

## II. DEFINITIONS

All definitions in these Regulations are presumed to be the same as Wetland Protection Act Regulations, unless otherwise noted below (GL. c.131, Section 40, and 310 CMR 10.00, et seq.).

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, withdrawing, or diverting of ground or surface water; the installation of drainage, sewage, or water systems; the discharging of pollutants; the destruction or significant alteration 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. Concentrated discharge of stormwater into an area subject to protection;
  - d. Drainage, withdrawal, or other disturbance of water level or water table;
  - e. Dumping, discharging, or filling with any material that may degrade water quality;
  - f. Placing of fill, or removal of material, that would alter elevation;
  - g. Driving of piles or erection of buildings or structures of any kind;
  - h. Placing of obstructions or objects in water;
  - i. Destruction of or alteration to vegetation;
  - j. Temporary or permanent conversion of land cover types;
  - k. Changing water temperatures, biochemical oxygen demand, or other physical, biological, or chemical characteristics of water;
  - l. Any activities, changes, or work that may pollute any body of water or groundwater.
4. Area Subject to Protection under the Bylaw means any area specified in Sec. I. C.1 and is used synonymously with Resource Area.
5. Bank is defined in 310 CMR 10.54 (2), except where otherwise specified under Section IV.A.2. of these Regulations.
6. Best Management Practices means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States, and resource interests protected by this bylaw.

7. Bog is defined in the Wetlands Protection Act [G.L. Ch. 131 Sec.40 (6)], except where otherwise specified under Sec. IV.B.2. of these Regulations.
8. Bordering means touching or immediately adjacent.
9. Bordering Vegetated Wetland (BVW) is defined in 310 CMR 10.55(2), except where otherwise specified under Sec. IV.B.2. of these Regulations.
10. Boundary means the line that marks the limits of an Area(s) Subject to Protection under the Bylaw and Regulations.
11. Buffer Zone means that area of land extending 100 feet horizontally outward from the boundary of all areas set forth in Section I.C.1.a.
12. Bylaw means Wetlands Protection under the Town of Amherst General Bylaws, Article 3.31.
13. Clear Cutting means any silviculture practice on a property 5 acres or greater which removes all/the majority of live trees from an entire stand, or uses clearcut patches or strips. Any cut which does not leave at least 6 acceptable, native, live, mature/seeding/fruited (10" dbh.), with a well-established root system, well-distributed seed trees (seed tree cut) not damaged or killed during cutting process. per acre will be considered a Clear Cut. As a silvicultural practice clear cutting aims to regenerate an entire forest stand into a new forest. If the removal of all trees is used to convert the land into something other than a forest it is defined as conversion of land cover type and an alteration to the landscape. Clear-cutting is considered to be conversion of land cover type and an alteration to the landscape.
14. Competent Source(s)
  - a. Competent Wetland Professional means an individual with at least a master's degree in wetland science or ecological science from an accredited college or university, or other competent wetland professional with at least two years of training and experience in wetland plant & soils identification & delineation.
  - b. Other Competent Sources include Registered Professional Engineers, Architects, Landscape Architects, Certified Arborists, or Surveyors.
15. Conditions means the requirements set forth in a Wetlands Permit(s) issued by the Conservation Commission under the for the purpose of permitting, regulating, or prohibiting any activity that removes, fills, dredges, builds upon, or alters any Area Subject to Protection under the Bylaw.
16. Date of Issuance means the date a Permit, Order or Certification is mailed (via US Mail or electronically via email), as evidenced by a postmark, the date it is hand delivered or date of the confirmed email delivery receipt.

17. Date of Receipt means the date of delivery to an office, home, usual place of business by mail, hand delivery, or date of the confirmed email delivery receipt.
18. Determination (of Applicability) means as defined in 310 CMR 10.04, and where the Commission finds an Area or an Activity is subject to the jurisdiction of the Town of Amherst General Bylaws, Article 3.31, and its Regulations.
19. Discharge means a release of sewage, industrial waste, or other effluent, that is “untreated or partially treated”, which has been confined, concentrated, or directed. Discharge can include stormwater in cases where stormwater systems have not been inspected and maintained per operations and maintenance plans.
20. 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.
21. Erosion Control means a physical barrier to prevent the detachment or movement of soil or rock fragments by water, wind, ice, or gravity. Erosion Control Barriers include, but are not limited to straw waddles, silt sacks, filter fabric, staked straw bales, coffer dams, sand bags, and turbidity curtains.
22. Impervious Surface means areas which prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development.
23. Interests means the Resource Interests Protected by this Bylaw specified in Sec. I. B 1. a. through l. of these regulations.
24. Isolated Wetland means a freshwater wetland, not adjacent to a bordering stream, river, pond or lake, , where soils are saturated and/or inundated such that they support the presence of hydric soils and/or a predominance of wetland indicator plants.
25. Land Subject to Flooding is defined in 310 CMR 10.57(2) except where otherwise specified under Section IV.D.2. of these Regulations.
26. Land Under Water Bodies or Waterways means as defined in 310 CMR 10.56 (2), except where otherwise specified under Section IV.C.2. of these Regulations.
27. Marsh is defined in M.G.L. Ch. 131 Sec.40 (10), except where otherwise specified under Section IV.B.2. of these Regulations.
28. 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. In certain cases mitigation may consist of off-site improvements at the discretion of the Commission.

