



Town of Chatham Conservation Commission

November 2012

ATTENTION: Applicants, Representatives

SUBJECT: General Standard Conditions for Orders of Conditions

For the purpose of streamlining the writing of Orders of Conditions, the attached list of commonly used conditions is employed by the Commission and its staff. Conditions, as may be applicable to the project that is the subject of the permit, are chosen from the list and included in an Order of Conditions.

These conditions supplement findings written by the Commission and, as one size does not fit all, the Commission may craft additional or modify conditions relative to specifics of a project.

These customary conditions relate to steps necessary for the protection of resource areas both during the project and after project completion, implementation of best management practices, and to provide documentation necessary to confirm that the project has been completed as permitted.

This list of conditions is posted on the website and is available at the conservation office. Applicants and their representatives are advised to review and contact the conservation office with any questions.

Conservation office is open Monday through Thursday, 7am-4pm and Friday, 7am-12:30pm.

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GENERAL STANDARD CONDITIONS

APPROVAL

The Commission determined that the project can be permitted subject to the following special conditions. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

SPECIAL CONDITIONS

A. Pre-construction

AVOID & MINIMIZE

1. All activities involved with this project shall be conducted in a manner that avoids alteration to vegetation, beach and bank and, where it is unavoidable, the alteration shall be minimized.

QUALIFIED CONSULTANT

2. The project shall be implemented only by a consultant / contractor who, on the basis of his/her qualifications, expertise, and documented experience in such projects, is found acceptable to the Agent/Commission. The Commission reserves the right to interview the prospective contractor / consultant prior to making its determination.
3. Prior to any site disturbance, the limit of work and foundation stakes for the project shall be refreshed as necessary by the surveyor/engineer to reflect the approved plan. The engineer shall submit a memo to the Commission stating that this has been done.
4. Prior to any site disturbance, a pre-construction meeting will be held with the responsible contractor, engineer, applicant and Commission/Agent to review the Order of Conditions and the work protocol. *Please call for an appointment at least one week in advance.*
5. The applicant shall secure a Massachusetts registered professional engineer to act as clerk of the works to be approved or designated by the Commission. The engineer will supervise the contractor and will inspect the site regularly whenever construction in or within 100feet to the wetland is in progress. The engineer will provide weekly inspection notes to the Commission and be onsite during and after storm events so as to take responsibility for the proper functioning of drainage and erosion control systems for the project. The applicant shall provide that person's phone number to the Commission.
6. **Prior to any site disturbance and to the pre-construction meeting**, all sedimentation controls (i.e. straw bales at the work limit) shall be in place and ready for inspection at the time notice is sent. Once notified, the Commission/Agent may conduct a pre-construction inspection of the site and instruct the applicant of any preliminary modifications necessary for compliance with the Order of Conditions.
7. **Prior to any work commencing, a sign shall be visibly displayed on the site showing the DEP or local file number and shall remain so until the issuance of a Certificate of Compliance. A copy of this Order of Conditions shall be retained on the site and visibly displayed** until a Certificate of Compliance has been obtained and recorded.
8. **Notice of work start and completion shall be given to the Commission in writing.** The applicant shall advise the Commission of the name(s) and telephone number(s) of the person(s)

responsible on site for compliance with this Order.

9. **Prior to any work commencing**, the contractor(s) shall sign and submit the signed form acknowledging their understanding of this Order of Conditions to the Conservation Commission for the record.
10. **DISCLAIMER CONDITION:** By issuing this permit, the Commission in no way makes a determination of property rights or the legal ability of the applicant to undertake this project. In all cases, the applicant proceeds with the project at his/her own peril in this regard.

B. Excavation and Site Disturbance

1. **Clearing of naturalized vegetation / grubbing out of the work site within 100ft of the wetland resource area(s) may not occur after April 1 or before September 1. Project must be planned accordingly.**
2. **A gravel/mulch apron shall be created at the road where vehicles will access the work site to minimize the tracking of soils onto the roadway which may result in sedimentation of the nearby wetland or catchbasin; the roadway shall be swept as necessary to keep sediment off of the roadway.**
3. The limit of construction disturbance, including the cutting of trees and shrubs shall be _____ and, **at a MINIMUM**, be visibly marked with staked butted straw bales, or other erosion control method as approved by the Agent and shall remain so throughout construction. **It shall be the responsibility of the applicant to implement and maintain appropriate and adequate erosion control measures throughout the construction process. NOTE: HAY is not acceptable.**
4. **In areas subject to wind, construction fencing shall be erected along the limit of work to aid in the capture of any windblown debris.**
5. Any excavated material to be stored for backfilling or later grading will be stockpiled _____.
6. All excavated material not needed for backfill or new contours will be removed from the site.
7. Debris, including litter, shall be picked up daily. No debris of any sort will be left on the site. Debris shall be disposed of in a covered dumpster.
8. No herbicides of any sort shall be used on the site for the purposes of construction.
9. All disturbed areas shall be revegetated with _____ as soon as possible during and after construction.
10. In disturbed areas where the grade is steep, erosion control matting is to be installed; if the area is to be exposed for longer than two months, it shall be seeded with perennial rye for stability during construction.
11. Machinery and/or material access will be from _____. The granting of this permit does not obviate the applicant's need to gain proper permission from any abutter whose

