

# *Westport Conservation Commission & Soil Conservation Board*

## *Policies & Procedures*

Rev.: 02/22/2011



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# ***Westport Conservation Commission & Soil Conservation Board***

## ***Policies and Procedures***

### **Purpose of This Document**

The intent of this document is to summarize the charter, operations, policies and procedures of the Westport Conservation Commission and Soil Conservation Board as well as offer background on the origin of both boards. This document can be amended by majority vote of the Commission.

### **Charter and Background**

In 1957 the Massachusetts legislature passed the Conservation Commission Act (G. L. Chapter 40 §8C). This law enabled municipalities to establish Conservation Commissions through a vote of the local legislative body. The initial charge of these commissions was "promotion and development of natural resources...and protection of watershed resources." With these powers, Commissions planned, acquired and managed open space, and encouraged and monitored conservation and agricultural preservation restrictions. In 1972 the legislature passed the Wetlands Protection Act (WPA). This was followed in 1978 by related, detailed regulations. The legislature assigned the responsibility of implementing the WPA regulations to local Conservation Commissions. These regulations have been periodically updated and expanded, most notably in 1983 (buffer zones), 1996 (Rivers Act), 2005 (Buffer zone Permitting) and 2008 (Stormwater).

Westport created its Conservation Commission in 1963 (see Exhibit 1). Today, the ConCom spends the vast majority of it's time and effort on WPA implementation, leaving its original conservancy duties to other municipal and private boards such as the Westport Land Conservation Trust and the Trustees of Reservations.

During the 1990's the Town of Westport became concerned with the level of soil and gravel removal that was occurring. In 1995, the Town established the Soil Conservation Commission and assigned its responsibilities to the Conservation Commission. The charge of the Soil Board is to regulate the removal and/or storage of soil or mineral materials within the Town (see Exhibit 2).

### ***Commission Members and Employees***

The Conservation Commission / Soil Conservation Board is a seven member board with individual Commissioners appointed by the Board of Selectman. Each appointment is for a 3 year term with the seven appointments staggered over three years. The Commission typically elects a Chairman, Vice Chairman and Secretary. Election of Commission officers normally occurs at the first meeting in July following new appointments for a one year term. Elections may be held in the case of a vacancy. The Conservation Commission employs a full time Principal Clerk and an Agent. The Commission also utilizes an outside Wetlands Consultant on a regular basis. The Commission has the sole authority to appoint and supervise these employees and consultants within the constraints of the annual budget.

### ***Conservancy and Special Projects***

The conservancy duties originally assigned to the Conservation Commission have largely been assumed by other Town and private organizations. These include the Agricultural/Open Space Preservation Trust Fund Council, Westport Land Conservation Trust and Trustees of Reservations and Community Preservation Committee.

Conservation Restrictions (CR's) are sometimes negotiated for certain land holdings or transfers placing deeded limitations on future development for the parcel in question. These restrictions are reviewed and approved by the Conservation Commission. The Commission usually holds these CR's on behalf of the town although much of the administrative work is performed by Westport Land Conservation Trust and Trustees of Reservations.

The Conservation Commission is responsible for updating the Town's Open Space and Recreation Plan. This plan is a town-specific community planning document which defines a town's goals toward preserving important natural, scenic, agricultural and historic lands for conservation and maintaining adequate outdoor recreation opportunities. The Plan is approved by the Massachusetts Division of Conservation Services and must be updated every five years. Towns with updated, approved Open Space and Recreation Plans are eligible for state funding under the Massachusetts Self-Help Program for the purchase and improvement of land for conservation and recreation. Westport's Plan expires in January of 2012.

### ***Participation on Other Boards***

The Conservation Commission appoints individual members to represent the Commissions' interest on any number of Town boards some of which are noted below. (See Exhibit 3 for a list of current Commissioners and assignments).

- Agricultural/Open Space Preservation Trust Fund Council
- Community Preservation Committee
- Housing Rehab Advisory Committee
- River Dredging Committee
- Storm Water Management
- Economic Development Committee

### ***WPA Filings***

The Wetlands Protection Act, Massachusetts General Law Chapter 131, Section 40 and Code of Massachusetts Regulations Chapter 310CMR 10.00 state that "*Any activity proposed or undertaken within an area specified... which will remove, fill, dredge or alter that area, is subject to regulation....*". In order to comply with the provisions of the WPA, property owners wishing to alter those portions of their property that fall under Conservation Commission or WPA jurisdiction, must file for permission with the Commission before performing the work. In general, any work **within the following resources** or their **respective buffer zones** must be permitted and conditioned by the Conservation Commission;

**WPA Filings (continued)**

<b>Resource Area</b>	<b>Buffer Zone</b>
Riverfront (200ft)	First 200 ft from the mean high water mark on river is the Riverfront resource and therefore jurisdictional. No additional buffer exists.
Perennial stream (bank)	Same as Riverfront
Intermittent stream (bank)	100 ft
Bordering Vegetated Wetland	100 ft
Pond (bank)	100 ft
Barrier beach	Entire land mass
Coastal Beach	100 ft
Coastal Dune	100 ft
Coastal Bank	100 ft
Salt Marsh	100 ft
Bordering Land Subject to Flooding	100 ft of bank/BVW or 10 yr. floodplain whichever is greater but not more than 100 yr. floodplain.
Isolated Land Subject to Flooding	No Buffer

The primary function of the Conservation Commission is to review and properly condition these permits or “filings”. The following is a list of the various types of filings considered by the Commission.

**NOI/OOC** – The **Notice of Intent** (NOI) is the primary Massachusetts WPA filing required to perform work within a Wetlands resource area or its jurisdictional buffer zone. The Conservation Commission must hold a public *hearing* for NOI’s and all abutters within 100 feet must be notified by certified mail or hand delivered correspondence. The Conservation Commission can approve or deny the filing at one of its regularly scheduled meetings. If approved, the Commission will assign specific conditions or limitations which the property owner must follow while performing the work on the project. These conditions are listed in a permit called an **Order of Conditions** (OOC) which is issued to the property owner after the hearing. The property owner is responsible for recording the OOC at the New Bedford Registry of Deeds following a 10 day waiting period and prior to commencing work on the project.

**ANRAD/ORAD** – The **Abbreviated Notice of Resource Area Delineation** is a filing used to establish the wetlands delineation on a property. The Conservation Commission must hold a public *hearing* for ANRAD’s and all abutters within 100 feet must be notified by certified mail or hand delivered correspondence. With this filing, an applicant is seeking to define where the wetlands resources exist, generally in advance of submitting an NOI for a particular project. If the delineation is correct, the Commission will issue an **Order or Resource Area Delineation** (ORAD) that will be valid for three years. The property owner is also required to record the ORAD at the New Bedford Registry of Deeds. There is still a 10 day waiting period during which the Commission’s decision can be appealed.

**RDA** – A **Request for Determination of Applicability** is the simplest and least expensive application that can be filed with the Conservation Commission. The Conservation Commission must hold a public *meeting* for its review of an RDA and no abutter notification is required. The idea here is that a small project, typically in or near the buffer zone, but no closer than 50 feet to a resource, is described so that the Commission can decide if it is jurisdictional. A short description

of the project is required, a project plan and a description of the nearby resource(s) that may or may not be impacted. If the Commission determines that the project is not within a resource area or will not have a significant impact on the resource, a *negative* determination is issued allowing the project to proceed as described. A *positive* determination is issued if the Commission determines that the project may have a significant impact on a wetlands resource. A positive determination of applicability requires that the property owner follow up with a NOI or ANRAD to obtain proper permitting and conditioning of the project.

### ***WPA Violations***

Occasionally, activities that have not been permitted are brought to the attention of the Commission and investigated. Should the Commission find that a violation has occurred, it can take a number of actions to encourage compliance with existing WPA regulations. These include requiring the filing of an NOI, ANRAD, issuing an Enforcement Order, registering such at the New Bedford Registry of Deeds, referring the case to the Massachusetts Department of Environmental Protection (DEP) or in the case of egregious violations, issuing a civil or criminal complaint against the property owner. The Commission is responsible for keeping track of any open Complaints and Violations and insuring that each is resolved in a timely fashion. It should be remembered that the goal of all enforcement activity is to seek compliance with the WPA ACT.

### ***Building Permits***

Building permit applications are submitted directly to the Building Department for approval. As part of the approval process, the application is turned over to the Conservation Commission for review. The Conservation Agent is responsible for field inspection of every application. If the project is determined to be within a wetlands resource area or jurisdictional buffer zone, the applicant will be advised of the need to file a Notice of Intent.

### ***Septic Permits & Upgrades***

Among other things, the Board of Health is responsible for overseeing new or upgraded septic projects. All septic projects (new, repaired or upgraded) are submitted to the Health Department. As part of the approval process, the application is turned over to the Conservation Commission for review. If the project is determined to be within a wetlands resource area or jurisdictional buffer zone, the applicant will be advised of the need to file a Notice of Intent.

### ***Soil Permits***

Property owners who wish to remove or store soils or minerals from or in Westport, must apply for and obtain a Soil Permit. The Conservation Agent is responsible for field inspection of the intended site prior to issuing or renewing the Soil Permit. The permit is good for 1 year at which time the application must be renewed. See Exhibit 2 for details.

### ***Subdivisions***

Permitting a subdivision is a more extensive process that involves both the Conservation Commission and the Planning Board. Typically, the proponent will start with an Abbreviated Notice of Resource Area Delineation (ANRAD) filed with ConCom to establish the location of the wetlands resource on the larger property or the wetlands line. A roadway plan is then submitted to Planning and ConCom (Notice of Intent - NOI or Request for Determination of Applicability - RDA) for approval and conditioning. The Planning Board is responsible for overseeing and conditioning the Storm Water Management aspects of the project. Finally, NOI's (as required) are filed for each individual building lot before work begins. For those lots without wetland resources, the Planning board simply provides copies of the lot plan for ConCom records.

