

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Waterways Regulation Program
Instructions, Chapter 91 Simplified Waterways License Application

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



A. General Information

Simplified procedures have been created for owners of small residential docks, piers, seawalls and bulkheads to make the license application process easier and less expensive. Residential waterfront property owners should be able to complete and file the Chapter 91 license application without the need for professional assistance. In addition, the costly requirements for professionally prepared Mylar construction plans generally have been eliminated. However, even if your project is eligible for a Simplified license, you may wish to seek a general Waterways license if you desire a license term for a period greater than 15 years. Water-dependent and Nonwater-dependent structures eligible for the Simplified application review process include docks, piers and other small-scale structures that are accessory to residential uses or serve as non-commercial community docking facilities.

Eligible structures must also meet the following size requirements:

- a) pre-1984 existing structures - less than 600 square feet; or
- b) post-1984 existing or new structures - less than 600 square feet, water-dependent and pile supported.

The application review period for a simplified license is at most (according to 310 CMR 9.10(4)) 90 days from the close of the public comment period.

B. Fee Information

For all Simplified license applications both water dependent and nonwater-dependent, the fee is \$ 75.00. Make Chapter 91 License Application fee payment by check or money order payable to: *The Commonwealth of Massachusetts, MassDEP*. Payment should be submitted with MassDEP's *Transmittal Form for Permit Application & Payment*. This form can be accessed on-line at:
<http://www.mass.gov/eea/agencies/massdep/service/approvals/transmittal-form-for-payment.html>

Chapter 91 licenses are subject to Tidewater Displacement fees and Commonwealth Tidelands Occupation fees. However, Simplified Licenses must pay only Occupation fees and are exempt from the Displacement Fees. Commonwealth Occupation fees are calculated at \$1.00 per square yard multiplied by the license term, which can be up to 15 years for a simplified license. The applicant will be notified of the amount due following review of the license application.

C. How to fill out this form

A Chapter 91 license consists of two parts: a text document and a plan. The Simplified License form (starting with version 2/2006) is available to download as a PDF or Microsoft Word document. The applicant can fill out the Word document form on the computer. Once completed by the applicant and reviewed by MassDEP staff, the document becomes the license text. For instructions on how to prepare the accompanying Simplified License Plan, see Section G below. Also, for further information on project eligibility, standards that must be met and other requirements for Simplified licenses, please refer to the Waterways Program regulations at 310 CMR 9.10. The regulations are on-line at:
<http://www.mass.gov/eea/agencies/massdep/water/regulations/310-cmr-9-00-massachusetts-waterways-regulation.html>

The applicant should fill out only the first two pages of the application. Start by filling in the applicant's name, town or city of residence and the name of the county in which the applicant resides. If the applicant does not reside in Massachusetts, the applicant should fill in the name of the state preceded by "State of" instead of the county. Generally, the

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landowner will be the applicant, but if not, then the landowner must be listed in the appropriate space at the bottom of page 2.

The applicant should indicate whether he/she seeks authorization for: a) maintaining an existing structure, and/or b) constructing and maintaining proposed structures. Below each of these sections there is a list of possible structures for which the applicant can seek authorization. Check all of the applicable structure types. If the existing or proposed structures do not appear on the list but are eligible (according to 310 CMR 9.10) the applicant should check the "other" category and type or write a brief description of the said structure.

The applicant should indicate by checking the appropriate box that the proper local authority has been notified of the application (see Section D on how to give notice according to 310 CMR 9.10(3)(c), (d) and (e)). The applicant must notify the Board of Selectman or the Mayor and City Council of the town or city in which the site is located. If located in a town, the Board of Selectman should be notified; if in a city, the applicant should notify the Mayor and City Council.

The use statement follows. Options are a) maintenance of existing structures, and/or b) construction and maintenance of purposed structures for the uses listed. If the appropriate purpose is not listed in either of these columns use the 'other' category and write or type the existing or proposed use. Following the use statement section, please fill in the name of the waterbody and the town or city in which the site is located.

On the next page the applicant should fill in his/her address and sign the form. If the site address is different from the applicant's mailing address, please fill in the second section. If the applicant is not the owner of the property, please fill in the owner's name at the bottom of this page as well as the agent or engineer representing the owner for this project.

