstances dictate at any time.
4. Arrange and insure that all required public notices of Agency decisions to include notification of the applicant, are accomplished pursuant to the Agency's regulations and the Connecticut General Statutes through appropriate correspondence and/or media channels.
5. Collect and record permit application fees and/or deposits required by Town Ordinance and as implemented by Section 19 and Appendix A of the Agency's regulations. Fees and/or deposits not paid will be reported to the Agency at its next scheduled monthly meeting. No

permit shall be issued until all fees and processing costs have been paid, and all surety requirements have been met.

6. Represent the Agency with the public on a day-to-day basis so as to provide information concerning wetlands and watercourses issues, application for wetlands permits, and Agency procedures as to the processing of applications etc. to those individuals or parties requesting such information in a prompt and courteous manner. Inform by registered mail surety co-owners(s) when the Agency directs an account withdrawal be made in order to reimburse the Town for an expense associated with the permitting process. Notice shall be made within seven (7) days of the Agency's decision.
7. Inform the Pomfret Planning and Zoning Commission by written report within fifteen (15) days the results of all permit reviews and/or decisions by the Agency or its authorized agent(s). The report shall contain as a minimum the reasons for the Agency's decision, permit conditions if imposed, and specific reference to the site plan reviewed and approved. Perform other duties as required.

Section 7. Election of Officers

- A. The first meeting in December shall be the annual organizational meeting, at which time officers will be elected and by-laws reviewed and made part of the minutes of the meeting. All members must be notified of the annual meeting before election of officers can take place.
- B. A candidate receiving a majority vote from the entire membership of the Agency shall be declared elected and shall serve for one year beginning January 1 or until his or her successor takes office.
- C. Officers shall not serve more than four (4) consecutive terms in their respective positions unless by a two-thirds vote by the regular members and alternate members present an exception to these by-laws is deemed appropriate because of the officer's exceptional leadership to achieve the Agency's goals, his or her contribution in time and expertise to achieve such goals and most importantly, his or her clearly demonstrated dedication to upholding the principals of the state legislative finding as set forth in Sec. 22a-36 of the Connecticut General Statutes.
- D. Vacancies in office shall be filled by regular election procedure.

Section 8. Meetings

- A. Regular meetings shall be on the first Wednesday of each month at 7:00 p.m. in the Town Office Building unless otherwise scheduled by the Agency and the agenda shall be filed in the office of the Town Clerk not less than three business days before the meeting. If at any time any regular meeting falls on a holiday, such regular meeting shall be held as soon as possible thereafter.
- B. A majority of the voting membership of the Agency shall constitute a quorum, which is defined as 4 members, and the number of votes necessary to transact business shall be four (4) seated members, which constitutes a majority of the Agency. All members of the Agency shall vote and the vote by members shall be noted in the minutes. A majority vote of a quorum shall constitute a vote. The chairman has all the voting privileges of any member, which means that he or she can vote to abstain as opposed to voting to break a tie vote. A tie vote is when 50% of the members vote in favor and 50% vote against. If a tie vote, the motion fails. An abstention vote is a zero vote and does not count in the decision process. An abstention vote by a member means to disqualify his or herself for cause.
- C. All Agency meetings shall be open to the public unless closed by the two-thirds vote of the members (5) for an executive session pursuant to Connecticut General Statute Section 1-200, Freedom of Information Act. Executive sessions closed to the public shall be limited to the type of discussions specified by said act.
- D. Alternate members may be seated at the discretion of the chairman unless it is necessary to establish a quorum. If an alternate member is seated at the beginning of a meeting to replace an absent member another member who arrives late shall not replace him or her at the discretion of the chairman. Alternate members not seated may take part in the meeting discussions, ask questions and present views concerning the issue or issues under discussion but shall not vote except for the election of officers.

Section 9. Conflict of Interest and Disqualifications

- A. No member of the Agency shall participate in a hearing or vote concerning any matter in which he or she (or any member of his or her immediate family) are directly or indirectly financially involved and/or are an abutter of the property or activity under discussion. However, the abutter restriction does not preclude or limit a member's responsibility to report to the Agency seen or alleged wetlands and watercourses violations or other circumstances that may adversely impact on the State's water resources.
- B. Members may not appear for or represent a person, firm, corporation, or any other entity in any matter pending before the Agency. In addition, the real or public appearance of a conflict of interest because of social or professional association with the applicant or his or her representatives is grounds to

recluse oneself from the proceeding.

Section 10. Order of Business

A. The order of business at regular meetings shall be:

1. Open meeting and call to order.
2. Seat an alternate member or members as needed (not to exceed seven (7) members).
3. Address pending applications.
4. Solicit citizen's comments (limited to applications not pending before the Agency).
5. Review new applications.
6. Review notice of violations status.
7. Review jurisdictional rulings.
8. Review status of prior applications with conditions.
9. Conduct Agency Business
10. Solicit additional citizen's comments as indicated.
11. Comments by Agency members.
12. Move for adjournment.

B. The chairman shall have the discretion to change the order of business should circumstances dictate.

Section 11. Public Hearings

- A. All applications, maps, and documents relating to the hearing shall be open for public inspection and review when received by the Agency staff clerk. Any person may appear and be heard at any public hearing.
- B. There is an assumption that if a public hearing is held for significant impact activity, or a petition signed by 25 qualified people, or in the public interest as determined by the Agency there is or may be significant wetlands and/or watercourse issues and concerns as defined under state statute and the Agency's regulations. What this means is that if there is a public hearing for any reason there is likely a wetland or watercourse issue involved "significant impact activity" or not.

- C. Where appropriate, public hearings may be completed in a single session. However, the hearing may be continued where necessary for the full development of testimony, full participation of the parties involved, public comments, and to adequately address member's questions. Technical information to include last minute site plan updates, delayed submission of required documents or requested presentation by expert witnesses are strong grounds for a public hearing continuance.