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property is to be used for access.

12. Machinery, when not in use, shall be parked _____.
13. Washing of equipment/tools shall be done OFF-SITE or handled in a manner approved by the Agent, however in no cases shall concrete or masonry debris be left on the site.
14. Cleaning of paintbrushes shall be done OFF-SITE or within containers that will be removed from the site; cleaning of brushes or disposal of paints or cleaning fluids on the site is prohibited.
15. There shall be no discharge or spillage of fuel, oil or other pollutants on to any part of this site. The applicant shall take all reasonable precautions to prevent the release of pollutants through ignorance, accident or vandalism.

C. Drainage and Re-Vegetation

1. Where possible, roof runoff shall be allowed to percolate down through the soils from the surface using best management practices for handling stormwater and as approved by the Commission/Agent. At no time may roof runoff be directed over a bank to a wetland resource.
2. **The driveway shall be of pervious material. This condition shall remain in force permanently and shall be recorded on the Certificate of Compliance.**
3. Catch basins shall be installed _____so that runoff will _____. Catch basins shall be cleaned at least yearly.
4. Grading shall be accomplished so that runoff shall not be directed to the property of others without mitigation as described in the project plans. This project shall not increase runoff, nor cause flood or storm damage to abutters, other property owners or the wetland resource area.
5. Disturbed areas shall be revegetated with natural flora of proven value to local wildlife.
6. Invasive plant species, as may appear on the current list of the Chatham Conservation Commission, shall not be planted on the site - (SEE www.IPANE.org).
7. The limit of disturbance shall be delineated with plantings of
8. **No herbicides or pesticides shall be used in the AURA to the wetland resource area. This condition shall remain in force permanently and shall be recorded as such on the Certificate of Compliance.**
9. No lawn may exist beyondas shown on the approved plan. This condition shall remain in force in perpetuity and shall be recorded as such on the Certificate of Compliance.
10. **If fertilizers are utilized for landscaping and lawn care in the 100 foot adjacent upland resource area, they shall be slow release, low nitrogen types and shall not be used within ____feet of the resource in perpetuity and shall be recorded as such on the Certificate of**

Compliance.

11. After completion of work, and prior to the issuance of a Certificate of Compliance, the applicant shall permanently mark the edge of the wetland and the edge of the undisturbed vegetated buffer to the wetland areas to ensure no further inadvertent encroachment into the buffer to the wetland. The applicant shall instruct all agents to explain these markers to buyers/lessees/landscapers and all persons taking over the property from the applicant.
12. **A buffer zone of natural vegetation shall be left undisturbed 50ft from the wetland resource area in perpetuity and this shall be recorded as such on the Certificate of Compliance.**
13. Prior to the final revegetation, a re-vegetation plan/sketch shall be submitted to the Commission/Agent for approval. Applicant should refer to the Landscape Guidelines approved by the Chatham Conservation Commission.
14. If soils are to be disturbed for longer than two months, a temporary cover of rye or other grass should be established to prevent erosion and sedimentation. If the season is not appropriate for plant growth, exposed surfaces shall be stabilized by other appropriate erosion control measures, firmly anchored, to prevent soils from being washed by rain or flooding.
15. Any lawn area shall be constructed with a minimum of four to six inches of organic top soil /loamy sand together with a seed mixture appropriate for Cape Cod.
16. If an irrigation system is installed, it shall conform to the design standards of the Water Department. If connected to town water, a permit shall be obtained from the Water Dept. and a copy submitted to the Commission prior to issuance of a Certificate of Compliance.
17. All disturbed areas, slopes and proposed landscape areas shall be loamed and seeded or stabilized through the use of erosion control blankets or other approved means. All disturbed areas will be graded, loamed and seeded prior to November 1 of each year, if possible. No disturbed areas or stockpiled material will be left unprotected or without erosion controls during the winter.
18. Loaming and seeding shall occur within (5-30) days of final grading. Barren areas shall be stabilized by seeding if work on the project is interrupted for more than 90days, unless the 90days are in the winter. If this condition should occur, the applicant shall request a determination from the Commission as to whether seeding or an alternative measure should be taken.
19. Dumping Prohibited: There shall be no dumping of leaves, grass clippings, brush, or other debris within the wetland or on the bank or within the buffer zone to the wetland resource area.