The rest of the form should be left blank. MassDEP personnel will review the information that the applicant entered and will fill out the remainder of the form.

D. Notification Instructions

It is the applicant's responsibility to notify different entities about this application as listed below and at the bottom of Box A on the license application form. The applicant can either notify the entity by letter or by sending a copy of the completed application form. Notification should include a copy of the plan. If the applicant is not the landowner, the applicant must notify the landowner. The applicant notifies the general public by publishing a Public Notice (see Appendix A) in a newspaper of general circulation. Other entities that must be notified are in the checklist below. Note that some entities must be notified by certified mail.

The applicant must notify the following entities that an application has been submitted either by letter or by sending to that party a copy of the completed license application:

- Local Conservation Commission (see section below regarding Conservation Commission)
- Board of Selectman or Mayor and City Council
- Planning Board
- Zoning Authority

Also, the applicant must send by certified mail either a letter notifying the following entities that an application has been submitted or by sending a copy of the completed license application:

- Interested Parties (defined as any person having a recorded easement interest in the property where the structure is or may be located).
- Landowner, if not the applicant

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Abutters

PUBLICATION OF PUBLIC NOTICE

It is the applicant's responsibility to publish a public notice that includes the applicant's name and address, the project location, a description of the project, a statement that written comments will be accepted within 30 days of the Notification Date stated therein. (See a sample Public Notice in Appendix A.) The project is identified in the notice using the transmittal number which is available from the application form. The notice should be published by the applicant in a newspaper of general circulation in the area where the project is located. The applicant should call ahead to the newspaper that will publish the notice to obtain the Notification Date which is the expected date of publication and must be included as part of the notice text. The public notice shall also include the address where comments may be sent, and a statement informing that a municipality, a group made up of ten citizens, or any aggrieved person who submits written comments within the public comment period may appeal the Department's decision.

COORDINATION WITH CONSERVATION COMMISSION

Notification and/or approval of the local Conservation Commission is dependent on the Wetlands Protection Act and subsequent regulations. For structures existing before 1963 in coastal wetlands or before 1965 in inland wetlands, local Conservation Commission approval is not required. For structures existing before January 1, 1984, the applicant must notify local Conservation Commission of the application. For structures existing only on or after January 1, 1984, or for proposed structures, applicants must provide an Order of Conditions, a negative Determination of Applicability or a Certificate of Compliance from the Local Conservation Commission.

PROOF OF NOTIFICATION

Proof of notification is provided to MassDEP by filling out the last part of BOX A on page two in the license application form. Please check only those entities that apply (according to the information detailed above) once they have been notified of the application. The applicant's signature on the application form confirms that these entities have been notified preferably in writing, or are being notified by the applicant by their being sent a copy of the Simplified License Application form.

E. Submittal Instructions

Submit a completed Chapter 91 Waterways License Application together with MassDEP's *Transmittal Form for Permit Application & Payment*. Applicants can access this form on-line as described above under Section B on fee information.

Applications for water-dependent projects located in MassDEP's Southeast and Western Regions should be sent to those regional offices. Water-dependent projects located in MassDEP's Central, Northeast and Boston should be sent to the MassDEP's Waterways Regulation Program in Boston. All Nonwater-dependent applications should be sent to MassDEP's Boston Office at: Department of Environmental Protection, Waterways Regulation Program, One Winter Street, Boston, MA 02108. For a listing of MassDEP Regional Offices, see <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>

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F. Following receipt of license

LICENSE RECORDATION

The Chapter 91 license and plan must be recorded at the Registry of Deeds within the property's chain of title within 60 days of the date of issuance. The Licensee is required to provide MassDEP with written notice of said recordation including: date of recordation and instrument number, name of Registry of Deeds or Land Court where recordation was made. Failure of the Licensee to record said license and plan within this 60-day period will render the license VOID.

LICENSE RENEWAL AND/OR TRANSFER

A Chapter 91 Waterways license may be renewed if the structure remains sound and conforms to the construction plans in the original application. The Renewal fee for Simplified Licenses is \$35. A license is automatically transferred upon a change of ownership of the property for which the license has been deed recorded.