Section 12. Conduct of the Public Hearing

- A. The hearing shall be conducted for the purpose of taking testimony and presenting documents as part of the public record so as to be considered in deliberations by the Agency at its regular meeting or a special meeting called for that purpose after the close of the hearing.
- B. Site walks should be conducted when possible before commencement of the public hearing to avoid the walk being considered as part of the hearing. However, if a site walk is requested or considered desirable after the public hearing has been opened there must be legal notice or announced continuance so as to inform the public of the date, time and location of the site visit. While a quorum (4) of members present may not be required, members should make every effort to attend the hearing. Questions and comments must be recorded on a sound recording device for later transcription and made part of the public record. Personal notice to abutters or interveners or other interested parties are not required, but such notice is considered appropriate. If an Agency member does not attend the site walk, it does not disqualify him or her where there was no testimony at the walk, and at the reconvened hearing the results of the site walk were discussed. But if testimony or comments were made during the course of the site walk Section V of these By-Laws shall apply.
- D. The Agency's clerk shall make a record of the proceedings, record the testimony presented at the hearing and enter into the record all documents submitted. In addition, each hearing will be recorded on a sound recording device [in which the Agency's decision may be appealed in the courts]. Proceedings of the hearing shall be incorporated into the minutes of the Agency in sufficient detail so as to allow a full understanding by the public of the questions raised and the testimony presented at the hearing.
- E. The chairman of the Agency shall preside at the public hearing. In the event of the chairman's absence, the vice-chairman or the next ranking member shall preside at the hearing.
 - 1. The chairman shall open the hearing and prescribe procedures by which the hearing will be conducted and provide a summary of the question or issues to be considered by the Agency. Comments by the public and testimony presented by witnesses shall be limited to the

subject advertised for the hearing; in any event the Agency will have the privilege of speaking first. It shall be made clear at the hearing that all questions and comments must be directed through the Chair only after being properly recognized. A description of documents received by the Agency at the opening of the hearing shall be noted in the public record.

2. All persons recognized shall approach the hearing table or podium if present in order to facilitate the proper recording of comments. Before commenting on the matter before the hearing, each speaker shall give his/her name and address.
3. The chairman shall first call for statements from the applicant.
4. A party who intervenes pursuant to Section 22a-19, Connecticut General statutes and whose intervention has been documented as a properly verified pleading shall be recognized by the Agency following applicant's presentation. The Agency shall permit the intervener to present testimony and evidence concerning the issue so long as the testimony is limited to environmental issues that will unreasonably pollute the air, water or natural resources of Connecticut and that there are feasible and prudent alternatives to such conduct.
5. The applicant has the option of rebutting such claims through testimony and evidence, and shall be recognized by the Chair following the intervener's presentation to comment then or request a separate hearing in which to do so. In either case the intervener as well as the applicant shall be afforded all due process by being provided copies of all meeting, publication and hearing notices, and in addition be provided the opportunity to review all testimony and documents presented as part of the public record.
6. Any member of the Agency has the right to reclude himself or herself from a public hearing at any time. Such action shall be recorded in the public record of the hearing. If the member then wishes to participate in the proceedings, he or she does so as a member of the public and not the Agency and may not be part of any future deliberations concerning the issue or vote on its outcome. As a matter of Agency policy members are strongly urged to avoid any public debate concerning a wetlands or watercourse land use issue.
7. No questions may be asked of the Agency members but the public may question witnesses. The public may comment concerning the issues presented and may express their views as to the merits of the applicant's testimony or if appropriate an intervener's pleading.

Section 13. Agency Deliberations After the Public Hearing Is Closed

- A. Testimony and documentary evidence not entered into the public record during the hearing shall not be considered in a final decision to approve, approve with conditions or deny an application after the public hearing has been closed.
 - 1. Expert testimony presented by the applicant or intervener unless questioned at the open hearing may not be disregarded.
 - 2. The Agency can consider probable or foreseeable consequences of its decision even if not shown on plans.
- B. After the public hearing has been closed a motion to approve, to approve with conditions or to deny may prepared by any member (or alternate member if he or she assumes being seated as a member during the process) before deliberations by the Agency begin, however, such motions should not be discussed with other members until presented at the scheduled meeting in which such motions would be appropriate.

Section 14. Decision

- A. An application determined not to be complete may be denied. In addition, fees not paid shall result in a finding that the application is not complete and thus a reason for application denial. The applicant and/or owner(s) of the property must pay all fees and application processing costs to the Town of Pomfret before a wetlands permit may be granted. Further, no wetlands permit may be issued by the Agency or its agent(s) until all surety requirements have been met.
- B. If the Agency finds that the proposed activity may have a significant impact on wetlands or watercourses, the application will be denied unless the Agency finds on the basis of the record that a feasible and prudent alternative to the proposed activity does not exist. The Agency, however, is not bound by the applicant's failure to identify a feasible and prudent alternative and may through its own consultants and expert witnesses determine that a feasible and prudent alternative does exist.
- C. If the Agency finds such impacts on wetlands and watercourses are not significant, the feasible and prudent test does not apply and the Agency must approve with or without conditions the application.
- D. The Agency must notify the applicant of its decision within 15 days by registered mail return receipt requested and publish notice of the decision in a newspaper having general circulation in the town.

Section 15. Employees

- A. The Town of Pomfret is the employer of staff not the Agency. Only the appointment of the duly appointed agent(s) (appointed by the Agency pursuant to state statute) may be terminated by the Agency for cause and shall require a vote by two-thirds of its members (5) at an executive session unless the agent wishes the session to be public.
- B. The chairman in conjunction with the Agency's elected officers shall review the job performance of staff on a continuing basis. The chairman shall counsel individual staff members so as to correct deficiencies and improve performance. The chairman may also inform the First Selectman of unsatisfactory staff member job performance and may recommend removal.

Section 16. Committees

- A. The chairman may appoint committees to inform the public concerning wetlands issues, to investigate complaints or to conduct inquiries to determine the facts concerning wetland and watercourses violations within the Agency's jurisdiction, to monitor legal (court decisions concerning wetlands or watercourses impacts), conditions of permit approval, or regulatory issues (DEP and state legislature) of which the Agency should be made aware.
- B. There shall be two (2) standing committees designated by the chairman:
 - 1. Regulatory Committee.
 - 2. Public Relations Committee.