29. Notice of Intent (NOI) means the written notice filed by any person intending to remove, fill, dredge or alter an Area Subject to Protection under M.G.L. c. 131, § 40 and the Town of Amherst General Bylaws, Article 3.31. It shall be made on Form 3 or 4.
30. Obstructions or Objects in Water include but are not limited to debris, dams, weirs, sluice gates, docks, bulkheads, pilings, and floats.
31. Order of Conditions means the document issued by the Commission containing conditions which regulate or prohibit an activity in an Area Subject to Protection under the Wetlands Protection Act or the Town of Amherst General Bylaws, Article 3.31.
32. Parties in Interest means all abutters as determined from the most recent records of the Assessor (Certified Abutters List), 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.
33. Plans mean such data, maps, engineering drawings, calculations, specifications, schedules, narratives, 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.
34. Quorum means the majority of the duly appointed members of the Conservation Commission that when duly assembled is legally empowered to transact business.
35. Reservoir means a body of water impounded for purposes of municipal water supply, power generation or other purposes.
36. Resource Area means any area specified in Sec. I C.1 and is synonymous with Area Subject to Protection under the Bylaw.
37. Sediment Control refers to mitigation measures that prevent or reduce the movement, collection or concentration of sand, soil, or rock fragments by the action of water, wind, ice, or gravity.
38. 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*).
39. Self-Imposed Hardship means any lawful alteration of the configuration of a property or properties which would result in more adverse impacts to resource areas on such property or properties as a result of future development as compared to if the property or

properties remained in their original configuration(s). The Commission views any adjacent properties or properties located nearby, which are under common ownership, as part of a cumulative Resource Area impact, such that the maximum 5,000 square feet of alteration that may be allowed under certain conditions under the Wetlands Protection Act, or the proposed degree of alteration of the Resource Area under the By-Law applies to the entire area. The applicant or property owner is advised to prevent situations where they have created their own hardship by not carefully considering all likely impacts to areas subject to the Wetlands Protection Act or the By-Law. In the case of limited project proposals, proposed roadways or driveways shall be designed to provide access to all areas of the proposed site without relying upon the possibility of future wetlands crossings. The Commission shall consider any future crossings or impacts proposed to be self-imposed and will not grant further crossings or alterations in subsequent filings on a lot-by-lot basis for any project.

40. Storm Flowage means any inundation caused by a storm up to and including the 100-year storm.
41. Stream means any body of running water (lotic), 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). Criteria and standards to determine periodicity of flow are found at 310 CMR 10.58(2)(1)(a-d). A stream under the Town of Amherst General Bylaws and Regulations does not necessarily drain or flow out of an upgradient wetland.
42. Structure (within the context of the built environment) means anything that is constructed or built on a fixed location on the ground.
43. Swamp is defined in M.G.L. Ch. 131, Sec.40 (8), except where otherwise specified under Section IV. B.2. of these Regulations.
44. Town means the Town of Amherst.
45. Vernal Pool means a pool or pond which is a confined basin or depression which, in most years, holds water for two (2) continuous months ~~no permanent flowing outlet, and which is free of reproducing predatory fish populations,~~ and supports obligate or facultative species of amphibians and/or non-transient macro-organisms. Under the Town of Amherst General Bylaws and Regulations Vernal Pools are regulated the same regardless of the Certification status (meaning, they are regulated whether they are “certified” or potential vernal pools).
46. Watercourse means a stream wholly or partially man-made.
47. Wetlands is defined in the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40.

48. Wet Meadow is defined in the Wetlands Protection Act, M.G.L. Ch. 131, Sec. 40, except where otherwise specified under Section IV. B.2. of these regulations.