## **Policies and Procedures**

The following policies and procedures have been adopted by past or present Commissions and are considered standard operating procedure unless otherwise specified by the Commission.

### ***Meetings***

The Commission meets every two weeks on a schedule that is published in the 4<sup>th</sup> quarter of the previous year. A quorum of the Commission (4 of 7 commissioners) needs be present to conduct a meeting. The Principal Clerk is also present at the meetings to take the minutes. The commission may decide to cancel a meeting and postpone the scheduled hearings so long as the proponents of said scheduled hearings agree to reschedule.

The Commission is responsible for establishing an agenda for each upcoming meeting. The agenda lists hearings on new filings, continuances, old business, and bills to be paid and minutes from previous meetings that need approval or other business as required. Notice of the individual filings referenced in the agenda are published in Chronicle 5 days prior to each meeting. The agenda is posted on the Town's website and advertised on local cable. Commission members have the opportunity to request items be added to the agenda by submission of said requests to the Chairman prior to the point at which the agenda is published.

WPA regulations require the Commission to open a public hearing or conduct a public meeting on a filing within 21 days of its submission provided said filing is considered complete at the time of submission. The applicant may request a continuance on a filing if more time is required to submit additional information to afford the Commission a proper review. Commission policy is to grant four (4) week continuances to allow the applicant sufficient time to address outstanding items.

Motions are passed, denied or continued by a majority of the quorum present for a meeting. In addition, the signatures of four Commissioners are required to officiate an order, notification or denial. Any of the seven Commissioners may sign the document in question, regardless of whether they were present for the vote or whether they voted favorably on the application.

### ***Meeting Minutes***

Following each meeting, the Principal Clerk will type up the minutes and send a draft copy out to all Commissioners several days prior to the next meeting. Commission members who wish to amend or revise the minutes shall mark up a copy of pages in question and make sufficient copies for distribution at the next meeting. At that time, the Commissioner wishing to make the revisions shall read said revisions into the record and request approval by vote of the Commission. Majority vote shall determine which revisions are accepted into the record. Individual Commissioners whose revisions are not accepted into the record have the option of submitting an addendum to the minutes listing those revisions that were not accepted by the Commission.

If a Commissioner wishes to submit revisions to the minutes but will not be able to attend the upcoming meeting, consideration of those revisions will be postponed one meeting to allow for the respective Commissioner to be present. Such requests must be submitted in writing or by email to the Chairman prior to the meeting in question.

### ***Emergency Action***

The Commission may approve emergency action in the case where public health or safety is in question. This can be done at a regular meeting, emergency meeting or by any member with subsequent ratification by the Commission. In all cases a site visit must be conducted and a description of allowable work issued. The permitted work shall not exceed that which is necessary to abate the emergency at hand. A copy of the emergency action must be sent to the DEP when it is issued. See attached Exhibit 18.

### ***NOI, ANRAD, RDA Filings***

1. Filings received 10 business days prior to a meeting will be heard at the next meeting or at a subsequent meeting date requested by the applicant.
2. The deadline for submission of new information to be considered at a regularly scheduled meeting is the close of business, two Fridays prior to the Tuesday meeting.
3. Filings are to be heard within 21 days of submission unless a later date is requested or accepted by the applicant.
4. A Town fee of \$125 will be assessed on all NOI's and ANRAD's. See Exhibit 4 for a complete schedule of fees.
5. All applicants and/or their representatives must submit a color coded plan prior to the hearing (see Exhibit 21)
6. Each filing is checked by Conservation Commission staff to insure it is complete prior to official acceptance. Each file type has an associated check list (see Exhibits 7, 9 & 11).
7. Prior to the commencement of a hearing, applicants filing NOI's and ANRAD's must submit proof of abutter notification and submission to DEP.
8. A 10 business day waiting period is required after Commission approval of a NOI or ANRAD. The applicant is responsible for recording the Order of Conditions or ORAD at the New Bedford Registry of Deeds with proof of such submitted to the Commission AND the applicant must provide 48 hour advance notice prior to the commencement of work (see Exhibit 5).
9. OOC's are valid for 3 years and under certain conditions may be extended up to 3 additional years with application for extension made 30 days prior to expiration. Work load permitting, the Commission attempts to notify applicants of pending expiration of OOC's 3 months prior to such expiration. However, this is a reminder is a courtesy and the applicant remains responsible for timely application for an extension. The Massachusetts 2010 Permit Extension Act granted an automatic two year extension to any municipal or state permit that was held or expired between August 15, 2008 and August 15, 2010.
10. The Commission will maintain both a paper and electronic files for each project during the filing process. Both files will be maintained indefinitely after the project is complete.
11. If the applicant wishes to request a continuance on a filing after the hearing has been opened, the applicant must sign and submit the Continuance Agreement form (see Exhibit 20). Commission policy is to grant 4 week continuances.
12. If the applicant wishes to request a continuance on a filing prior to the initial hearing, they must sign and submit both the Continuance Agreement form and the 21 Day Waiver Form (see Exhibit 19).

13. Special conditions for Order of Conditions to include Westport Conservation Commission standard boilerplate conditions (see Exhibit 5).
14. Superceding Action – In some cases, the proponent, abutter or other interested parties, may wish to appeal the Commissions rulings on a particular project to the Department of Environmental Protection. In these cases, the Commission will be afforded the opportunity to provide comment at the time of the DEP hearings and on-site visit. The DEP will issue a Superceding Order of Conditions (SOC) that either affirms the Commission’s decision, modifies or revises it or overturns it. Regardless of the outcome, the Commission will keep a proper record of the superceding action on file indefinitely.
15. The Commission will no longer require the filing of a Notice of Intent (NOI) for all septic repair projects within 50 feet of a resource. Instead, the Commission will permit the use of a Request for Determination of Applicability (RDA) for projects within the buffer zone to a resource area on a case-by-case basis at the discretion of the Conservation Agent. Emergency repairs and systems in existence prior to August 7, 1996 or the repair or upgrade of existing systems in compliance with Title V are exempt from the requirements of the Riverfront Area (see Exhibit 25).
16. All wetlands delineations on parcels of land where no septic repair or limited activities are proposed shall be filed on the Abbreviated Notice of Resource Area Delineation form (ANRAD). No delineations on RDA’s will be accepted.
17. Requests by property owners to formally determine the extent of wetlands on a property for tax abatement reasons must be accompanied by an ANRAD (see Exhibit 22).
18. NOI filings for roadways must be submitted by the applicant to the Highway Department for comment prior to a hearing (see Exhibit 24).
19. There will be a \$25 replacement fee for all lost Orders of Conditions.
20. No Activity Zones (NAZ’s) have been included on plans and Orders of Conditions for resource area protection. An NAZ is an area within a buffer zone to a resource area in which no maintenance or improvements are allowed and has typically been 25 feet wide.
21. After hour access to the Conservation office is permitted to all Commissioners. Keys are available to those members wishing such access.
22. Special conditions written up by the Agents following a meeting will be mailed to all members prior to the next meeting.

### ***Violations***

Unlike other WPA filings which are driven by the proponent's timetable, the Violation resolution process is largely driven by the Commission's desire to bring the property into compliance. As such, the Commission must be proactive in tracking and moving each violation towards resolution. At any given time there may exist complaints or violations at various stages in the process of achieving compliance. The stages of the process are described and depicted in Exhibit 13. In general, the Commission will establish a record of each complaint or violation and assign appropriate follow-up dates for each. Enforcement Orders, their subsequent registry at the New Bedford Registry of Deeds or other initiatives to encourage compliance will be undertaken by majority vote of the Commission. In the case of ongoing activity, an emergency Enforcement Order or a Cease and Desist order can be issued by any one of the 7 Commissioners or the Agent and later ratified by a majority of the Commission.

The Conservation Commission will investigate complaints and potential violations received from abutters, concerned citizens, town employees or Commission members. In order to discourage frivolous complaints and provide for a proper follow up to the person filing a complaint, a person bringing a complaint to the attention of the Commission must identify themselves and sign the complaint form. Anonymous complaints will not be investigated (see attached Exhibit 14 - 7/1/02 Policy regarding Taking and Recording Complaints via the Telephone).

Refer to the Massachusetts Department of Environmental Protection's *Wetlands Enforcement Manual* for guidance on Commission authority and suggested strategies with regard to violations.

### ***Dock Policy***

The Commission has established a dock policy for the East and West Branches of the Westport River. This dock policy (Exhibit 15) allows for the approval and conditioning of the repair or replacement of existing or previously existing docks. For these filings, the applicant should make clear that the dock project is a repair or replacement of an existing or previously existing dock. In the case of a pre-existing dock, the applicant must submit photographic or other evidence as to its previous existence and size. Minor changes to the dock's height and width are acceptable so as to bring the dock up to current construction standards. Special conditions include the Westport Conservation Commission Dock Special Conditions (Exhibit 16).

New or substantially improved docks will not be approved until such time as the Commission can properly formulate a Harbor Management Plan (HMP). In the interim period, the Commission will decline to accept or act upon the filings so that the proponent can seek a Superseding Order of Conditions from the DEP after 21 days has expired.

The DEP expects that the proponent has paid the requisite fees for proper review (normally submitted with the NOI) and that the Commission has conducted said review as a basis for the denial. Therefore, the Commission maintains an interest in properly reviewing all aspects of these projects and seeks to provide comment and guidance to the DEP for the eventual Superseding Order of Conditions. The Commission will provide the proponent with a full report and denial based primarily on our lack of a proper Harbor Management Plan. This does not preclude the possibility that other reasons for denial exist and may be included in the final documentation.