Section 17. Public Relations

- A. The chairman or an appointed Agency member shall act as public spokesman for the Agency. Staff members may assist in the execution of these duties. This does not exclude any member from responding to and informing the public as to wetland and watercourses facts, or providing information concerning procedural requirements of the wetlands and watercourses regulations or state statutes as they apply to wetlands and watercourses issues. However, members are cautioned that it is not in the public's interest or the Agency's to express their opinions concerning specific wetlands or watercourses issues that may at some time need to be addressed by the Agency.
- B. As a matter of courtesy, public inquiries and complaints submitted to the Agency in writing by any person or party will be acknowledged in writing by the Agency and such correspondence signed by the chairman or his or her designated representative. Such entities must fully identify themselves and make clear their concerns on the record and are to be encouraged to do so in writing. Upon completion of the Agency's inquiry and after the facts

determined, the chairman will inform the inquirer or complainant in writing promptly as to the findings of the inquiry and a status report concerning the circumstances made to the members at their next regularly scheduled meeting.

- C. The Public Relations Committee shall prepare a series of informational articles addressing statutory, regulatory or common views concerning wetlands and watercourses requirements that may impact on the citizens of Pomfret. Agency members should review the articles when prepared and recommend staff review when considered necessary.



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INLAND WETLANDS AND WATERCOURSES
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 2005, Adopted at the regular monthly meeting on February 9, 2005.

Obtained 12/8/11



*INLAND WETLANDS AND
WATER COURSES REGULATIONS*

TOWN OF POMFRET, CONNECTICUT

Revised: July 15, 2009 (Effective date August 1, 2009)

TOWN OF POMFRET INLAND WETLANDS AND WATERCOURSE AGENCY

REGULATORY HISTORY:

COMMISSION/AGENCY ESTABLISHED: MARCH 6, 1974

REGULATIONS ADOPTED:

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April 4, 2001	April 28, 2001	
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July 2, 2009	August 1, 2009	

TOWN OF POMFRET INLAND WETLANDS AND WATERCOURSES REGULATIONS

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TOWN OF POMFRET INLAND WETLANDS AGENCY REGULATIONS

Section 1: Title and Authority

- 1.1 The inland wetlands and watercourses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of these regulations to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.
- 1.2 These regulations shall be known as the "Inland Wetlands and Watercourses Regulations of the Town of Pomfret."
- 1.3 The Inland Wetlands and Watercourses Agency of the Town of Pomfret was established in accordance with an ordinance adopted March 6, 1974 and shall implement the purposes and provisions of these regulations and the Inland Wetlands and Watercourses Act in the Town of Pomfret.
- 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 Agency shall enforce 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 Pomfret 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:

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

"**Agency**" means Inland Wetlands and Watercourses Agency (also sometimes referred to as the Inland Wetlands and Watercourses Commission) of the Town of Pomfret.

"**Agriculture or Agricultural Activity**" means the cultivation of the ground, including the harvesting of crops, rearing and management of livestock, tillage, husbandry, horticulture and forestry and other agricultural activities as defined by State Statute incidental to the sale of agricultural or horticultural commodities.

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

"**Clear-cutting**" means the harvest of timber in a fashion which removes all trees down to a two inch diameter at breast height (d.b.h.). Tree d.b.h. is outside bark diameter at breast height. Breast height is defined as 4.5 feet (1.37m) above the forest floor on the uphill side of the tree. For the purposes of determining breast height, the forest floor includes the duff layer that may be present, but does not include unincorporated woody debris that may rise above the ground line.

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

"**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.

"**Conservation Easement**" means a legal interest in real property that is held by someone other than the record owner of the property and that imposes, for purposes of natural resource conservation, limitations or affirmative obligations on the use of the property. Such purposes may include retaining or protecting natural, scenic, or open-space values of real property; assuring its availability for agricultural, forest, recreational, or open-space use; protecting natural resources; maintaining or enhancing air or water quality; or preserving the historical, agricultural, archaeological, or cultural aspects of real property.

"**Crop**" means the yield of any agricultural produce (i.e., corn, hay, apples etc.) in one season or place.

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

"**Designated or duly authorized agent**" means an individual(s) designated by the Inland Wetlands and Watercourses Agency to carry out its functions and purposes.

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

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"Disturb the natural and indigenous character of the wetland or watercourse" means to alter the inland wetlands and watercourses by reason of removal or deposition of material, clearing the land, altering or obstructing water flow, or pollution.

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

"Farming" has the same meaning as "agriculture."

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

"Grazing" means the feeding by livestock on growing grass, herbage, etc., in connection with a farming use.

"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 Sections 22a-36 to 22a-45, inclusive.

"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 or development; construction setbacks from wetlands or watercourses; proper disposal of waste materials; procedures for equipment maintenance to prevent fuel spillage; construction methods to prevent flooding or disturbance of wetlands and watercourses; procedures for maintaining continuous stream flows; confining construction that must take place in watercourses to times when water flows are low and fish and wildlife will not be adversely affected.

"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 or more in depth are common, but seasonal water table fluctuations are encountered.

"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.

"Minimal" means when used in connection with a potential impact to wetlands or watercourses, the least possible negative impact that may or is likely to disrupt or otherwise hinder a wetland's or watercourse's ability to function as part of an integrated ecological system.

"Municipality" means the Town of Pomfret.

"Nurseries" means land and/or places where plants are grown for sale, transplanting, or experimentation.

"Permit" see license.

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

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

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

"Prudent" means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

"Regulated activity" means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in Section 4 of these regulations. Furthermore, any clearing, grubbing, grading, paving, excavation, filling, constructing, depositing or removal of material and discharging of stormwater on the land is a regulated activity if it occurs or would occur within an upland review area, as defined herein. The Agency may rule that any other activity located within an upland review area or in any other non-wetland or non-watercourse area that is likely to impact or affect wetlands or watercourses is a regulated activity.

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

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

"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.

"Riparian Buffer" means the protective corridor of trees and other vegetation located on land upgradient from watercourses, or from wetlands immediately adjacent to watercourses.

