

**ARTICLE 11 (AMENDMENT TO DEFINITION OF “POND” AND “FRESHWATER WETLAND” UNDER LOCAL NON-ZONING WETLANDS BYLAW)**

The purpose of these proposed amendments is to make the local bylaw consistent with definitions under the regulations issued for the state Wetlands Protection Act. The current definition of “Pond” under the local non-zoning wetlands bylaw does not include an exemption for active quarries, thereby potentially placing a number of active pits in town in violation of the bylaw. This amendment is intended to provide the same level of protection for these active quarries as afforded under the State Act. The amendment of the term “Freshwater Wetlands” is also meant to exempt active quarries smaller than 10,000 square feet. The amendment to this definition is also meant to make the bylaw consistent with State regulations regarding man made areas for stormwater detention or retention. These areas may take on characteristics of wetlands. However, they must have maintenance work performed on them from time to time. The state regulations exempt these areas as wetlands so as to make it clear that further permitting by the Conservation Commission is not required for maintenance work and this is the intention of this amendment of the local bylaw.

The following is existing language and proposed new language:

**EXISTING DEFINITION OF “POND” IN LOCAL NON-ZONING WETLANDS BYLAW:**

***POND (INLAND) – Any open body of freshwater, either naturally occurring or man-made by impoundment, with a surface area observed or recorded within the last ten (10) years of at least ten thousand (10,000) square feet and which is never without standing water due to natural causes, except during periods of extended drought. For purposes of this definition, "extended drought" shall mean any period of four (4) or more months during which the average rainfall for each month is fifty percent (50%) or less of the ten-year average for that same month. Basins or lagoons which are part of wastewater treatment plants shall not be considered "ponds," nor shall swimming pools or other impervious man-made retention basins.***

**PROPOSED NEW DEFINITION OF “POND”:**

**POND - Any open body of fresh water with a surface area observed or recorded within the last ten years of at least 10,000 square feet. Ponds may be either naturally occurring or man-made by impoundment, excavation, or otherwise. Ponds shall contain standing water except for periods of extended drought. Periods of extended drought for purposes of this definition shall be those periods, in those specifically identified geographic locations, determined to be at the “Advisory” or more severe drought level by the Massachusetts Drought Management Task Force, as established by the Executive Office of Environmental Affairs and the Massachusetts Emergency Management Agency in 2001, in accordance with the Massachusetts Drought Management Plan (MDMP). Notwithstanding the above, the following man-made bodies of open water shall not be considered ponds:**

- (a) basins or lagoons which are part of wastewater treatment plants;**
- (b) swimming pools or other impervious man-made basins; and**
- (c) individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years.**

...continued

**EXISTING DEFINITION OF “FRESHWATER WETLAND”:**

*FRESHWATER WETLAND – Wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provides a significant part of the supporting substrate for plant community for at least five (5) months of the year; emergent and submergent plant communities in inland waters; that portion of any bank which touches any inland waters.*

**PROPOSED ADDITION TO DEFINITION OF “FRESHWATER WETLAND”:**

Notwithstanding the above, the following man-made areas shall not be considered freshwater wetlands:

- (a) basins or lagoons which are part of wastewater treatment plants;
- (b) swimming pools or other impervious man-made basins; and
- (c) individual gravel pits or quarries excavated from upland areas unless inactive for five or more consecutive years;
- (d) retention and detention ponds created as part of a stormwater management system.