Changes in dock length or the addition of floats are considered substantial improvements.

This policy does not apply to applications for docks on other bodies of water with the town.

### ***Annual Budget***

The Town of Westport requires the submission of a budget from each department roughly 6 months before the start of the upcoming fiscal year. The Town's fiscal year runs from July 1<sup>st</sup> to June 30<sup>th</sup>. The Chairman is responsible for assembling the Conservation Commission's budget at the direction of the Commission. Exhibit 17 is a typical budget format submission.

### ***Payroll***

The Commission submits its payroll to Accounting every other week. The payroll is to be signed by the Commission Chair or Vice Chair prior to submission to the Town Accountant and the Board of Selectman.

### ***Resources***

The Commission has a number of resources available to assist in evaluation of projects and cases for which it has adjudicatory responsibility. These include;

- Various large scale topographical/street maps
- On-Line State DEP GIS maps
- Comparative aerial photography
- FEMA flood maps
- Cold Water Fisheries mapping
- NHESP maps for Estimated and Priority Habitat
- DEP Circuit Rider

## *Amendments*

08/25/09 Initial Release

02/22/11 First revision

- Page 4 – Five year Open Space & Recreation Plan explanation added.
- Page 8 – Policy #2, amended by 8/10/10 regular meeting to require all new information on a filing be submitted two Fridays before a scheduled meeting
- Page 8 – Policy #9, State 2 year permit extension added.
- Page 9 – Policy #15, Septic repairs in buffer zones no longer require an NOI and may be filed as an RDA at the discretion of the Agent per motion at the 11/03/09 regular meeting.
- Page 9 – Policy #21, after hour access to the Conservation office is permitted to all Commissioners per motion at the 08/10/10 regular meeting.
- Page 9 – Policy #22, Special conditions written into O of C's subsequent to a meeting are to be forwarded to all Commissioners prior to the next meeting.
- Page 10 – Dock Policy – amended to codify the denial process per the 10/05/10 regular meeting.
- Exhibit #5 – Standard Special Conditions Boilerplate appended to add condition #5 per the 10/05/10 regular meeting.
- Exhibit #25 – Buffer Zone Septic Repair policy amended to allow the use of RDA's per the 11-03-09 regular meeting
- Page 13 – Resource list amended to include WPA Preface Appendices

## ***Exhibits***

1. 1963 Town Meeting Article 51 Establishing Westport's Conservation Commission
2. 1995 Article 40 Establishing Soil Bylaw
3. Current CC Commissioners and Personnel & Outside Committee Assignments
4. FY2010 Filing fee schedule
5. Order of Conditions Cover Sheet and Standard Special Conditions Boilerplate
6. NOI Flowchart
7. NOI Checklist
8. ANRAD Flowchart (TBD)
9. ANRAD Checklist (TBD)
10. RDA Flowchart
11. RDA Checklist
12. Violations Process Flowchart
13. Violations Process Categories & Description
14. Process for taking and recording of complaint
15. Westport River Dock Policy
16. Dock Special Conditions
17. Typical CC budget submission
18. Emergency Action Certification
19. Waiver of 21 Day Requirement
20. Continuance Agreement
21. Color Coded Plan Requirement
22. Wetlands Delineations for Tax Abatement
23. Wetlands Delineation to be ANRAD not RDA
24. Highway Department Review for Roadways
25. Septic System Repair Projects
26. Abutter Notification

## ***Links***

[Massachusetts Wetlands Protection Act](#)

[310 CMR 10.00 WPA Regulations](#)

[310 CMR 10.00 WPA Preface Appendices](#)

[A Guide for Effective Compliance with the Massachusetts Wetlands Protection Act Regulations](#)

[Roberts Rules of Order](#)

Article 47. Voted: (Unanimously) to authorize the Moderator to appoint a committee to serve as a library committee, for the continuance of the study and exploration of Town Library Needs; said committee to make its recommendations to the Town, at a special or regular town meeting, at the discretion of the committee.

Article 48. Voted: (Unanimously) to raise and appropriate the sum of \$500. as Westport's share of a regional appropriation of twenty-five hundred dollars, to be used by the Regional District Vocational School Study Committee, to develop specific plans and recommendations for the development of a Vocational Regional School, which will be presented at a future town meeting.

Article 49. Under Article 49 the following resolution was presented: "It is the sense of this meeting that the posting of any political signs within the Town of Westport should be prohibited, and this meeting requests the Westport Planning Board to draft a proposed zoning by-law banning the posting of any such political signs or posters in the town at any time, and process such proposal for our consideration at the next annual town meeting."

Article 50. Voted: (Unanimously) to raise and appropriate \$200. to repair the Legion Hall roof.

Article 51. Voted: (Unanimously) to accept the provisions of General Laws Chapter 40 Section 8C and establish a conservation commission thereunder, for the promotion and development of the natural resources and for the protection of watershed resources of the town and appropriate \$200. therefor.

Article 52. Voted: (Unanimously) to raise and appropriate \$2,500. for the purpose of maintaining during the ensuing year, the mosquito control works as estimated and certified to by the State Reclamation Board in accordance with the provisions of Chapter 122 Acts of 1931.

Article 53. Voted: (Unanimously) to raise and appropriate \$1400. in accordance with Section 11, Chapter 660 Acts of 1948 for Gypsy Moth work.

Article 54. Voted: (Unanimously) to raise and appropriate the sum of \$1400. in accordance with Section 13, Chapter 761 Acts of 1949 for Dutch Elm work.

Article 55. Voted: (Unanimously) to raise and appropriate \$20,636.35 for Pension Fund.

Article 56. Voted: (Unanimously) to raise and appropriate \$15000. for Insurance on Town Employees under Chapter 32B of the General Laws.



Boston, Massachusetts

The foregoing amendments to the zoning by-laws adopted under articles 42 and 43, and the amendments to the general by-laws adopted under articles 40 and 41, all of the warrant for the Westport annual town meeting that first met on April 4, 1995, are approved.

SCOTT HARSHBARGER  
ATTORNEY GENERAL

A handwritten signature in black ink that reads "Jonathan A. Abbott". The signature is written in a cursive style and is positioned above a horizontal line.

Jonathan A. Abbott  
Assistant Attorney General

June 16, 1995



# TOWN OF WESTPORT

Westport, Massachusetts

816 Main Road  
Westport, MA 02790

Tel. (508) 636-1000

Marlene M. Samson  
Town Clerk

Westport, MA 02790

April 11, 1995

The following articles were voted on at the reconvened Annual Town Meeting held on April 6, 1995.

## ARTICLE 40.

To see if the Town will vote to amend Article XI of the Town By-Laws to read as follows: (Changes highlighted in bold)

## ARTICLE XI

### SOIL CONSERVATION:

#### ESTABLISHMENT OF SOIL BOARD

1101.1 A Soil Conservation Board is hereby established in the Town of Westport for the purpose of regulating the removal of earth minerals from the land within the Town and enforcing the provisions of this By-Law. The Town Conservation Commission shall also serve as the Soil Conservation Board and administer the regulation of this Board. Note: Please refer to Definitions 1101.15.

#### SUBDIVISION AND PERMIT APPLICATION REQUIREMENTS

1101.2 Except as hereinafter provided, no earth minerals shall be removed from any land within the Town without a written permit from the Board, stating the land to which it applies, issued after a public hearing, a notice of which, setting forth the time, place and purpose of said meeting and the land with reference to which application has been made, shall have been published in an English language newspaper published in either Fall River, New Bedford, Dartmouth or Westport and serving the Town of Westport at least four (4) days prior to the date set for such a hearing.

A. Any person wishing to remove earth minerals from a property or establish a storage or transfer site for earth minerals from a property in the Town shall file a formal application with the Board which application shall include the following specific information and supporting documentation:

1. The location of the proposed excavation, or storage or transfer site.
2. The legal name and address of the owner of the property.
3. The legal name and address of petitioner.

4. Names and addresses of all abutting property owners, including those lying directly across any streets.
  5. A plan shall be submitted showing the area to be excavated and the area to be restored. The plan shall show existing contour elevations, at 10-foot intervals, derived from U.S. Geodetic Survey maps, and proposed contour elevations, at 5-foot contour intervals, drawn from the U.S. Geodetic Survey map and signed and notarized by the preparer. The requirement for said plan may be waived by a majority vote of the Board in cases where the total area excavated or to be excavated does not exceed two acres.
  6. A proposed form of performance bond to be issued in an amount not less than \$5,000.00 per acre by permit.
  7. Photographs shall be required, before any permit or renewal will be issued by the Board, of sufficient size to show the area to be excavated for soil removal and the immediate surrounding area.
- B. The applicant for the permit shall notify the abutter or abutters of the property on which the permit is applied for by registered mail at least 3 days prior to the hearing on the permit. Proof of this action shall be delivered to the Board 3 days prior to the hearing.

#### EXEMPTIONS

- 1101.3 A permit shall not be required for the removal of earth minerals in the course of excavation incidental to the construction of a building. A permit shall also not be required for the removal of earth minerals for use upon the same premises or in the ordinary and customary use of land in Westport for a farm, garden, orchard or nursery and purposes incidental thereto except where this removal or transfer of earth minerals exceeds 100 cubic yards and then a permit will be required in accordance with Section 1101.2. The Board may issue a permit without a hearing for such removal for use within the Town of not more than twenty yards of earth minerals for any other purpose which is not commercial.