"Security" means a legal financial assurance or guarantee that the applicants and/or property owners will complete the required work or comply with the required terms and conditions of the permit or of these regulations.

"Significant impact" means a substantial effect, such as, but not limited to, the effects caused by the following types of activities:"

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.

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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: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
4. Any activity which is likely to cause or has the potential to cause 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 damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.

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

"Staff" means municipal employees, consultants (i.e., planning, legal, engineering, environmental), as well as employees of any regional agency of which the Town is a member.

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

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

"Town" means the Town of Pomfret.

"Upland Review Area" means any area: (1) within 150 feet measured horizontally from the boundaries of any wetland or watercourse; (2) within 500 feet measured horizontally from the mean annual high water lines of the Quinebaug River; (3) within 300 feet measured horizontally from the mean annual high water lines of the Mashamoquet Brook and its tributaries, which are White Brook, Wappoquia Brook, Wolf Den Brook, Lyon Brook and Day Brook; (4) within 300 feet measured horizontally from the mean annual high water lines of the Nightingale Brook and its tributaries, which are Angel Brook and Ragged Hill Brook; (5) within 300 feet measured horizontally from the mean annual high water lines of Durkee Brook and its primary tributary, Bark Meadow Brook; or (6) within 300 feet measured horizontally from the mean annual high water lines of the Blackwell Brook and its primary tributaries, which are Harris Brook, Elliot's Brook and Wade Brook.

"Vegetative Filter Strip" is an area seeded in close-growing plants (i.e., turfgrass, forage, crops meadow, etc.) that is designed to remove sediment, organic material, excess nutrients, and harmful chemicals carried in runoff or stormwater discharge systems.

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"Vernal Pool" means a watercourse that (1) contains water for approximately two months during the Spring; (2) occurs within a confined depression, (3) lacks a permanent bank, and (4) dries out in most years by late summer. It can be natural or manmade and usually lacks a permanent outlet or any fish population.

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

"Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof not regulated pursuant to Sections 22a-28 through 22a-35, inclusive, of the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (a) evidence of scour or deposits of recent alluvium or detritus, (b) the presence of standing or flowing water for a duration longer than a particular storm incident, and (c) the presence of hydrophytic vegetation.

"Wetlands" 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 it may be amended from time to time, of the Natural Resources Conservation Service of the United States 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.

"Wetlands Pocket" means a wetland area of less than 101 square feet.

Section 3: Inventory of Inland Wetlands and Watercourses

- 3.1 The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, Town of Pomfret, Connecticut" delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk or the Agency. 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 Agency 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 Agency 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 Agency may require such person to provide an accurate delineation of regulated areas in accordance with Section 15 of these regulations.
- 3.3 The Agency shall maintain a current inventory of regulated areas within the town. The Agency 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 & Nonregulated 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 acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision 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, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;
 - b. a residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided 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, which ever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;
 - c. boat anchorage or mooring;
 - d. uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse, or diversion or alteration of a watercourse;
 - e. construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-403 of the Connecticut General Statutes and;
 - f. maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.
- 4.2 The following operations and uses shall be permitted, as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

- a. conservation of soil, vegetation, water, fish, shellfish and wildlife; and
 - b. outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.
- 4.3 All activities in wetlands or watercourses involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Section 6 of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized 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 nonregulated operation and use shall, prior to commencement of such operation and use, notify the Agency on a form provided by it, and provide the Agency with sufficient information to enable it to properly determine that the proposed operation and use is a permitted or nonregulated use of a wetland or watercourse. The Agency shall rule that the proposed operation and use or portion of it is a permitted or nonregulated operation and use or that the proposed operation and use is a regulated activity and a permit is required.

Section 5: Activities Regulated Exclusively by the Commissioner of Environmental Protection

- 5.1 The Commissioner of Environmental Protection shall have exclusive jurisdiction over regulated activities in or affecting wetlands or watercourses, undertaken by any department, agency or instrumentality of the State of Connecticut, except any local or regional board of education, pursuant to Sections 22a-39 or 22a-45a of the Connecticut General Statutes.
- 5.2 The Commissioner of Environmental Protection shall have exclusive jurisdiction over tidal wetlands designated and regulated pursuant to Sections 22a-28 through 22a-35 of the Connecticut General Statutes, as amended.
- 5.3 The Commissioner of Environmental Protection shall have exclusive jurisdiction over activities authorized under a dam repair or removal order issued by the Commissioner of Environmental Protection under Section 22a-402 of the Connecticut General Statutes or a permit issued by the Commissioner of Environmental Protection under Sections 22a-403 of the Connecticut General Statutes. Any person receiving such dam repair or removal order or permit shall not be required to obtain a permit from a municipal wetlands agency for any action necessary to comply with said dam order or to carry out the activities authorized by said permit.
- 5.4 The Commissioner of Environmental Protection shall have exclusive jurisdiction over the discharge of fill or dredged materials into the wetlands and watercourses of the state pursuant to Section 401 of the Federal Clean Water Act, as amended, for activities regulated by the U.S. Army Corps of Engineers under Section 404 of the Federal Clean Water Act.

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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 Pomfret Inland and Watercourses Agency of the Town of Pomfret, herein after referred to as the Agency.
- 6.2 Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Agency, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in Section 14 of these regulations and any other remedies as provided by law.
- 6.3 Unless an applicant can demonstrate to the Agency, on a case-by-case basis, that a proposed use listed in the table below does not involve a significant impact activity, such use shall not be located closer to a wetland or watercourse than the minimum distance specified in the table below. The Commission finds that the maintenance of such protective distances are reasonably necessary to protect wetlands and watercourses from harmful disturbance and discharges; to preserve the natural and indigenous character of the wetlands or watercourses systems; to provide effective riparian buffers, which minimize the flow of harmful sediment and debris into wetlands and watercourses and help regulate their thermal condition. When used in connection with watercourses, the minimum distances prescribed below shall be measured from the mean annual high water line.