MITIGATION PLANTINGS

20. The planted mitigation area shall be allowed to naturalize in perpetuity. **To naturalize** shall mean that the area will be left undisturbed and there shall be no use of fertilizers; no removal of leaf litter or duff layer; no weeding; no subsurface irrigation system; no hardscape; no structures of any kind; no creation of lawn; no dumping of yard debris. Pruning for view and/or additional planting of native species and/or removal of harmful exotic invasive species may be allowed with prior consent of the Conservation Commission. The applicant shall instruct all agents to

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explain the mitigation area to buyers/lessees/landscapers and all persons taking over the property from the applicant. **This condition shall be recorded on the Certificate of Compliance as an ongoing condition.**

21. To insure mitigation is achieved and the improved vegetated buffer has been established, mitigation plantings shall be cared for to insure survival for three (3) full growing seasons. During this time period, the agent may require additional plantings if the Agent determines that any of the specimens are dead or dying and need replacement.
22. **To naturalize** shall mean that the area will be left undisturbed and there shall be no use of fertilizers; no removal of leaf litter or duff layer; no weeding; no subsurface irrigation system; no hardscape; no structures of any kind; no creation of lawn; no dumping of yard debris. Pruning for view or additional planting of native species may be allowed with prior consent of the Conservation Commission

D. COASTAL SHORELINE PROJECTS: SHORELINE STABILIZATION, CATWALKS, PIERS, ETC.

FIBER ROLLS

1. Unless otherwise permitted by the Commission, once installed the fiber rolls shall be maintained which means at a minimum if the anchoring becomes loose the rolls shall be re-secured as installed immediately; if the rolls become dislodged and break free the applicant shall see that they are immediately removed from the shoreline to prevent damage to resource areas or become a danger to navigation; the rolls shall have cover of sand to protect from UV-rays and the elements and shall be revegetated as necessary. Prior to any maintenance activity, the Applicant shall notify the Agent. Applicant shall document with photos for the record. As with all beachfront projects, the Commission recommends that the applicant keep records of any ongoing maintenance. **This condition shall be recorded as an ongoing condition.**
2. Stairs shall be raised on posts and excavation shall be _____.
3. The stairway shall have no risers.
4. There shall be a minimum of ¾" spacing between deck planks.
5. CCA or creosote treated wood is prohibited. ACQ-treated wood may be used, however the applicant is encouraged to use natural or alternative non-leaching construction materials.
6. Pier sections, ramps or floats shall not be stored in the wetland resource area (salt marsh, coastal bank, or coastal flood plain).
7. Piers will be seasonally removed prior to November 1 each year and shall not be replaced until May 1 or later [OR Piers/Catwalks shall be removed annually for 6 contiguous months].
8. During construction, work in process material shall be stored _____.
9. Construction shall be completed within _____ days of obtaining all state and

local approvals or engineering certifications.

10. **The catwalk shall not be used for the docking of motorboats in perpetuity. This condition shall be recorded as such on the Certificate of Compliance.**
11. Immediately prior to construction, beach profiles will be taken every _____ feet in front of and every _____ feet of the proposed _____, and submitted to the Conservation Commission. Profiles will be repeated at _____ month intervals for _____ years and comparisons submitted to the Commission without delay.
12. If, after consulting with qualified coastal engineers or coastal geologists AT THE APPLICANT'S EXPENSE, the Commission finds that the _____ has caused or accelerated erosion on the site or on nearby properties, it may order the applicant to nourish the beaches using clean sand of a similar or larger grain size, with an amount of material equal to the engineers/geologists calculation of the loss caused by the structure. The Commission may order re-nourishment as necessary.
13. **A copy of the Chapter 91 license from DEP Waterways shall be submitted to the Commission prior to work commencement.**