#### PERMIT CONDITIONS

- 1101.4 In issuing a permit the Board shall impose reasonable conditions, which shall be written upon and shall constitute part of the permit, requiring the restoration of the land within a designated period by grading, levelling or filling and replacing sufficient top soil for planting cover, to the end that no substantial injury to the health, safety, convenience, welfare, beautification, economic status of the district, Town and the inhabitants will be caused by the acts authorized by such permit. Conditions shall in like manner be imposed to provide adequate protection for the neighborhood and the Town from nuisances that may arise in the course of such removal and specifically that the finished grade and contour of the land after the material has been removed shall be such as not to direct the flow of drainage water onto an abutter's property or private or public way. If any removal authorized by paragraph 1102 hereof is carried on in a substantial injury to the welfare of the Town and the Town is not adequately protected by the conditions imposed by the permit, the Board may, without hearing, impose additional

restrictions or revoke said permit. The Board may, and in the case of the removal of any earth minerals for commercial purposes, require a bond with adequate surety or sureties conditional upon the performance of conditions imposed under this paragraph. The Board will not grant permits for commercial purposes unless proof of variance granted by the Westport Board of Appeals is submitted along with the permit request. The Board may revoke or suspend a permit if the Conditions are not complied with. No permit shall be issued for the removal of soil within 5' of the average maximum groundwater elevation, except as provided for by special permit of the Soil Board.

#### TOP SOIL OR LOAM REMOVAL

- 1101.5 A permit shall not be issued for the removal of top soil except upon condition that a cover of top soil of not less than six inches in depth shall be allowed to remain or shall be replaced; provided, however, that a permit may be granted for the removal of all of the top soil or loam when necessary for or incidental to the construction of a road, or other permanent facility which changes the character or the use of the land; but in such case the Board shall require sworn evidence of good faith in the intent of the applicant to complete such road or other facility, and shall make such evidence part of its records.

#### PERMIT LOCATION RESTRICTIONS

- 1101.6 A permit shall not be issued for the removal of earth minerals within 300 feet of a public way or within 250 feet of a private way or within 250 feet of an abutting owner unless the Board finds that such removal will not undermine the way or otherwise endanger the safety of public travel upon it, or impair the convenience and welfare of the public or the amenities of living in the houses upon such way, or injuriously affect the abutting owners.

No permit shall be issued for the removal of earth minerals within 25 feet plus a sufficient distance to provide a 3 horizontal to 1 vertical foot slope from an abutting owner.

#### PERMIT EXPIRATION AND RENEWAL REQUIREMENTS

- 1101.7 A permit issued under this by-law shall expire upon completion of the removal of the earth minerals for which it was issued, and in any event upon the expiration of one year from the time it was issued. If at the expiration of said year it appears that the operations for which such permit was issued have been carried on continuously and in good faith but have not been completed and that all conditions presently applicable have been complied with, the permit may be renewed for an additional year without a hearing, provided an application for renewal is made 30 days prior to the expiration date of the permit. The expiration or revocation of the permit shall not affect the obligation of the holder thereof to comply with the conditions attached to the permit, or release him or the surety on his bond from the obligations thereof or require the return of any deposit made by him until such conditions have been complied with.

PREVIOUS USAGE

- 1101.8 Whenever the Board shall find that the removal of any earth minerals had previously been undertaken in a particular location and was in continuous operation, at the time when notice of the warrant for the Town meeting at which this By-law was adopted was given, a permit for the further continuance of such operation within the same territorial limits shall be without a hearing; but such permit may be issued subject to conditions in the same manner as other permits.

COVERAGE OF SEVERAL LOCATIONS

- 1101.9 If a commercial operator and/or person engaged in the removal of earth minerals within the town and/or storage or transfer site for earth materials from a property in the Town pursuant to permits covering more than one location is found to be in violation of these by-laws or the terms of any such permits with respect to a particular location, and such violations remain uncorrected, the Board may, in its discretion, terminate the renewal of all permits held by such operator or person and/or suspend the renewal of all permits held by such operator or person until such violation is corrected.

FEES, TOWN

- 1101.10 The Board shall establish a fee for the issuance of permits under this By-law which shall be no more than sufficient in the opinion of the Board to reimburse the Town for the cost of applying and enforcing this By-Law; and no permit shall be issued until such fee is paid. The fees collected under this paragraph shall, at interval determined by the Board, be paid over to the Town Treasurer.

FEES, STATE

- 1101.11 The Conservation Commission may establish reasonable filing fees for the implementation of M.G.L. Chapter 131, Section 40.
- A. Such fee schedules may be implemented after a public hearing, the time, date, and place, subject of which must be published seven (7) days in advance in a newspaper of general circulation; and after publication of the final rate schedules in at least one newspaper of general circulation ten (10) days in advance of the effective date of such schedule.
  - B. Prior to the implementation of any filing fees, such fee schedule shall be submitted to and approved by the Board of Selectmen.

VIOLATIONS

- 1101.12 If the Board shall find that there has been a violation of this By-Law, the Board shall send by registered mail to the offender a written warning; and if such violation continues, the penalties authorized by Chapter 352 of the Acts of the Massachusetts Legislature of 1951 shall be imposed and the penalty for removing earth minerals in violation of this By-law shall be a fine of fifty (\$50.00) dollars for the first offense after such warning; one hundred (\$100.00) dollars for the second offense; and two hundred (\$200.00) dollars for any subsequent offense. Each day on which the removal of earth minerals takes place shall constitute a separate offense for the person removing the same. If the offender holds a permit issued under the By-law such permit shall be revoked.

PROTECTION OF PUBLIC HEALTH AND SAFETY

- 1101.13 When the Board finds that any excavation hitherto made for the purpose of removing earth minerals is maintained in such a way as to endanger the public health or safety or to constitute a nuisance, the Board shall request the Board of Health to take steps as are authorized by law to protect the public health and safety, or to cause such nuisance to be abated.

INSPECTIONS

- 1101.14 The Soil Conservation Board and their officers or agents may, as far as they deem it necessary in carrying out the Soil Conservation By-Laws, enter upon any land in the Town of Westport of anyone holding a soil removal permit, to make examinations and surveys and to place and maintain markers.

DEFINITIONS

- 1101.15 Definitions - Earth Minerals are defined in this By-law to include all forms of soil without limitation, specifically including but not limited to loam, sand, gravel, clay, humus, peat, hardpan, rock, granite, minerals, ores and fossil fuels, etc

Removal - is defined in this By-law as stripping, digging, excavating or blasting of earth minerals from a lot or parcel of land for the purpose of clearing it away from such lot or parcel of land as well as the actual taking away of such earth minerals.

Applicant - For the purposes of this By-law "applicant" shall be the person or persons making application to remove earth from a property in the Town.

UNCONSTITUTIONALITY

If any sections of this proposed Soil Conservation By-Laws are declared unconstitutional, the remainder of the law shall stand.

VOTED: Carried

A true copy,  
Attest:

*Marlene M. Samson*  
Marlene M. Samson  
Town Clerk

**Westport Conservation Commission & Soil Conservation Board**

*Members as of 07-01-10 and Committee Assignments*

Edward Rooney, Chairman

Paul Joncas, Vice Chairman ..... Agricultural / Open Space Preservation  
Trust Fund Council

Lucy Keefe..... Conservation Restriction Coordinator

Jeff LaValley ..... Storm Water Management Committee

Thomas Martin

John Reynolds ..... Beach Avenue Committee

R. Michael Sullivan ..... River Dredging Committee  
Community Preservation Committee

*Commission Employees*

Andrea Coates, Conservation Agent ..... Housing Rehabilitation Advisory  
Committee

Leone Farias, Principle Clerk

Mary Trudeau, Consulting Agent

<b>Westport Conservation Commission Fee Schedule FY2010</b>		<b>Fee</b>
<b>WPA Fees</b>		
	<b>NOI/ANRAD Filing</b>	Varies
	<b>NOI/ANRAD Surcharge</b>	\$ 125
	<b>Extensions</b>	\$ 150
	<b>Certificate of Compliance</b>	\$ 150
	<b>Amendments</b>	\$ 150
<b>Town Filing Fees</b>		
	<b>RDA</b>	\$ 75
	<b>Soil Permits</b>	\$ 250
	<b>Soil Renewal</b>	\$ 200
	<b>Building Permit Review</b>	\$ 25
	<b>Building Permit Site Visit</b>	\$ 25
	<b>Septic Repair/Replacement Review</b>	\$ 25
	<b>Septic Repair/Replacement Site Visit</b>	\$ 25
<b>Miscellaneous</b>	<b>Copies (each)</b>	\$ 0.50
	<b>Replacement Order of Conditions</b>	\$ 25



# TOWN OF WESTPORT

856 Main Road  
Westport, Massachusetts 02790  
Tel. (508) 636-1019

*Conservation Commission*  
*Soil Conservation Board*

**Dear Applicant:**

**Order of Conditions is good for three years and expires**

**Prior to start of work you must do the following:**

- ◆ **Read your Order of Conditions especially the SPECIAL CONDITIONS attached and keep a copy on site**
- ◆ **Record the Order of Conditions at the Bristol County Registry of Deeds and provide copy as proof for file in the Conservation Commission office.**
- ◆ **Post the Department of Environmental Protection file number at the site in a visible location.**
- ◆ **Notify Conservation Commission office 48 hrs. in advance of start of work to schedule site visit to check installation of erosion and sediment control measures. No work to begin until Agent/Commission agrees that measures have been properly installed at approved location**

**The attached Order of Conditions is valid for three (3) years and can be extended for additional time. The Commission must receive a request for an Extension 30 days prior to date of expiration of this Order of Conditions along with a check for \$100 fee. When the project is complete, request a final inspection and a Certificate of Compliance to close the file.**