Proposed Use(s)	Minimum distance from wetlands (other than wetlands Pockets) and perennial watercourses.	Minimum distance from Wetland pockets and intermittent watercourses.
Subsurface sewage disposal systems, tank, leach field, dry well, chemical waste disposal system, manure storage area, or any other noxious or offensive pollution source (all hereinafter referred to as system) No system, at any distance from such watercourse or inland wetland, shall be constructed or maintained in such a manner so as to allow untreated surface drainage into any such watercourse or inland wetlands.	100 feet	75 feet
Single and two-family residential structures	100 feet	75 feet
Accessory structures and/or parking areas residential	75 feet	50 feet
Main-use buildings or structures non- residential	120 feet	100 feet
Accessory structures and/or parking areas non-residential	75 feet	50 feet
Accessory structures housing animals, excluding a single doghouse	100 feet	50 feet
All Other accessory structures less than 150 square feet in size	50 feet	25 feet

Separation distances listed above may be increased by the Agency if deemed necessary for the protection and preservation of the natural and indigenous character of the wetlands and/or watercourses system and riparian corridors due to site specific factors such as topography, slope, soil type, presence of rare and/or endangered species.

Separation distances listed above may be increased by the Agency if deemed necessary for the protection and preservation of the natural and indigenous character of the wetlands and/or watercourses system and riparian corridors due to site specific factors such as topography, slope, soil type, presence of rare and/or endangered species.

- 6.4 If the Agency determines that the performance of a regulated activity is necessary to prevent imminent and substantial harm to wetlands, watercourses, property, or the health or safety of the public or any person, it may issue a temporary authorization to conduct such activity, upon such terms and conditions as may appear appropriate, provided the person to whom such authorization is granted files a formal application to conduct such activity no later than the date of such authorization. Such temporary authorization shall not be deemed to be a permit and shall not be binding in any respect on the Agency when it considers the formal application. Rather, such temporary authorization shall serve only as an agreement by the Agency not to seek civil penalties or other legal sanctions against any person acting under such authorization unless such person (i) has provided false or misleading information in requesting such authorization; (ii) exceeds the scope of the authorization; (iii) withdraws or otherwise fails to pursue the formal permit application; (iv) fails to comply with the terms or provisions of any permit that may ultimately be issued by the Agency; or (v) fails to comply with the terms of any subsequent order the Agency may issue upon receipt of additional information.

Section 7 - Application Requirements

- 7.1 Any person intending to conduct a regulated activity or to renew or amend a permit to conduct such activity, shall apply for a permit on a form provided by the Agency. The application shall contain all of the information described in this section and any other information the Agency may reasonably require. Application forms may be obtained in the offices of the Pomfret Town Clerk or the Agency.
- 7.2 If an application to the Town of Pomfret Planning and Zoning Commission for subdivision or resubdivision of land involves land containing a wetland or watercourse, the applicant shall, in accordance with Section 8-3(g), 8-3c, or 8-26, as applicable, of the Connecticut General Statutes, submit an application for a permit to the Agency in accordance with this section, no later than the day the application is filed with such planning, zoning, or planning and zoning commission.
- 7.3 The application shall contain such information as is necessary for a fair and informed determination thereon by the Agency.
- 7.4 A prospective applicant may request the Agency to determine whether or not a proposed activity involves a significant impact activity.
- 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 and telephone numbers; if the applicant is a Corporation, limited liability corporation (LLC), partnership, or other business entity, the name address, and telephone number of the officer, partner, member or other representative who is legally authorized to act n behalf of the entity.
 - b. the owner's name, mailing address and telephone number and written consent of the land owner if the applicant is not the owner of the land upon which the subject activity is proposed;
 - c. the applicant's interest in the land;
 - d. the geographical location of the land which is the subject of the proposed activity and a description of the land in sufficient detail to allow identification of the inland wetlands and watercourses, the area(s) (in acres or square feet) of wetlands or watercourses to be disturbed, soil type(s), and wetland vegetation;
 - e. the purpose and a description of the proposed activity and proposed erosion and sedimentation controls and other management practices and mitigation measures which may be considered as a condition of issuing a permit for the proposed regulated activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
 - f. 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;

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- g. a site plan showing the proposed activity and existing and proposed 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 or watercourses;
- h. names and mailing addresses of adjacent land owners;
- i. statement by the applicant that the applicant is familiar with all the information provided in the application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information
- j. authorization for the members and staff of the Agency to inspect the subject land, at reasonable times, during the pendency of an application and for the life of the permit;
- k. a completed DEP reporting form; the Agency shall revise or correct the information provided by the applicant and submit the form to the Commissioner of Environmental Protection in accordance with Section 22a-39-14 of the Regulations of Connecticut State Agencies;
- l. any other information the Agency deems necessary to the understanding of what the applicant is proposing; and
- m. submission of the appropriate filing fee based on the fee schedule established in Section 19 of these regulations.

7.6 If the proposed activity involves a significant impact activity as determined by the Agency, 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 uses of wetlands and watercourses, and other pertinent features of the land and the proposed activity, prepared by a professional engineer, land surveyor, architect or landscape architect licensed by the state, or by such other qualified person;
- b. engineering reports and analyses and additional drawings 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. Natural Resources Conservation Service; the wetlands shall be delineated in the field by a soil scientist and the soil scientist's field delineation shall be depicted on the site plans;
- d. description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions prepared by a properly qualified wetlands scientist;

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- e. a 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 or 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; and
- 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 site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
- d. water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

7.8 Six (6) copies of all application materials shall be submitted to comprise a complete application unless an applicant is otherwise directed by the Agency.

7.9 Any application to renew or amend an existing permit shall be filed with the Agency 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 use of the land for which the permit was issued;
- e. the Agency 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 or amend a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than ten years.

Section 8 - Application Procedures

- 8.1 All petitions, applications, requests or appeals shall be submitted to the Inland Wetlands and Watercourses Agency of the Town of Pomfret, herein after referred to as the agency.
- 8.2 The Agency shall, in accordance with Connecticut General Statutes Section 8-7d(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 Agency is 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 sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
 - d. water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by 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 the watershed of a water company as defined in Section 25-32 of the Connecticut General Statutes, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by such commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the land records of the Town in which the application is made and with the Agency of such town. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of the application. The water company and 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 Agency.
- 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 Agency, immediately following the day of submission to the Agency or its 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 applicant shall provide such additional information as the Agency may reasonably require. Requests for such additional information shall not stay the time limitations as set forth in subsection 11.2 of these regulations.
- 8.6 All applications shall be open for public inspection.

