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WETLANDS DEMYSTIFIED*
Wetlands and Land Use Decisions
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Wetlands 101: a short course designed to answer your questions and address your concerns pertaining to land use decisions where inland wetlands and watercourses may be involved. The Pomfret wetlands commission has long recognized that there is often confusion as to when and how its regulations may apply to land use decisions. The question of who needs a wetlands permit and who does not is not always apparent. As always the answer to these and other questions concerning wetlands issues may depend on whom you ask, and as often is the case may not be accurate. In an effort to address this problem the Pomfret Inland Wetlands and Watercourses Commission will begin a series of articles with this and future issues of the Pomfret Times to inform the public as to the wetlands permitting process, the regulations and state laws that govern that process, the commission's responsibilities in regulating land use decisions where wetlands or watercourses are a factor. The commission will also address more generally the question of why wetlands and their safeguarding are so vitally important to every citizen of this Town. In this initial article we will discuss the commission itself, how it came about, its authority and its responsibilities.

The establishment of municipal inland wetlands and watercourses commissions (IWWC) was mandated under Title 22a, Environmental Protection of the Connecticut General Statutes (CGS) last revised January 1, 2001. Prior to this Pomfret by Town Meeting on March 6, 1974, adopted an ordinance creating its own IWWC based on a Public Act 155 of the 1972 Conn. General Assembly and Public Act 571 of the 1973 Conn. General Assembly. The ordinance authorized the Board of Selectman to appoint seven (7) members and three (3) alternate members to the commission. Because of difficulty in finding qualified volunteers the ordinance was amended a year later to allow commission members and alternates to be any registered voter of the Town to be appointed at large for a four-year term. Under Section 22a-42 (c) of the CGS the state legislature said that once established the [municipal] IWWC "shall serve as the sole agent for licensing of regulated activities". So what then is a "regulated activity"?

The state wetlands statute defines a regulated activity as 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 not those activities considered permitted as of right. Permitted activities under these conditions will be addressed in a future article in the PomfretTimes. Pomfret's IWWC regulations go a step farther in its definition by stating that any clearing, grubbing, grading, paving, excavation, filling, constructing, depositing or removal of material and discharging of

stormwater on the land within 150 feet [upland review area] measured horizontally from the boundary of any wetland or watercourse is a regulated activity. It would seem from these definitions that what is and what is not a regulated activity and thus within the commission's jurisdiction to administer is pretty straightforward. If there are no wetlands or watercourses within 150 feet of your project its none of the IWWC's business, right? Wrong! According to the State Supreme Court in its precedent setting *Queach Corporation v. Inland Wetlands Commission*, 258 Conn. 178 (2001) decision the court made clear that commissions consider the environmental impact of activities in upland areas regardless of their distance, that are likely to affect inland wetlands or watercourses. In its summary of the *Queach* case in the *Connecticut Law Journal*: "activity that occurs in non-wetland areas, but that affects wetlands is a regulated activity." So what does all of this mean and how does it apply to you? Simply stated if your project may or could or will have any potential impact on a wetland or watercourse anywhere you will need a wetlands permit.

In our next installment we will address the question: can you the property owner make the judgment as to the need for a wetlands permit? Where can you go for help, and whom can you ask for assistance? We will also discuss what obligations and responsibilities you or your representative has as a permit applicant. How the process works, and most dear to us all what it might cost.

Stay tuned; we'll be back. Let us know what your questions are and don't forget the Pomfret web page at www.pomfretct.org. You can also send an e-mail to commissions@snet.net with your comments or questions. It may take a while to get the answer published, but we will do our best. Also keep in mind that the Commission cannot discuss any new or pending permit applications.

The catchy title "WETLANDS DEMYSTIFIED" is used with the permission of the Eastern Connecticut Conservation District.