- ◆ **If filing was for an ANRAD for Simplified Review: Notice of start of work must be in writing one week prior to commencement of work to allow verification that erosion and sediment controls are properly installed and will be maintained at the limit of work or at least 50' from resource area, whichever, is further away, sufficient to prevent sediment from reaching resource areas during construction.**

## Standard Special Conditions

**Westport Conservation Commission**

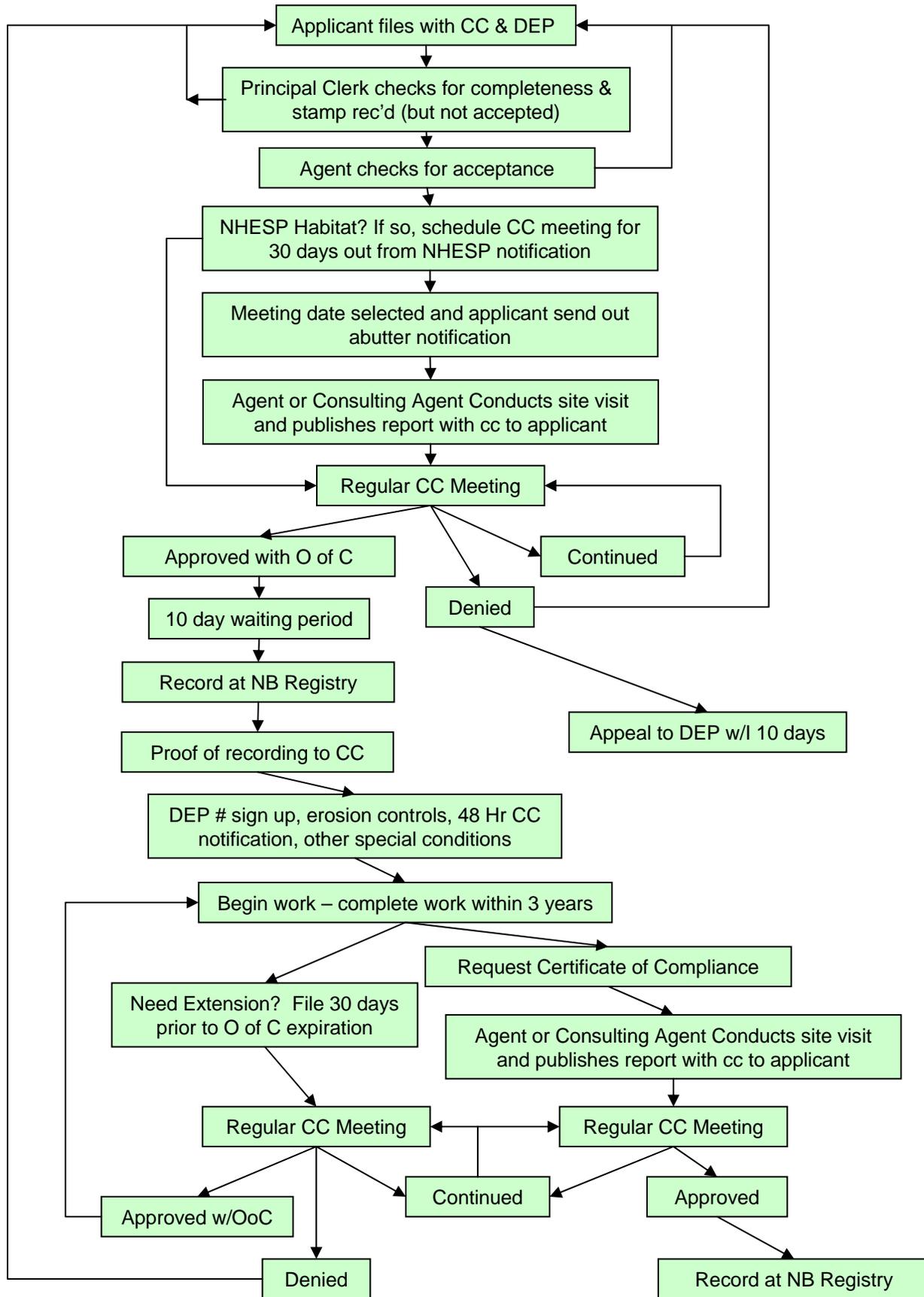
This Order of Conditions is granted for

PLEASE READ CAREFULLY.

Additional conditions as follows:

- 1) Erosion and sediment control shall consist of entrenched, back-filled, and staked silt fence and entrenched back-filled and entrenched hay bales, as shown on the plan of record. This shall serve as the limit of work.
- 2) Owner/contractor shall give 48-hr notice to the Conservation Commission prior to the start of work to schedule a site visit by Agent to evaluate installation of the erosion and sediment control measures. No work shall begin until Agent/Commission agrees that erosion and sediment control measures have been properly installed at the approved location.
- 3) The Commission and its agent shall retain the right to enter the property during normal working hours to ensure that the terms of the Order of Conditions are being met.
- 4) Each contractor working under this Order shall be furnished a copy of this Order prior to the start of any work. A copy of this Order shall be present on site during any work being performed under this Order.
- 5) All work shall be done in compliance with the approved plans. Any deviation from the approved plans shall be submitted to the Conservation Commission for approval prior to implementing the project change.

**Westport CC NOI & ANRAD Filing Process**



## Wetland Filings and Forms

**CHECKLIST for COMPLETENESS - NOI Filings**

Guidelines for Filing a Notice of Intent with the Westport Conservation Commission

**Clerk Check:**

- 2 copies completed Notice of Intent package (application and plans) to the Westport Conservation Commission Agent's report and check with proof of payment to DEP
- Applicant name- not just agency, and contact **phone number** and **email** \_\_\_\_\_
- Property owner
- Project Description must be clear

**Agent check:**

- Project Impacts must be filled out completely (including work in 100-foot buffer zone from Bank and/or BVW. Check numbers against plans for consistency)
- Appropriate sections of Areas Subject to Regulation and Performance Standards filled out completely (will vary with project)
- NHESP notified
- USGS Quadrangle
- If **limited project** exemption is requested, check regulations for accuracy (310 CMR 10.53)
- NOI Form (Page 7) must include check number, date, and payor (for Cons. Comm. check)

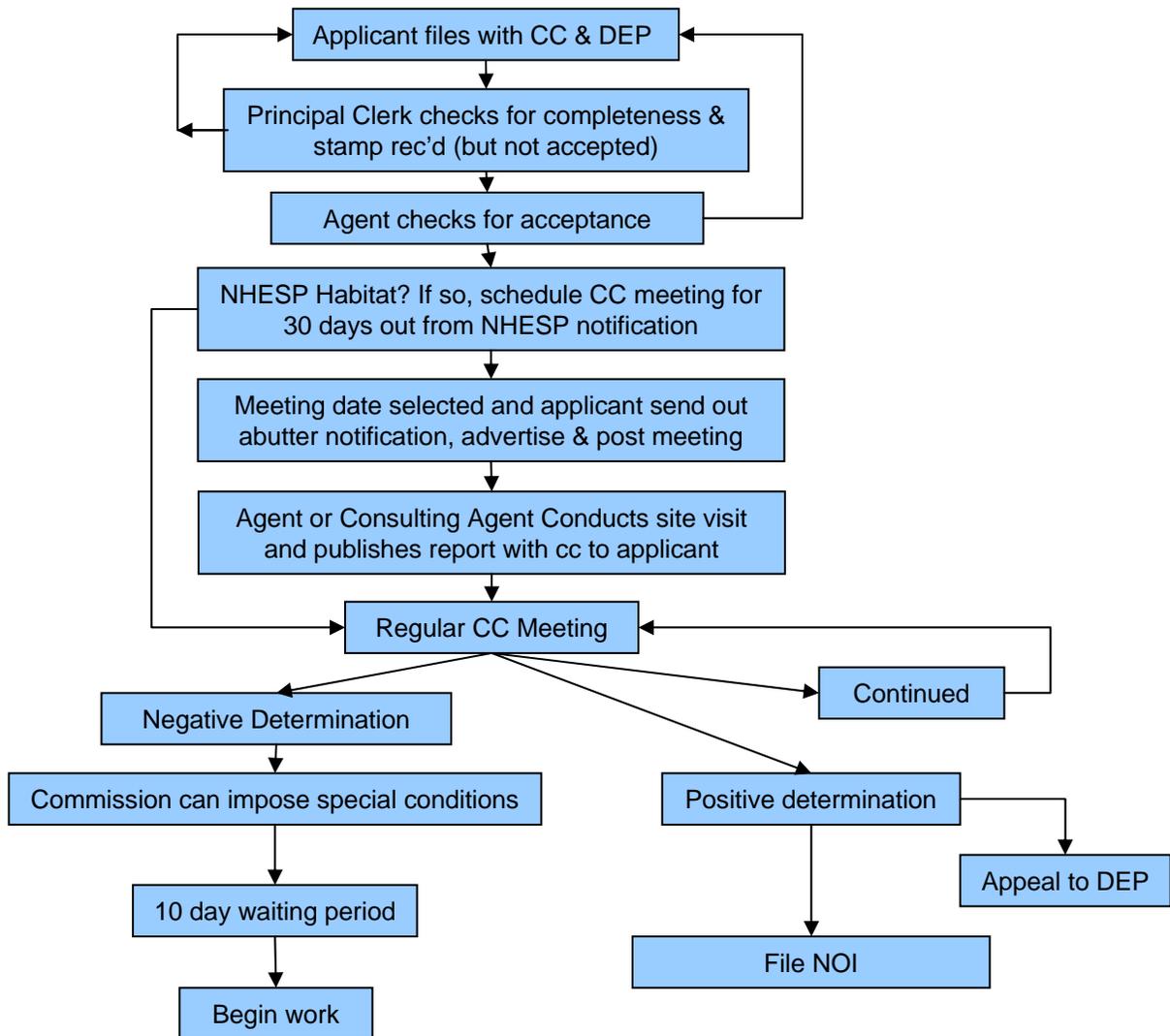
The following must accompany application and have been checked as present:

- 1. Submit a check in the correct amount for Wetland Filing Fees payable to the WCC, with fee transmittal form (WPA Appendix B) attached (cities and town exempt from filing fees), and a check for the Town fee, and the notice in the Chronicle
- 2. Proof of payment to DEP lock box (copy of check)
- 3. Signed Stormwater Management Form (WPA Appendix C)
- 4. Abutters list (required for all projects except when MassHighway is the applicant)
- 5. Notification to Abutters – Sample of letter sent to abutters notifying them of project
- 6. Engineering plans, showing site location and  
AND PROJECT PLANS showing
  - GIS map
  - NPDES
    - Existing conditions
    - Proposed work should be staked in the field
    - Regulated resource area(s) boundaries – including ILSF, riverfront, if present (Highlighted)
    - Buffer zone(s) boundaries (Highlighted)
    - Should be stamped and dated (stamp not required by DEP, but may be required by Cons.Com.
    - Scale (no greater than 50 scale)
    - North arrow
    - Title Block
- 8. FEMA map showing project location relative to flood zone and FEMA benchmarks, if applicable, OR FEMA lines superimposed on above site location map.  
Additionally, as applicable, submit
  - Any photographs related to this project which may show the affected resource areas
  - Documentation supporting compliance with MA DEP's Stormwater Management Policy and Stormwater Management Guidelines
  - Details of drainage system, including oil separating catch basins, particle and oil separators, detention systems, outfalls, sewer connections, etc

# **ANRAD Flow Chart**

# **ANRAD Checklist**

**Westport CC RDA Filing Process**



Wetland Filings and Forms  
 CHECKLIST for COMPLETENESS – RDA Filings  
 Guidelines for Filing a Request for Determination of Applicability

Date: \_\_\_\_\_

Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

**Clerk check:**

- 1. Two copies of "Request"
- 2. Two copies of Plan

including:

- Applicant name, not just agency and contact phone number and email address \_\_\_\_\_
- Property owner
- Project Description must be clear

**Agent Check:**

- Project Impacts must be filled out completely (including work in 100' buffer zone from Bank and/or Bordering Vegetated Wetlands. Check numbers against plan for consistency)
- NHESP notified
- Appropriate sections of Areas Subject to Regulation and Performance Standards filled out completely (will vary with project)

***The following must accompany application and have been checked as present:***

- Submit a check in the correct amount of filing fee and a check for the legal ad in the Chronical, both payable to the Town of Westport.
- Stamped and dated engineer drawn plans or hand drawn plans if simple project showing the site location and

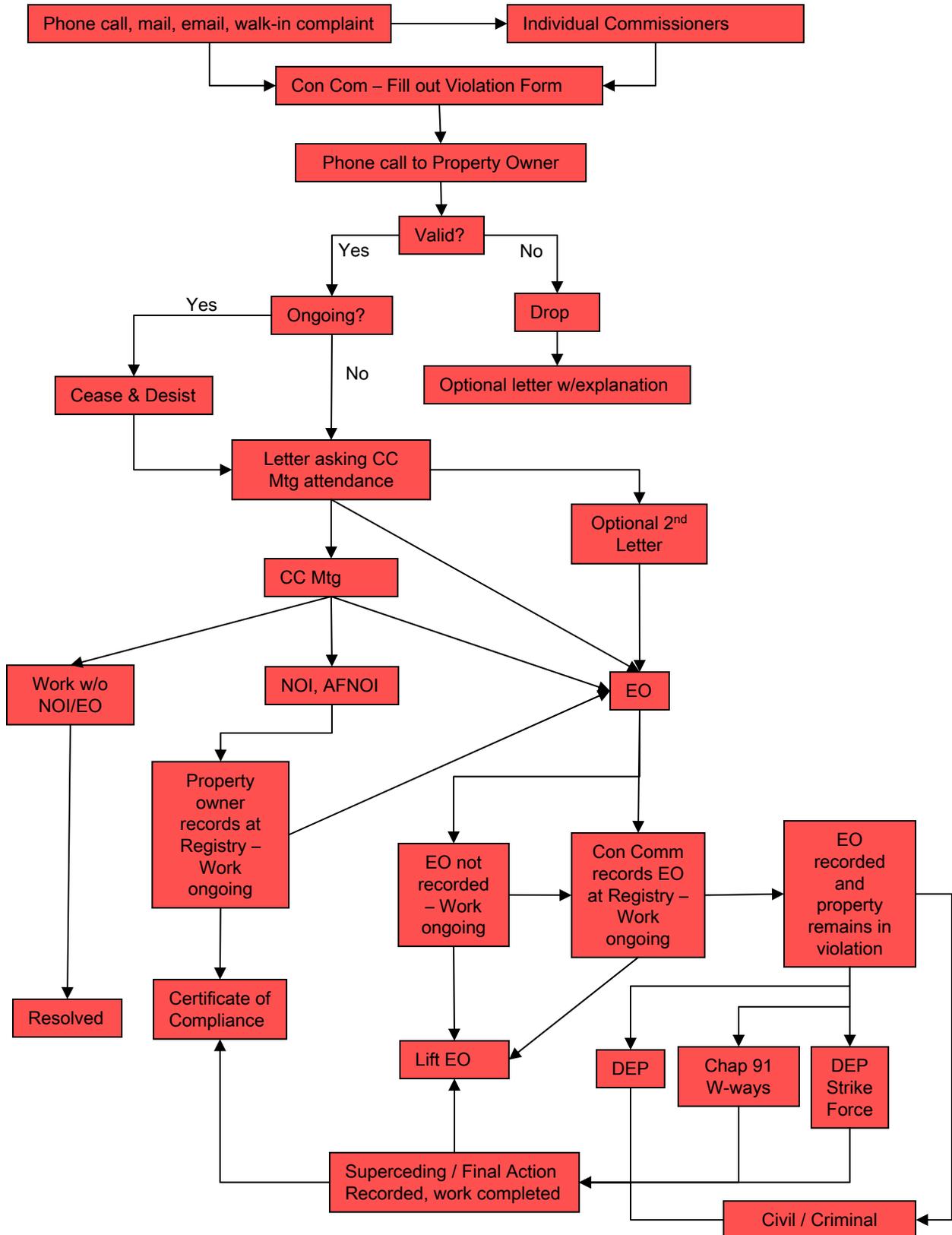
INCLUDE:

- existing conditions
- proposed work
- regulated resource area(s) boundaries – including ILSF if present(Highlighted)
- buffer zone(s) boundaries (Highlighted)
- should be stamped and dated
- scale (no greater than 50 scale)
- north arrow
- title block
- FEMA map showing project location relative to flood zone, if applicable or FEMA lines superimposed on above site location map.

Additionally, as applicable, submit

- any photographs related to this project which may show the affected resource areas
- documentation supporting compliance with MA Department of Environmental Protection's Stormwater Management Policy and Stormwater Management Guidelines
- details of drainage system, including oil separating catch basins, particle and oil separators, detention systems, outfalls, sewer connections, etc.
- NPDES

# Westport CC Complaint / Violation Process



**Complaint / Violation Categories & Description**

<b>Stage</b>	<b>Description</b>
1.	Complaint Received
2.	Property Owner Contacted
3.	Cease & Desist
4.	Written Request to Attend CC Meeting
5.	Work Ongoing w/o EO or NOI
6.	NOI, AFNOI, ANRAD (not yet recorded)
7.	NOI, AFNOI, ANRAD Recorded – work ongoing
8.	Enforcement Order Issued
9.	Enforcement Order – Not recorded, work ongoing
10.	Enforcement Order – Recorded, work ongoing
11.	Enforcement Order – Recorded, continued violation
12.	Department of Environmental Protection
13.	Department of Environmental Protection – Strike force
14.	Department of Environmental Protection – Chapter 91
15.	Criminal / Civil Action
16.	Resolved



# TOWN OF WESTPORT

Exhibit 14

856 Main Road  
Westport, Massachusetts 02790  
Tel. (508) 636-1019

*Conservation Commission*  
*Soil Conservation Board*

## POLICY FOR TAKING AND RECORDING OF COMPLAINTS VIA THE TELEPHONE (Procedures and Forms derived from DEP regulations)

1. The call is logged in on the Telephone Message slip with the name and telephone number of the Caller with time and date.
2. Caller is informed the Agent will investigate the complaint and call back with a report on the findings after an onsite investigation.
3. Caller is assured their name will not be released without their authorization.
4. Message is given to Agent.
5. Agent does onsite and determines if a violation has occurred. Agent returns the telephone call with results of his findings. A written report of the onsite is filed.
6. If a violation has occurred the Agent makes a report and renders it to the Commission at the next meeting.
7. Agent gives notice to person violating the Wetlands Protection Act immediately and advises them that there will be an Agent's report given to the Commission for action to be taken.
8. At the next meeting of the Commission, the Commission reviews the alleged violation and decides what form of corrective action should be taken.
9. A letter is sent to the person violating the Wetlands Protection Act and is advised an Enforcement Order will be issued if corrective measures specified by the Commission are not taken.
10. If no satisfactory response from the alleged Violator is received by the Commission, An Enforcement Order is issued with a date certain. As an inducement for response, the Commission will inform the alleged violator the Enforcement Order will be sent to Registry of Deeds. A voucher is prepared and when the check is received the Agent takes an original Enforcement Order to the Registry of Deeds where it is recorded on the Deed.
11. If and when the matter is resolved in the interests of the Town, a Certificate of Compliance is issued which can be used to clear the Deed at the Registry.