E. GENERAL

1. This Order of Conditions is subject to the applicant obtaining all applicable local and state permits.
2. The applicant shall furnish the contractor with a copy of this Order. The applicant shall assure that all contractors, subcontractors and other personnel performing the permitted work are fully aware of the permit's terms and conditions. Thereafter, the contractor will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions.
3. Any further construction or site alteration beyond the work limit within 100 feet of the resource area is subject to prior approval by the Conservation Commission.
4. The Commission, its employees and agents shall have the right of entry to inspect for compliance with the terms of this Order until a Certificate of Compliance has been obtained and recorded at the Barnstable Registry of Deeds. Commission members or their agent may acquire any information, measurements, photographs, observations and/or materials or may require the submittal of any data or information deemed necessary by this Commission for that evaluation.
5. This **Order of Conditions is valid for three years** under the local Wetlands Protection By-Law and three years under MGL Ch. 131, s 40. Application for an extension shall be submitted in writing to the Conservation Commission at least thirty days prior to the expiration date.
6. The Commission reserves the right to amend this Order of Conditions prior to completion of construction, after a legally advertised public hearing, if plans or circumstances are changed or if new conditions or information so warrant.

AS-BUILT PLAN

7. The location of the foundation shall be confirmed by a licensed engineer or land surveyor *before*

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the structure is framed and an as-built submitted to the Commission. AND/OR - Upon completion of the project the applicant shall submit a written request for a Certificate of Compliance to the Commission, accompanied by an as-built plan that indicates dwelling, hardscape, and distance to the resource areas as described in the application.

8. Upon completion of the project the applicant shall submit a written request for a Certificate of Compliance to the Commission.
9. The request for a Certificate of Compliance shall include:
 - a. A written statement from a Massachusetts registered professional engineer certifying that the work has been conducted as shown on the plan and documents referenced above, as conditioned by the Commission.
(and/or...)
 - b. An "as-built" plan, including final contours, shall be prepared and signed and stamped by a Massachusetts registered professional engineer or land surveyor for the file.
10. This Order of Conditions shall be deemed not to have been complied with until the applicant has obtained a Certificate of Compliance and it has been recorded in the Barnstable County Registry of Deeds.
11. Under no conditions will the operation of equipment, stockpiling of soil, cutting, clearing or pruning of trees, shrubs or ground cover or other site disturbance take place on the wetland side of the no-work line without prior consent of the Commission.
12. Section 2.05 of the Wetlands Regulations, promulgated under the Chatham Wetlands Protection By-Law requires that no coastal engineering structure, such as a bulkhead, revetment, groin or seawall shall be permitted on or within 100 feet of a coastal bank at any time in the future to protect the project allowed by this permit. This condition shall be recorded on the Certificate of Compliance.
13. 310 CMR 10.30(3), promulgated under MGL c. 131, § 40, requires that no coastal engineering structure, such as a bulkhead, revetment, or seawall shall be permitted on an eroding bank at any time in the future to protect the project allowed by this Order of Conditions. This condition shall be recorded on the Certificate of Compliance.
14. The "applicant" as used in this Order of Conditions shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this Order of Conditions. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to issuance of a Certificate of Compliance.
15. The Approved Plan for this Order of Conditions does not constitute specific acceptance of the boundaries of resource areas for any work not described in item 6 of the corresponding Notice of Intent. For any such work not described as per the provisions above, the Commission may require new plans/and or delineation of resource areas, as it deems appropriate.

16. **Failure to comply with the above conditions shall be cause to revoke this permit and/or issue fines.**

F. Requirements due to Violation

1. This Order of Conditions shall be recorded at the registry of deeds/land court and proof of the recording shall be submitted to the Commission within 30 days of the issuance date of this document.
2. The remediation work required/permitted in this Order shall commence and be completed no later than _____.
3. An annual (or other) report prepared by a professional _____ for a period of _____ years shall be submitted to the Commission. The Commission reserves the right to require additional.....

G. PERFORMANCE GUARANTEE:

1. As a performance guarantee that the approved remediation is accomplished and properly completed, a deposit of money in the amount of _____ shall be made with the Town of Chatham. This amount represents approximately 125% of the estimated cost of the project and is considered a "bond" which will be held in an interest bearing account by the Town (Chapter 37, section 37017(a)(1)).
2. Upon completion of the project, the applicant must notify the Commission in writing including a statement by the professional _____, that the project in connection with the bond has been completed in accordance with the Order of Conditions and the approved plan.
3. If the Commission determines that the project has not been completed, it shall specify, in a notice sent by registered mail to both the applicant and the municipal clerk, the details where the project fails to comply with this Order.