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- 8.7 Any applicant for a wetlands permit may withdraw his or her application at any time. However, applicants who withdraw their applications from Agency consideration and who have permit processing costs due shall not be considered as new applicants until all assessed fees and consulting expenses pertaining to the withdrawn application have been paid to the Town of Pomfret. Such fees and other costs not paid may be subject to collection action initiated by the Town of Pomfret.
- 8.8 An application deemed incomplete by the Agency may be withdrawn by the applicant or may be denied by the agency.

Section 9 - Public Hearings

- 9.1 The Agency shall not hold a public hearing on an application unless the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five persons who are eighteen 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 Agency no later than fourteen days after the date of receipt of such application, or the Agency finds that a public hearing regarding such application would be in the public interest. The Agency may issue a permit without a public hearing provided no petition provided for in this section is filed with the Agency on or before the fourteenth(14th) day after the date of receipt of the application. Such hearing shall be held no later than sixty-five(65) days after the receipt of such application. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard.
- 9.2 Notice of the public hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetland and watercourse is located.
- 9.3 The applicant shall send notice of the public hearing to the owner(s) of record of abutting land no less than fifteen days prior to the day of the hearing. The notice must be sent by certified mail, return receipt requested. The applicant shall submit proof of such mailings prior to the close of the hearing.

Section 10 - Considerations for Decision

- 10.1 The Agency 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 Pomfret:
 1. Planning, Zoning, or Planning and Zoning Commissions
 - c. The Agency may also consider comments on any application from the Eastern Connecticut Conservation District, the Northeastern Regional Planning Agency or other regional organizations (i.e. Council of Elected Officials); 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 subdivision 10.1b and c above within the prescribed time shall neither delay nor prejudice the decision of the Agency.
 - e. For an application for which a public hearing is held, public comments, evidence and testimony.
- 10.2 Criteria for Decision. In carrying out the purposes 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 Agency shall take into consideration all relevant facts and circumstances, including but not limited to:
- a. the environmental impact of the proposed regulated activity on wetlands or watercourses;
 - b. the applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.
 - c. the relationship between the short term and long term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.
 - d. irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (1) prevent or minimize pollution or other environmental damage, (2) maintain or enhance existing environmental quality, or (3) in the following order of priority: restore, enhance and create productive wetland or watercourse resources;
 - e. the character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and

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- f. impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands and watercourses.
 - g. The Agency may consider whether wetlands or watercourse habitats contain any endangered or threatened species or any other species at risk, or whether such habitats or species are listed in the Connecticut Department of Environmental Protection's Natural Diversity Data Base (NDDDB).
- 10.3 In the case of an application which received a public hearing pursuant to a finding by the Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in subsection 10.2 of this Section. The finding and the reasons therefore shall be stated on the record in writing.
- 10.4 In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Agency 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 purposes of this section, (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- 10.6 The Agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.
- 10.7 In reaching its decision on any application after a public hearing, the Agency 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 Agency in its decision

Section 11- Decision Process and Permit

- 11.1 The Agency, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources.
- 11.2 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 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, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application. The failure of the Agency 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 Agency shall be withdrawn by the applicant or denied by the Agency.
- 11.3 The Agency shall state upon its record the reasons and basis for its decision.
- 11.4 The Agency shall notify the applicant and any person entitled to such notice of its decision within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency 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. In any case in which such notice is not published within such fifteen day period, the applicant may provide for the publication of such notice within ten days thereafter.
- 11.5 If an activity authorized by an inland wetland permit also involves an activity which requires a zoning or subdivision approval, special zoning permit, or variance or special exception, under Sections 8-3(g), 8-3c, or 8-26 of the Connecticut General Statutes, the Agency shall file a copy of the decision and report on the application with the Town of Pomfret Planning, Zoning, or Planning and Zoning Commission within fifteen(15) days of the date of the decision thereon.
- 11.6 Any permit issued by the Agency for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for two years unless the Agency specifically approves a longer duration, which may be as long as, but not more than five years. Any such permit shall be renewed upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issue, provide no permit may be valid for more than 10 years.

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- 11.7 No permit issued by the Agency shall be assigned or transferred without the written permission of the Agency. The Agency shall approve such assignment or transfer if the person to whom the permit would be assigned or transferred provides written assurances, satisfactory to the Agency in form and content, that he or she has fully reviewed and accepted the terms and conditions of the permit and has agreed to be responsible for the conduct of the regulated activities allowed by the permit, and that adequate financial security for the proper performance of the regulated activities has been or will be provided. The transfer or assignment of a permit shall not relieve the original permittee from liability for any failure to comply with the terms and conditions of the permit except to the extent specifically determined and established in writing by the Agency prior to such transfer or assignment.
- 11.8 If a security is required in accordance with Section 13 of these regulations, the Agency may withhold issuing the permit until such security is provided.
- 11.9 General provisions in the issuance of all permits:
- a. The Agency 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 after a hearing at which the permittee shall have an opportunity to be heard.
 - b. All permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Agency or the Town of Pomfret, 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 Agency's permit also involves an activity which requires zoning or subdivision approval, special permit, variance or special exception under Sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland 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 Agency.