7/1/02



# TOWN OF WESTPORT

Exhibit 14

856 Main Road  
Westport, Massachusetts 02790  
Tel. (508) 636-1019

*Conservation Commission*  
*Soil Conservation Board*

## COMPLAINT FORM

**All Complaints MUST BE SIGNED**

Date: \_\_\_\_\_

Please Print

### PERSON FILING THE COMPLAINT

I hereby file a complaint with the Town of Westport Conservation Commission

Name:
Address:
Phone:

This complaint alleges the following:

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\_\_\_\_\_  
Signature

Please turn over for further space



# TOWN OF WESTPORT

856 Main Road  
Westport, Massachusetts 02790  
Tel. (508) 636-1019

*Conservation Commission*

*Soil Conservation Board*

Policy: Dock Application Acceptance

Whereas the Westport Conservation Commission (the Commission) is statutorily charged with protecting the Westport River Estuary as a valuable and irreplaceable wetland and waterway resource of the Commonwealth and the Town of Westport, and the unplanned and uncontrolled construction of docks and piers threatens the natural resources of the River and the interests stated in the Wetlands Protection Act, MGLc 131, §40, the Commission hereby adopts the following policy, effective immediately:

New dock or pier applications for proposed docks and piers to be located in any part of the East or West Branch of the Westport River, including the area known as Westport Harbor, shall not be accepted by the Westport Conservation Commission unless such application is filed complete.

For the purposes of filing with the Westport Conservation Commission, a complete application shall consist, at a minimum, of a completed Notice of Intent, the appropriate fees, detailed stamped engineering plans, including onshore and offshore elevations in one (1) foot increments relative to mean high water, assessments and comments of the proposed dock or pier plan from the Westport Harbor Master and Westport Shellfish Constable, a copy of a Harbor Management Plan for the Westport River approved by the Secretary of the Executive Office of Environmental Affairs and the Town of Westport, and a narrative detailing how the proposed new dock or pier is consistent with the Harbor Management Plan.

New dock or pier applications which do not contain all of the above information shall be returned to the plan proponent or his/her representative unprocessed. Inclusion of all of the information listed above does not limit the right of the Commission to request additional information, once an application has been accepted, for the purpose of issuing a final Order of Conditions.

Signed,

*John Cicciotti*  
\_\_\_\_\_  
*John Calvin Stephenson*  
\_\_\_\_\_  
*John D. Rydzko*  
\_\_\_\_\_  
*Robert J. Gray*  
\_\_\_\_\_  
*Jim O'Connell*  
\_\_\_\_\_  
*Syrian Pedreira*  
\_\_\_\_\_

28 NOVEMBER 2000  
Date

## DOCK CONDITIONS

SE 80-

Name

Address

Date

1. This Order approves the proposed construction of a ----- fixed elevated access ramp, a \_\_\_\_ fixed elevated timber pier, a \_\_\_\_\_ ramp and an \_\_\_\_\_ floating dock over and into the waters of the Westport River
2. Prior to commencement of construction, the project proponent must apply for and obtain a Chapter 91 License.
3. Prior to commencement of construction and at the discretion of the Westport Shellfish Warden, and under his supervision, the applicant may be required to purchase seed shellfish and seed adjacent areas. The quality of seed shall be determined and approved by the Shellfish Warden.
4. Construction of the pier is to be accomplished by working out from and upon completed portions of the pier. No heavy construction equipment, vehicles or barges are permitted on the salt marsh or tidal flat during construction of the pier.
5. 5. Alternatively, construction may be accomplished from a barge operating in at least two feet of water. The barge shall not be permitted to ground out at low tides.
6. The path leading to the access ramp shall be no greater than eight (8) feet wide.
7. Alteration of salt marsh vegetation is prohibited, other than for placement of two (2) piles. The “area of less dense vegetation to be trimmed to accommodate pier” as shown on the plan of record shall not include the salt marsh.
8. Any area that is disturbed during construction is to be revegetated immediately, or as soon thereafter as the growing season commences, with appropriate local indigenous vegetation.
9. In order to mitigate potential adverse impacts to salt marsh productivity, and to allow sunlight to penetrate to the vegetation below, the pier and walkway over the marsh shall be elevated to not less than four (4) feet above the marsh and the individual deck planks of the structure are to be spaced at least ½ inch apart.
10. Dredging (including but not limited to the effects of propwash) is neither proposed nor permitted in this filing.

11. Minimal jetting of the piles to set them into place is permitted. Then the piles shall be mechanically driven to refusal. The piles in the salt marsh and coastal bank shall be placed by hand.
12. The use of timbers pressure treated with Creosote, CCA (Chromated Copper Arsenate) or the equivalent is prohibited as construction material. As proposed, the use of timbers pressure treated with A.C.Q. (Alkaline Copper Quaternary) is permitted or untreated materials such as steel, fiberglass or greenheart are permitted.
13. The float stops on the \_\_\_\_\_ floating dock shall be set a minimum of two (2) feet above the bottom of the Westport River.
14. If removed, any portion of the dock or float system shall be stored in a suitable upland location or upon the permanent portion of the pier and not in a vegetated wetland or on the coastal bank. Said storage shall be in conformance with any applicable local, state or federal requirements.
15. Future maintenance of the approved structure, in strict compliance with the above referenced plan and the conditions of this Order is permissible.
16. Upon completion of the project, a Certificate of Compliance shall be requested in accordance with General Condition No 12, and under the provisions of 310 CMR 10.05 (9)(d). An "As Built" plan and a statement from a Registered Professional Engineer certifying compliance with the conditions of this Order shall accompany the request for a Certificate of Compliance.

FISCAL YEAR 2010  
BUDGET FORM  
PAGE 1

DEPT # 171  
DEPT NAME CONSERVATION COMMISSION  
DEPT SIGNATURES

ACCT	ACCOUNT DESCRIPTION	FY 2007 ACTUAL General Fund	FY 2008 ACTUAL General Fund	FY 2009 APPROP General Fund	FY 2010 REQUEST General Fund	FY 2010 WPA Fund Contribution	FY 2010 Total Budget Including WPA Funds	SELECTMEN RECOMMEND.	FINCOM RECOMMEND.
5100	PERSONNEL - From Gen Fund	60,314.53	61,764.00	63,695.00	56,722.59	20,383.66	79,606.25		
5700	GENERAL EXPENSES - From Gen Fund	5,472.46	8,993.00	9,217.00	9,067.00	35,000.00	44,067.00		
	<b>TOTALS - From Gen Fund</b>	<b>65,786.99</b>	<b>70,757.00</b>	<b>72,912.00</b>	<b>67,789.59</b>				
	TOTALS - From WPA Fund	23,766.90	54,034.45	53,756.30	55,863.66				
	<b>TOTALS - Including WPA Funds</b>	<b>89,553.89</b>	<b>124,791.45</b>	<b>126,670.30</b>	<b>123,673.25</b>		<b>123,673.25</b>		

REVENUES

	FY 2007 ACTUAL	FY 2008 ACTUAL	FY 2009 PROJECTED	FY 2010 ESTIMATE
General Fund Revenue	4,113	3,860	3,500	3,500
WPA Revenues	32,089	49,745	25,392	30,000

60%  
81%

WPA FUND BALANCE

	FY 2007 ACTUAL	FY 2008 ACTUAL	FY 2009 PROJECTED	FY 2010 ESTIMATE
Balance - Beginning of FY	57,069	65,391	61,101	32,735
Total WPA Revenue	32,089	49,745	25,392	30,000
Less WPA Expenditures	-23,767	-54,034	-53,756	-55,864
Balance - End of FY	65,391	61,101	32,735	6,851

DEPT #

171

DEPT NAME

CONSERVATION COMMISSION

DEPT SIGNATURES

ACCT	ACCOUNT DESCRIPTION	FY 2007 ACTUAL General Fund	FY 2008 ACTUAL General Fund	FY 2009 APPROP General Fund	FY 2010 REQUEST General Fund	FY 2010 WPA Fund Contribution	FY 2010 Total Budget Including WPA Funds	SELECTMEN RECOMMEND.	FINCOM RECOMMEND.
5105	Clerk - F.T.	26,910	25,969	26,747	24,574	8,860	33,434		
5106	Clerk - P.T.	0	0	0	0		0		
5107	Non Clerical - F.T.	30,771	35,245	36,298	33,349	12,024	45,373		
5114	Professional	2,334	0	0	0		0		
5130	Overtime	0	0	0	0		0		
5140	Incentive	0	250	250	250		250		
5142	Longevity	300	300	400	550		550		
5100	<b>Total Personnel Services</b>	<b>60,315</b>	<b>61,764</b>	<b>63,695</b>	<b>58,723</b>	<b>20,884</b>	<b>79,606</b>		
5241	Equip. Repair & Maint.	128	600	600	600		600		
5305	Advertising	73	200	750	750		750		
5308	Tuition & Training	440	400	400	700		400		
5311	Professional Services	0	3,668	2,000	1,550	35,000	1,550		
5341	Telephone	750	500	800	800		800		
5342	Postage	843	600	1,000	1,000		1,000		
5420	Office Supplies	1,557	950	1,500	1,500		1,500		
5580	Uniforms & Other Clothing	350	350	350	350		350		
5710	Travel	991	1,200	1,317	1,317		1,317		
5730	Dues & Subscriptions	313	500	500	500		500		
5781	Misc Charges & Expenses	27	25	0	0		0		
5700	<b>Total General Expenses</b>	<b>5,472</b>	<b>8,993</b>	<b>9,217</b>	<b>9,067</b>	<b>35,000</b>	<b>44,067</b>		
8000	General Expense	0	0	0	0		0		
8000	<b>Total PR Encumbrances</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>		
171	<b>Total Conservation</b>	<b>65,787</b>	<b>70,757</b>	<b>72,912</b>	<b>67,790</b>	<b>58,884</b>	<b>123,673</b>		

7.03% Reduction over FY2009



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Emergency Certification Form**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**A. Emergency Information**

**Important:**  
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Issuance From: \_\_\_\_\_  
Issuing Authority

1. Site Location: \_\_\_\_\_

2. Reason for Emergency:  
\_\_\_\_\_

3. Applicant to perform work: \_\_\_\_\_

4. Public agency to perform work or public agency ordering the work to be performed:  
\_\_\_\_\_

5. Date of Site Visit: \_\_\_\_\_ Start Date: \_\_\_\_\_ End Date\*: \_\_\_\_\_

\* no later than 30 days from start date or 60 days in the case of an Immediate Response Action approved by DEP to address an oil/hazardous material release.

