

II. DEFINITIONS

1. Activity means any form of draining, dumping, dredging, damming, discharging, excavating, filling, or grading; the erection, reconstruction, or expansion of any buildings or structures; the driving of pilings or erection of walls; the construction or improvement of roads and other ways; the changing of runoff characteristics; the intercepting or diverting of ground or surface water; the installation of drainage, sewage, or water systems; the discharging of pollutants; the destruction of plant life; or any other changing of the physical characteristics of land, or of the physical, biological, or chemical characteristics of water.
2. Administrative Order. See Enforcement Order.
3. Alter means, without limitation, the following actions when undertaken upon or affecting any of the areas subject to protection under the bylaw and listed in Sec. I. C.1 of these regulations:
 - a. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;
 - b. Changing the preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
 - c. Drainage or other disturbance of water level or water table;
 - d. Dumping, discharging, or filling with any material that may degrade water quality;
 - e. Placing of fill, or removal of material, that would alter elevation;
 - f. Driving of piles or erection of buildings or structures of any kind;
 - g. Placing of obstructions or objects in water;
 - h. Destruction of or significant injury or alteration to wetland vegetation as described and listed in the National Wetlands Inventory 1;
 - i. Changing water temperatures, biochemical oxygen demand, or other physical or chemical characteristics of water;
 - j. Any activities, changes, or work that may pollute any body of water or groundwater.
3. Applicant means a person filing an application for a permit, or a person on whose behalf an application is filed.
4. Aquaculture means the growing of aquatic organisms under controlled conditions.
5. Areas Subject to Flooding means depressions or closed basins which serve as ponding areas for runoff, snowmelt, heavy precipitation, or high ground water which has risen above the ground surface, and areas which flood from a rise in a bordering waterway or water body.
6. Area Subject to Protection under the Bylaw means any area specified in Sec. I. C.1 and is used synonymously with Resource Area.
7. Bank is defined in 310 CMR 10.54 (2). See also Section IV.A of these regulations.
8. Best Available Measures means the most up-to-date technology or the best designs, measure, or engineering or bioengineering practices that have been developed and that are commercially available.
9. Bog is defined in the Wetlands Protection Act [G.L. Ch. 131 Sec.40(6)]. See also Sec.

IV. B of these regulations.

10. Bordering means touching.
11. Bordering Vegetated Wetland (BVW) is defined in 310 CMR 10.55(2).
12. Boundary means the boundary of a Resource Area.
13. Breeding Area means any area used by wildlife for courtship, mating, nesting, or other reproductive activity, and rearing of young.
14. Buffer Zone means that area of land extending 100 feet horizontally from the boundary of any Resource Area.
15. Bylaw means the Amherst Wetlands Protection Bylaw.
16. Certificate of Compliance means a written determination by the Commission that the proposed work or a portion thereof has been completed in accordance with a Permit.
17. Conditions means those requirements set forth in a written Permit issued by the Commission for the purpose of permitting, regulating, or prohibiting any activity that removes, fills, dredges, builds upon, or alters any Resource Area.
18. Conservation Commission or Commission means that body comprised of members lawfully appointed pursuant to MGL Ch. 40 Sec. 8C.
19. Date of Issuance means the date an Order is mailed, as evidenced by a postmark or the date it is hand delivered.
20. Date of Receipt means the date of delivery to an office, home, or usual place of business by mail or hand delivery.
21. Department means the Massachusetts Department of Environmental Protection (DEP).
22. Determination (of Applicability) means a written finding by the Commission as to whether an area or an activity is subject to the jurisdiction of the bylaw.
23. Determination of Significance means a written finding by the Commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is significant to one or more of the interests identified in the Bylaw. A Notification of Non-Significance means a written finding by the Commission, after a public hearing, that the area on which the proposed work is to be done, or which the proposed work will alter, is not significant to any of the interests of the bylaw.
24. Dredge means to deepen, widen, or excavate, either temporarily or permanently.
25. Enforcement Order means a written notice issued by the Commission requiring the cessation of all activities that are in violation of M.G.L. Ch. 131 Sec. 10 or of the bylaw.

26. Erosion Control means the prevention of the detachment or movement of soil or rock fragments by water, wind, ice, or gravity.
27. Extension Permit means a written permission issued by the Commission extending the time within which an authorized activity shall be completed.
28. Fill means to deposit any material so as to raise an elevation, either temporarily or permanently.
29. Flood Control means the prevention or reduction of flooding and flood damage.
30. Groundwater Supply means water below the earth's surface in the zone of saturation.
31. Interest means the resource values (collectively, the "interests protected by the bylaw") specified in Sec. I. B of these regulations.
32. Issuing Authority means the Conservation Commission.
33. Lake means any open body of fresh water with a surface area of 10 acres or more, and shall include great ponds.
34. Land in Agricultural Use is defined in 310 CMR 10.04, under "Agriculture."
35. Land Subject to Flooding or Inundation by groundwater or surface water means land within the 100-year Flood Plain.
36. Land Under Water Bodies means the bottom or land under the surface of any lake, river, pond, perennial or intermittent stream, or watercourse.
37. Majority means more than half of the members of the Commission then in office.
38. Marsh is defined in M.G.L. Ch. 131 Sec.40 (10). See also Sec. IV. B of these regulations.
39. Mitigation means rectifying an adverse impact by repairing, rehabilitating, or restoring the affected Resource Area or compensating for an adverse impact by enhancing or providing replacement resource areas.
40. Non-transient Macro-organisms means animals visible to the naked eye, including but not limited to: *Eubrachiopods*, *Isopods*, *Amphipods*, and *Pisidiid* clams.
41. Notice of Intent (NOI) means the written Application for Permit filed by any person intending to remove, fill, dredge, or alter any Area Subject to Protection under the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, Sec.40) or the bylaw.