Section 12- Action by Duly Authorized Agent

- 12.1 The Agency may delegate under its by-laws to its duly authorized agent the authority to approve or extend a permit for an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater that a minimal impact on any wetlands or watercourses provided such agent has completed the comprehensive training program developed by the Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes. Requests for such approval shall be made on a form provided by the Agency and shall contain the information listed under Section 7.5 of these regulations and any other information the Agency 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.
- a. Except that timber harvest permits may be issued by the Agencies duly authorized agent when such agent finds that the conduct of such activity would result in no greater that a minimal impact on any wetlands or watercourses and best management practices are followed.
- 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 Agency within fifteen (15) days after the publication date of the notice and the Agency 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 Agency or its agent of such appeal. Any person may appear and be heard at the meeting held by the Agency to consider the subject appeal. The Agency 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 - Security

- 13.1 Upon approval of the application and prior to issuance of a permit, the applicant may, at the discretion of the Agency, be required to file a bond or other form of financial security in a form, and in such amount, as may be approved by the Agency, to guarantee that the applicant(s) and /or property owner(s) will complete all required work. A cash bond is the form of security generally preferable to the Agency, but the Agency may accept or require another form of security. The security shall guarantee, without limitation, to install or restore erosion and sediment control measures, wetlands remediation, engineering and/or inspection fees, public noticing and costs associated with a cease and desist order and/or notice of violation.
- 13.2 The security as posted shall name as principal both the applicant and the owner(s) of the property. The Agency may require that the security be issued in the form of a savings passbook (cash bond) of a federally insured bank or credit union with an office located within a reasonable distance from the Town of Pomfret, Connecticut. The Town shall be named as the co-owner of the account. Ten (10) pre-signed withdrawal slips shall also be submitted with the passbook account. The Agency's clerk shall keep the co-owner(s) informed if a withdrawal is required to pay non-reimbursed financial obligations at least seven days before such withdrawal. The co-owner(s) shall have the option to directly reimburse the Town for expenses incurred when informed by the clerk that a balance is due rather than have funds withdrawn from the account.
- 13.3 The security shall be conditioned on compliance with all provisions of these regulations and on the terms, conditions and limitations established in the permit, and in an amount sufficient to satisfy any additional inspection, engineering, or other costs incurred by the Town of Pomfret to uphold and enforce the conditions of the permit.

Section 14 - Enforcement

- 14.1 The Agency may appoint an agent or agents to act in its behalf with the authority to issue notices of violation or cease and desist orders and carry out other actions or investigations necessary for the enforcement of these regulations. In carrying out the purposes of this section, the Agency or its duly authorized agent shall take into consideration the criteria for decision listed under Section 10.2 of these regulations.
- 14.2 The Agency or its 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.
- 14.3 In the case in which a permit has not been issued or a permit has expired, the Agency 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 Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of the Act or these regulations, the Agency or its duly authorized agent may:
- a. issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to immediately cease such activity or to correct such facility or condition. Within ten (10) calendar days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show

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cause why the order should not remain in effect. The Agency 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 Agency shall publish notice of its decision in a newspaper having general circulation in the Town. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this subsection shall not delay or bar an action pursuant to Section 22a-44(b) of the Connecticut General Statutes, as amended.

- b. issue a notice of violation to such person conducting such activity or maintaining such facility or condition, stating the nature of the violation, the jurisdiction of the Agency, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses. The Agency may request that the individual appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in issuance of the order provided in Section 14.3(a) or other enforcement proceedings as provided by law.

- 14.5 The Agency may suspend or revoke a permit if it finds that the permittee has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking or suspending any permit, the Agency shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action. The Agency shall hold a hearing to provide the permittee an opportunity to show that it is in compliance with its permit and any and all requirements for retention of the permit. The permittee shall be notified of the Agency's decision to suspend, revoke, or maintain a permit by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of the suspension or revocation in a newspaper having general circulation in the municipality.

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Section 15 - Amendments

- 15.1 These regulations and the Inland Wetlands and Watercourses Map for the Town of Pomfret may be amended, from time to time, by the Agency in accordance with changes in the Connecticut General Statutes or regulations of the Connecticut Department of Environmental Protection, or as new information regarding soils and inland wetlands and watercourses becomes available.
- 15.2 An application filed with the Agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetland regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such Agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (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 the Act as of the date of such receipt.
- 15.3 These regulations and the Town of Pomfret 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 Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any proposed regulations or amendments thereto, except map amendments, at least thirty-five (35) days before the public hearing on their adoption.
- 15.4 Petitions requesting changes or amendments to the "Inland Wetlands and Watercourses Map," Town of Pomfret, Connecticut, shall contain at least the following information:
- a. the petitioner's name, mailing address 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. map(s) showing the geographic location of the land affected by the petition and the existing and the proposed wetland(s) and watercourse(s) boundaries on such land in accurate detail together with the documentation supporting such proposed boundary locations; and
 - e. the reasons for the requested action.
- 15.5 Any person who submits a petition to amend the Inland Wetlands and Watercourses Map, Town of Pomfret, 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 Agency. 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 15.4, 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;

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- b. the names and mailing addresses of the owners of abutting land;
 - c. documentation by a soil scientist of the distribution of wetland soils on said land. Such documentation shall at a minimum include the 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 Wetlands and Watercourse delineations:
- a. Watercourses shall be delineated by a soil scientist, geologist, ecologist or other qualified individual.
 - b. Wetlands shall be delineated by a soil scientist.
- 15.7 The Agency 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 receipt of such petition. The hearing shall be completed within thirty-five (35) days after commencement. The Agency shall act upon the changes requested in such petition within sixty-five (65) days after completion of such hearing. At such hearing, any person or persons may appear and be heard and may be represented by agent or attorney. The petitioner may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw such petition. Failure of the Agency 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 Agency shall make its decision and state, in writing, the reasons why the change in the Inland Wetlands and Watercourses Map was made.

Section 16 - Appeals

- 16.1 Appeal on actions of the Agency 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 Agency and the Commissioner of Environmental Protection.
- 16.3 The Agency shall hear and decide appeals and requests for exception from the requirements as set forth in Section 7 of the Pomfret Flood Plain Management Ordinance 60.3(D) 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 provisions of these regulations and the provisions of the Act, the provisions of the Act shall govern.

Section 18 - Other Permits

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

Section 19 – Application Fees and deposits

- 19.1 Section 19 establishes a schedule of fees that will allow the Town to recoup the costs and expenses of processing land use applications, including, but not limited to, the cost of reviewing and evaluating the application and all materials submitted in connection therewith, the cost of posting and publishing notices, and the cost of monitoring compliance with the terms and conditions of approval.

