



Chatham Conservation Commission REQUEST to AMEND an ORDER of CONDITIONS

Pursuant to DEP Policy 85-4:

*“Following the issuance of a Final Order of Conditions, unforeseen circumstances sometimes arise which may require minor deviations from the project approved in that Order. To allow for the smooth operation of the permitting procedure and to avoid unnecessary and unproductive duplication of regulatory effort after a Final Order of Conditions has been issued, the Department recognizes that it would not be reasonable to require a complete re-filing of the Notice of Intent when the changes sought in the Final Order of Conditions are relatively minor and will have unchanged or less impact on the interests protected by the Act. Amended Orders provide assurances to applicants that modifications undertaken in the course of the project are within the scope of the deviations allowed for the receipt of a Certificate of Compliance at 310 CMR 10.05(9)(d). Thus, the process of amending a Final Order of Conditions is acceptable to the Department as long as certain procedural safeguards are employed. **This policy does not apply to Final Orders of Conditions which have expired.***

Amending a Final Order of Conditions is at the discretion of the body that issued the Final Order of Conditions ("the issuing authority"). There is no provision in the wetland regulations that requires the issuing authority to consider or act upon a request to amend a Final Order of Conditions. There is no right to request a Superseding Order of Conditions or an Adjudicatory Hearing if a request to amend is not granted. If the issuing authority refuses to amend a Final Order of Conditions, the only opportunity for further review is the filing of a new Notice of Intent.”

FIRST, make a request for an amendment to the Conservation Commission. Please submit the request in writing. The matter will be placed on the agenda for a regularly scheduled meeting of the Commission. You need not be present at this meeting. **Please include a narrative description of what changes have been proposed and any pertinent plans showing the changes.**

The Commission will make a determination whether the requested change is great enough to warrant the filing of a new Notice of Intent or whether it is of a relatively minor nature and can be considered as an amendment to the original Final Order of Conditions. In making this determination, the Commission will consider such factors as whether the purpose of the project has changed, whether the scope of the project has increased, whether the project meets relevant performance standards, and whether the potential for adverse impacts to the protected statutory interests will be increased. **Relatively minor changes which result in the same or decreased impact on the interests protected by the Act are appropriate for amendments.** If the determination is made that the project purpose or scope has changed substantially or that the interests specified in the Wetlands Protection Act are not protected, then the Commission will not issue the amendment, but will require the filing of a new Notice of Intent.

If the Commission has determined the proposed change is within the scope of the original project and will accept the filing for a request to amend, the application materials must be submitted by noon, 15 days prior to a scheduled meeting. A public hearing will be scheduled

with the Commission. The applicant/representative must be present at the hearing. Through the hearing discussion, the Commission will determine whether the proposed changes are acceptable and if so will issue an amended Order of Conditions which may include additional conditions.

The granting of an Amended Order of Conditions does not change the original issuance date of the Order of Conditions.

There is no right to request a Superseding Order of Conditions from DEP or an adjudicatory hearing if a request to amend is not granted. If the Commission denies the request to amend, the only opportunity for further review is to file a new Notice of Intent.

If the Conservation Commission determines that an amendment to the Order of Conditions is acceptable, see filing directions below:

DIRECTIONS FOR FILING A REQUEST TO AMEND AN ORDER OF CONDITIONS

- By the filing deadline, submit the detailed written request to amend the existing Order of Conditions in writing with supporting documentation. At a minimum the request must include the specific changes, the DEP file number, name and address of the owner, the applicant and the address of project site.
- Submission must include 12 (twelve) packets, each of which include the revised plan noting the proposed changes; the Special Conditions pages from the original Order; locus maps showing the location of the property; any other supporting documents the applicant feels pertinent. **These items must be collated.**
- Include a check made out to the Town of Chatham in the amount of **\$20.00** for advertising together with **\$50.00** for the local filing fee.
- ALSO: Send one copy of the letter of request and one copy of the revised plans to the Department of Environmental Protection:
DEP, Southeast Region
20 Riverside Drive
Lakeville, MA 02347
- NOTIFY abutters within 100 feet of the property registered return receipt or hand delivery. Proof of notification (receipt of mailing) is to be submitted to the Commission at the time of application. A certified list of current abutters must be obtained from the Assessors' Dept. The Assessors require 10 days notice, so please plan ahead - (508)945-5103.

Revised December 2012



TOWN OF CHATHAM
Conservation Commission

SITE ACCESS AUTHORIZATION

Date: _____

Project: _____

Location: _____

Property Owner: _____

I (We) hereby authorize the individual members of the Chatham Conservation Commission and its agents to enter upon the referenced property for the purpose of gathering information regarding the application filed with the Commission pursuant to the Wetlands Protection Act (MGL Ch 131, s. 40) and/or the Chatham Wetlands Protection Bylaw (Chapter 272).

Additionally, if an Order of Conditions is issued for the project, I (we) grant permission for Commission members and the Commission's agents to enter the above referenced property for the purpose of inspecting for compliance with the Order of Conditions. This site access authorization is valid until a Certificate of Compliance is issued by the Conservation Commission.

Authorized Signature: _____ Date _____

Please Print _____

(If other than owner, please state whether tenant, agent or other)

Mailing Address: _____

Phone: _____ Email: _____

Cell: _____ Fax: _____

ABUTTER NOTIFICATION LETTER

Date: _____

Subject: Upcoming Chatham Conservation Commission Public Hearing

Dear Property Owner:

As an abutter within 100ft of a proposed project, please be advised that a *Request to Amend an Order of Conditions* has been filed with the Chatham Conservation Commission. A public hearing will be held by the Conservation Commission to review the proposal. Below is the pertinent information regarding this application.

APPLICANT: _____

PROJECT ADDRESS
or LOCATION: _____
Assessors Map _____ Parcel _____

PROJECT DESCRIPTION: _____

APPLICANT'S REPRESENTATIVE: _____

Phone: _____

Address: _____

PUBLIC HEARING: **Chatham Town Annex
261 George Ryder Road
(lower level)**

Date: _____

Time: Meeting starts at 7pm unless otherwise posted.

The applications and plans are available for review at the Conservation Office,
261 George Ryder Road, Chatham
Monday through Thursday, 7am – 4pm; Friday 7am-12:30pm
(508)945-5164.

CHATHAM'S LOCAL FILING FEES

1.09 Fees

The following fees shall apply to applications and documents issued under these regulations independent of the cost of advertising.

Administrative Review - \$25

Re-issue of any document - \$25

Request for Determination of Applicability - \$35

Request for Amended Order of Conditions - \$50

Extension Permit - \$50

Notice of Intent / Abbreviated Notice of Intent

a) Category 1 - \$50.00 per activity

refers to activities such as an addition to an existing single family dwelling, construction of a shed, installation of a pool, resource improvement, vegetation control, septic system work, etc.

b) Category 2 - \$200 per activity

refers to construction of a dwelling (including demolition), parking lot construction, beach nourishment, driveway crossing to a single family dwelling, maintenance dredging, etc.

c) Category 3 - \$400 per activity

refers to projects such as commercial building construction, road or bridge construction, commercial development, etc.

d) Category 4 - \$2 per linear foot, total fee not less than \$50

refers to work on bulkheads, revetments, fiber roll installation, docks, piers, catwalks, pilings, floats, etc.

Any municipal project is exempt from fees.