42. Obstructions or Objects in Water means but is not limited to debris, dams, weirs, sluice gates, docks, bulkheads, pilings, and floats.
43. Order of Conditions means the written document issued by the Commission containing conditions which regulate or prohibit an activity in a Resource Area Subject to Protection under the Wetlands Protection Act or the bylaw.
44. Owner means the person who own the property upon which the activity(ies) are proposed.
45. Parties in Interest means all abutters as determined from the most recent records of the Assessor, all owners of land directly across a body of water (including those persons in another municipality), and all abutters to abutters within 300 feet of the property line of the owner.
46. Permit means the document issued by the Commission containing conditions which regulate or prohibit an activity under the bylaw. The Commission in an appropriate case may combine the Permit or other action on an application issued under the bylaw with the Order of Conditions issued under the Wetlands Protection Act (M.G.L. Ch. 131, Sec. 40).
47. Person means any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, the Town of Amherst, or any other legal entity, its legal representatives, agents, or assigns.
48. Plans mean such data, maps, engineering drawings, calculations, specifications, schedules, and other materials, if any, deemed necessary by the Commission to describe the area and the activity; to determine the applicability of the bylaw; or to determine the impact of the proposal upon the interests identified in the bylaw.
49. Pond means any open body of fresh water, either naturally occurring or man-made, which has standing water due to natural causes at least once each year. Basins or lagoons which are part of waste water treatment plants shall not be considered ponds, nor shall swimming pools or other impervious man-made retention or detention basins.
50. Prevention of Pollution means the prevention or reduction of contamination of surface or groundwater.
51. Private Water Supply means any source or volume of surface or groundwater demonstrated to be in any private use or demonstrated to have a potential for private use.
52. Protection of Fisheries means protection of the capacity of a Resource Area to prevent or reduce contamination or damage to fish, and to serve as their habitat and nutrient source. Fish includes all species of freshwater finfish.
53. Public Water Supply means any source or volume of surface or groundwater demonstrated to be in public use or approved for water supply pursuant to M.G.L.. Ch.

111, Sec.160 by the Division of Water Supply or the DEP, or shown to have a potential for public use.

54. Quorum means the majority of the duly appointed members of the Commission that when duly assembled is legally empowered to transact business.
55. Rare Species Habitat means those areas designated in the most recent map of estimated habitats of rare wildlife and certified vernal pools.
56. Remove means to take away any type of material, thereby changing an elevation, either temporarily or permanently.
57. Request for Determination (of Applicability) means a written request made by any person to the Commission for a determination as to whether an area or activity is subject to the bylaw.
58. Reservoir means a body of water impounded for purposes of municipal water supply.
59. Resource Area means any area specified in Sec. I C.1 and is synonymous with Area Subject to Protection Under the Bylaw.
60. River means any naturally flowing body of water that empties to any ocean, lake, pond, or river, and which flows throughout the year.
61. Riverfront Area is defined in 310 CMR 10.58(2).
62. Seasonal Wetland is an isolated depression or closed basin which temporarily confines water during periods of high water table or high input from spring runoff, snowmelt, or heavy precipitation, which supports populations of non-transient macro-organisms and provides breeding habitat for select species of amphibians. Cf. Vernal Pool.
63. Sedimentation Control means the prevention or reduction of the collection or concentration of sand, soil, or rock fragments by the action of water, wind, ice, or gravity.
64. Select Species of Amphibians means species of amphibians which depend upon vernal pools (seasonal wetlands) for breeding habitat, including but not limited to mole salamanders (*Ambystoma maculatum*, *A. jeffersonianum*, *A. laterale*, *A. opacum*); four-toed salamanders (*Hemidactylium scutatum*); eastern spadefoot toads (*Scaphiopus holbrookii*); American and Fowler's toads (*Bufo a. americanus* and *B. woodhousii fowleri*); spring peepers (*Hyla c. crucifer*); gray treefrogs (*Hyla versicolor*); and wood frogs (*Rana sylvatica*).
65. Significant means plays a role.
66. Storm Damage Prevention means the prevention of damage caused by water from storms, including but not limited to: erosion and sedimentation; damage to vegetation, property, or buildings; or damage caused by flooding, waterborne debris, or waterborne ice.

67. Storm Flowage means any inundation caused by a storm up to and including the 100-year flood
68. Stream means any body of running water, including brooks and creeks, which moves in a definite channel in the ground due to the hydrologic gradient. A portion of a stream may flow through a culvert or beneath a bridge. A stream may be intermittent (discontinuous) or ephemeral (does not flow throughout the year). A stream does not necessarily drain an upgradient wetland.
69. Swamp is defined in M.G.L. Ch. 131, Sec.40(8). See also Sec. IV. B of these regulations.
70. Town means the Town of Amherst.
71. Vernal Pool means a pool or pond which is a confined basin or depression which, at least in most years, holds water for a minimum of two (2) continuous months during the spring or summer, which is free of adult fish populations, and supports select species of amphibians and/or non-transient macro-organisms. Cf. Seasonal Wetland.
72. Watercourse means a stream wholly or partially man-made.
73. Wetlands is defined in the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40.
74. Wet Meadow is defined in the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40. See also Sec. IV. B of these regulations.
75. Wildlife means any non-domesticated native mammal, bird, reptile, amphibian, fish, mollusk, arthropod, or other invertebrate.
76. Work means the same as activity.