- 19.2 The minimum application fee under these regulations shall be submitted to the Agency by check or money order payable to the Town of Pomfret at the time the application is filed. A wetlands permit shall not be approved or a Town Building Permit endorsed by the Agency or its duly appointed Agent(s) unless and until all applicable fees and all processing costs have been paid in full. No waiver of these fees shall be granted by the Agency.

- 19.3 Definitions as used in this section:

Single-family residential uses - Activities carried out on property that is already developed for permanent, detached, single-family housing, or that is being developed to be occupied for such purposes.

All other uses - Activities carried out on property for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or for nonprofit.

Consultant - Any professional hired by the Town of Pomfret or the Agency to assist in the review and evaluation of an application.

Staff - Municipal employees, as well as employees of any regional agency of which the Town of Pomfret is a member.

Processing - Any activities or functions performed by municipal officials or staff, as well as professional consultants retained by municipal officials or staff (if authorized by the Agency), in connection with the receipt, handling, review, assessment, analysis or noticing of all applications. Such functions include, without limitation, the monitoring of activities that are required to insure compliance with the terms and conditions of any approval.

Deposit -- Funds required to be advanced as security for the payment of fees pursuant to this Section 19.

19.4 Computation of Fees and Deposits:

- a. The base fee and the state filing fee (minimum application fee) must be paid by all applicants at the time the application is submitted. Additional fees may be required to cover the Agency's costs in employing consultants or staff to review and analyze the documents, testimony and other evidence submitted by the applicant and others with regard to the application, and to assure that any proposed regulated activities would conform to relevant scientific and engineering standards and with any applicable requirements of State or Federal law.
- b. The Agency may require a deposit to cover estimated expenses associated with land use consultants or other experts employed by the Agency to evaluate an application. Should a deposit be required the applicant will be notified by the Agency in writing. The applicant must submit the required deposit to the Agency within fifteen (15) days after notification. If the applicant fails to deposit the required amount when due, the Agency may consider the pending application as incomplete and reject or deny the application accordingly.
- c. If the costs of processing the application and monitoring and enforcing compliance with permit conditions, including, but not limited to, engineering and staff inspections or reviews and any enforcement actions taken with respect to regulated activities, exceed the amount of the initial deposit the applicant will be informed by the Agency's clerk in writing and requested to submit the additional amount required promptly. If the applicant fails to provide such additional funds, the Agency may deny the application or, if a permit has been issued, revoke the permit or issue an enforcement order.
- d. Any funds deposited by the applicant, but not used in processing the application or in post-approval inspection(s), review or enforcement, shall be returned to the applicant.

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19.5 Fee Schedule:

Base Fee for all applications*	\$100.00
State Filing fee for all applications*	as required by state law
Regulated Activities (Not As of Right)*	
a. Subdivisions and re-subdivisions	100.00/lot
b. Single-family residential uses	(No additional fee)
c. All other uses	220.00
d. Significant impact to any wetland or watercourse	250.00
As of Right and Non-regulated Uses (No additional fee)	
Public Hearing*	150.00
Modification of Prior Permit*	25.00
Amendment to official wetlands and watercourses map*	250.00
Senior Wetlands Staff review	200.00
Engineering review	500.00
Town Planner review	400.00
Soil Scientist/Wetlands Scientist review	400.00
Legal review pertaining to deeds, easements, bonding or other Matters *	500.00

Stenographic and transcription services if required. The estimated cost will be determined by the Agency.

(Fee marked with an asterisk (*) are not refundable. Estimated processing costs less than the amounts shown above for other expenses shall be refunded to the applicant.

19.7 Exemption. No application fee shall be charged to any official, commission or Agency of the Town of Pomfret submitting an application in his, her or its official Town capacity.

19.8 Appeals. An applicant may challenge, in writing on a form to be provided by the Town Clerk, any billing within thirty (30) days of the date billed. The Agency shall hear the appeal within sixty-five (65) days and make its ruling within an additional sixty-five (65) days. This provision shall not bar the Agency from denying an application for cause.

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Section 20 - Records Retention and Disposition

20.1 The Agency and the Town Clerk for the Town of Pomfret shall retain complete administrative records of Agency actions and dispose of such records in accordance with the retention/disposition schedules set forth in subsection 20.2.

20.2 The public records administrator of the Connecticut State Library established the following new records retention/disposition schedules for municipal Inland Wetlands Agencies effective April 24, 1989:

<u>RECORD TITLE</u>	<u>MINIMUM RETENTION REQUIRED IN AGENCY</u>	<u>TOWN CLERK</u>
Applications (inc. supporting materials)	10 years	
Decision Letters	10 years	Permanent
Approved Site Plans	10 years	Permanent
Legal Notices	10 years	Permanent
Staff and Public Written Testimony (hearing records)	10 years	Permanent
Minutes of Meetings & Notices of Violation and Orders	15 years 10 years	Permanent
Text of Amendments to Regulations	Continuous Update	Permanent
Correspondence Issued or Received	5 years	
Public Hearings Tapes, Audio	4 years	
Notices of Violation and Orders	10 years	
Text of Amendments to Regulations	Continuous Update	Permanent
Correspondence Issued or Received	5 years	

Section 21 - Effective Date of Regulations

21.1 These regulations, as amended, shall become effective upon filing in the Office of the Town Clerk and publication of a notice of such filing in a newspaper having general circulation in the Town of Pomfret, Connecticut.

AGENCY MEMBERSHIP:

REGULAR MEMBERS (Seven):

David St. Martin, Chairman

Paul Safin, Vice Chairman

John C. Folsom, Secretary

Marshall Eaton,

Nancy McMerriman

Joseph P. Stoddard

James Rowley

ALTERNATES (Three):

John Bergendahl

Nancy Fraser

William Gould

AGENCY STAFF:

Ryan Brais, WEO, Designated Agent

James Rabbitt, AICP, Town Planner, WEO, Designated Agent

Lynn Krajewski, Commission Clerk

Michael A. Zizka, Esquire

Syl Pauley, P.E. Consulting Town Engineer

AGENCY CONSULTANTS

Soil Scientist/Wetlands Scientist & other experts to be determined by the Agency.