6. Work to be allowed\*:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* May not include work beyond that necessary to abate the emergency.

**B. Signatures**

Certified to be an Emergency by this Issuing Authority.

Signatures:

Chairman (or designee)	Date
_____	_____
_____	_____
_____	_____
_____	_____

**A copy of this form must be provided to the appropriate DEP Regional Office.**



**Massachusetts Department of Environmental Protection**

Bureau of Resource Protection - Wetlands

**WPA Emergency Certification Form**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**C. General Conditions**

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Emergency Certification or subject to enforcement action.
2. This Emergency Certification does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of property rights.
3. This Emergency Certification does not relieve the applicant or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. Any work conducted beyond that described above, and any work conducted beyond that necessary to abate the emergency, shall require the filing of a Notice of Intent.
5. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Emergency Certification at reasonable hours to evaluate compliance with this Certification, and may require the submittal of any data deemed necessary by the Conservation Commission or the Department for that evaluation.
6. This Emergency Certification shall apply to any contractor or any other person performing work authorized under this Certification.
7. No work may be authorized beyond 30 days from the date of this certification without written approval of the Department.

**D. Special Conditions**

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**E. Appeals**

The Department may, on its own motion or at the request of any person, review: an emergency certification issued by a conservation commission and any work permitted thereunder; a denial by a conservation commission of a request for emergency certification; or the failure by a conservation commission to act within 24 hours of a request for emergency certification. Such review shall not operate to stay the work permitted by the emergency certification unless the Department specifically so orders. The Department's review shall be conducted within seven days of: issuance by a conservation commission of the emergency certification; denial by a conservation commission of the emergency certification; or failure by a conservation commission to act within 24 hours of a request for emergency certification. If certification was improperly granted, or the work allowed thereunder is excessive or not required to protect the health and safety of citizens of the Commonwealth, the Department may revoke the emergency certification, condition the work permitted thereunder, or take such other action as it deems appropriate.



# TOWN OF WESTPORT

856 Main Road  
Westport, Massachusetts 02790  
Tel. (508) 636-1019

*Conservation Commission  
Soil Conservation Board*

## WAIVER

TO: The Town of Westport  
Conservation Commission  
856 Main Road  
Westport, MA 02790

FROM:

Applicant                       Representative

RE:  Notice of Intent for \_\_\_\_\_

A.N.R.A.D. for \_\_\_\_\_

Request for Determination for \_\_\_\_\_

I hereby waive the statutory requirements under MGL, Ch 131 § 40, 10:05 (5)(a) of a hearing to be held within twenty-one (21) days from the filing of the application noted above to the Conservation Commission. It is my understanding that the Conservation Commission hearing regarding this application will be held on: \_\_\_\_\_

Date of Public Hearing

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date





# TOWN OF WESTPORT

Exhibit 21

856 Main Road  
Westport, Massachusetts 02790

Tel. (508) 636-1019

*Conservation Commission  
Soil Conservation Board*

## MEMORANDUM

**TO:** All Engineers and Applicants  
**FROM:** Conservation Commission  
**RE:** Plans submitted to Commission  
**DATE:** February 26, 2004

The Conservation Commission is requesting all Applicants and/or their representative/Engineer color their plans submitted accordingly:

1. All resource areas: **Green**
2. Buffer Zones: **Yellow**
3. Riverfront Area: **Blue**
4. Flood Plains: **Pink**

For the Commission,



Richard Lambert, Acting Chairman



# TOWN OF WESTPORT

Exhibit 22

856 Main Road  
Westport, Massachusetts 02790  
Tel. (508) 636-1019

*Conservation Commission  
Soil Conservation Board*

To: Land owners in Westport  
From: Westport Conservation Commission  
RE: Estimating Wetland Acreage on Land in Westport  
Date: January 23, 2009

At the January 13, 2009 meeting, the Westport Conservation Commission discussed the recent spate of requests from residents requesting assistance from the Commission in obtaining documentation of wetlands on their property. It is the decision of the Commission that the Commission should not issue informal assessments of wetlands, including assessments based on GIS, or other aerial based, wetlands mapping. While the GIS mapping for the town is a valuable tool, and provides a relative assessment of the ratio of uplands to wetlands on the various lots in Town, it is not a tool that the Commission will accept in evaluating site specific wetlands. The Commission does encourage land owners to use the Town GIS mapping to make informal assessments of wetland acreage for use in determining the need or viability of additional, site specific wetlands assessment.

The Commission has decided that any land owner requesting a determination of the extent of wetlands on any site in Westport should file an Abbreviated Notice of Resource Area Delineation (ANRAD). This ANRAD filing must be accompanied by a surveyed plan of the wetland resources on a property, as delineated by a qualified wetlands professional. Upon receipt of such a filing, the Commission will commence the statutory review of the ANRAD, and ultimately issue an Order of Resource Area Delineation (ORAD). This ORAD will exactly define the limits and extent of any and all statutory wetlands on the referenced property.

The Commission can not make assumptions on the development potential of a property based on the extent of wetlands delineated on the property. The Commission is suggesting that land owners file a building permit application as a means of determining the suitability of any site for a particular land use. This action will result in a definitive and consistent review by all relevant municipal agencies.



# TOWN OF WESTPORT

Exhibit 23

856 Main Road

Westport, Massachusetts 02790

Tel. (508) 636-1019

*Conservation Commission*

*Soil Conservation Board*

## **REMINDER**

TO: All Engineers and Consultants

FROM: Westport Conservation Commission

RE: Wetland Delineations

Date: August 20, 2008

To Whom It May Concern:

The Westport Conservation Commission at its February 12, 2002 meeting unanimously voted to enact the following policy:

All wetland delineations on parcels of land where no septic repair or limited activities (additions, deck, etc.) are proposed shall be filed on the Department of Environmental Protection's Form 4A Abbreviated Notice of Resource Area Delineation. We will no longer accept any wetland delineations on Request for Delineation.

If you have and questions, please contact the Agent at 508-636-1019.

Sincerely for the Commission,

  
Wayne Turner



# TOWN OF WESTPORT

Exhibit 24

856 Main Road  
Westport, Massachusetts 02790  
Tel. (508) 636-1019  
*Conservation Commission*  
*Soil Conservation Board*

## MEMORANDUM

**TO:** Applicants

**FROM:** Conservation Commission

**RE:** Highway Department Review  
of Proposed Roadways/Detention Ponds

**DATE:** June 15, 2005

The Conservation Commission has voted to establish a policy requiring Westport Highway Department review and comment on Notice of Intent filings of projects for roadways (and associated detention ponds or other stormwater management structures) that are proposed to be accepted as public ways in the future. The Highway Department will review the relevant aspects of the project which the Town may become responsible for maintaining in the future.

The applicant is responsible for providing one copy of the application together with a complete set of plans, including locus, directly to the Highway Department at the time of submission to the Conservation Commission. The applicant should also notify the Highway Department of the date of the hearing so that their comments can be submitted to the Commission timely.

For the Commission,

  
\_\_\_\_\_  
Tanja Ryden, Chairman

Cc: Highway Department  
Board of Selectmen  
Planning Board



## TOWN OF WESTPORT

856 Main Road  
Westport, Massachusetts 02790  
Tel. (508) 636-1019

*Conservation Commission*  
*Soil Conservation Board*

November 4, 2009

To Whom It May Concern:

Please be advised that the Westport Conservation Commission has revised its policy regarding the submission of filings for septic repairs. The Commission will no longer require the filing of a Notice of Intent (NOI) for all septic repair projects within 50 feet of a resource. Instead, the Commission will permit the use of a Request for Determination of Applicability (RDA) for projects within the buffer zone to a resource area on a case-by-case basis at the discretion of the Conservation Agent. This discretion will be based on the specifics of the filing including proximity to the resource, slope of the terrain, the nature of the work and construction equipment required and other concerns necessary to protect the resource during the construction phase.

Repair or upgrade of septic systems is exempt from the Notice of Intent requirements of the Riverfront Act in accordance with 310CMR 10.58 (6)(c) but still requires the filing of an Request For Determination of Applicability.

This policy shall not apply to projects deemed to be an emergency repair by the Board of Health.

Further, in the interest of time, the Commission will dispense with the reading of reports for septic repairs except in the case where one or more commissioners indicates a concern with a particular filing. Agent reports will still be distributed to and reviewed by commissioners prior to the meeting.



**WESTPORT  
CONSERVATION COMMISSION**

M E M O R A N D U M

*To:* Engineers and Applicants  
*From:* Westport Conservation Commission  
*Re:* Abutter Notification for Filings  
*Date:* 9-20-06  
*Cc:*

The Conservation Commission no longer needs the "green cards" for proof of abutter notification. When notifying abutters you may supply the Conservation Commission with either a photocopy of all the stubs or the stubs themselves as proof of notification.