G. Simplified License Plan Checklist

Enclose drawings with the Simplified Waterways Application using Appendices B and C as guides. Note: The template in Appendix C can be printed and used a hard-copy form. Also, space permitting, the two views described below can be combined onto one page. (If available, applicants can use existing plot plans or plans submitted with a Notice of Intent under the Wetlands Protection Act.) Drawings should include the following information:

Plan View

Please refer to the sample plan drawings included in the appendices.

- Drawings must be prepared on the 8.5 X 11 inch paper. Please use the Sample Template provided as Appendix C of these instructions.
- A 1-inch margin should be left at the top edge of each drawing for purposes of reproduction and binding. A 1/2 inch margin is required for the three other edges.
- A complete title block on each drawing submitted should identify the project and contain the name of the waterway, the name of the applicant, the number of the sheet and the total number of sheets in the set, and the date the drawing was prepared.
- North Arrow
- Locus Map - A locus map shall be included, depicting the subject property in relation to the surrounding area. This may be prepared as illustrated on the Sample plan, in the upper right-hand corner or the applicant may simply photocopy a street map circle the property and label it.
- Scale – All drawings shall be in a suitable scale (e.g. 1 inch = 40 feet) and the scale should be indicated on each sheet of the plan.
- Subject property – Illustrate as much of the subject property as possible, including any residence , adjacent streets, property lines, and the tax assessor's information (map number).
- Mean high and low water lines – The mean high water (MHW) and mean low water (MLW) lines must be clearly delineated. In inland waters, such as ponds and non-tidal

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rivers, the ordinary high and low water shorelines (OHW and OLW) should be used. Color shading cannot be used because the Department reproduces the plans. Please use dashed or dotted lines, or crosshatching where necessary. (See definitions of "High Water Mark" and "Low Water Mark" at 310 CMR 9.02, C.91 Regulations).

- Licensed activities – All structures and/or fill to be licensed must be clearly depicted, accompanied by their dimensions. Linear distances, in feet, must be provided from the structures to each property line along the waterway and residence.

- Abutters – Abutters' names must appear in the lower left-hand block, and the corresponding number (1, 2, or 3, etc.) should be placed on the appropriate lot location.

- Title Block– Prepare the lower-middle and right-hand blocks as indicated on the Sample template (Appendix C).

Profile View

- Profiles – Bottom and bank profiles should be delineated as accurately as possible.

- Mean high water (MHW) and mean low water (MLW) lines – MHW and MLW (or ordinary high and low water lines (OHW/OLW) must be illustrated. The elevation of MLW may be given as 0.0 ft. Elevations for MHW and all other structures should then be given relative to MLW.

- Licensed activities – All structures and/or fill to be licensed must be clearly depicted. Dimensions of piles, and any other structures not indicated on the first sheet(s), must be provided with the Cross-section view.

- Title Blocks – the lower middle and right-hand blocks shall be prepared as indicated on the Sample template (Appendix C).

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Appendix A: Simplified License – Sample Public Notice

You must fill in your information in place of the text showing in brackets. Refer to the first page of the License application/text. The application number will be supplied by MassDEP.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERWAYS REGULATION PROGRAM**

**Notice of License Application pursuant to M. G. L. Chapter 91
Waterways License Application Number [*Your Transmittal #*]
[*Project Name*]**

NOTIFICATION DATE: [*Date of Publication*]*

Public notice is hereby given of the application by [*Applicant's name*] to [*maintain an existing or construct and maintain a proposed*]: [*pier/dock, boat ramp, ramp, float(s), pile(s), boat lift, boat house, retaining wall/seawall, bulkhead, rip rap, groin(s), residential, NWD building, other*] at [*Site address of structures, City/Town, State, County*].

The Department will consider all written comments on this Waterways application received by within 30 days subsequent to the "Notification Date". Failure of any aggrieved person or group of ten citizens or more to submit written comments to the Waterways Regulation Program by the Public Comments Deadline will result in the waiver of any right to an adjudicatory hearing in accordance with 310 CMR 9.13(4)(c). The group of citizens must include no less than five citizens who are residents of the municipality in which the proposed project is located.

Additional information regarding this application may be obtained by contacting the Waterways Regulation Program at 617-292-5929. Project plans and documents for this application are on file with the Waterways Regulation Program for public viewing, by appointment only, at the address below.

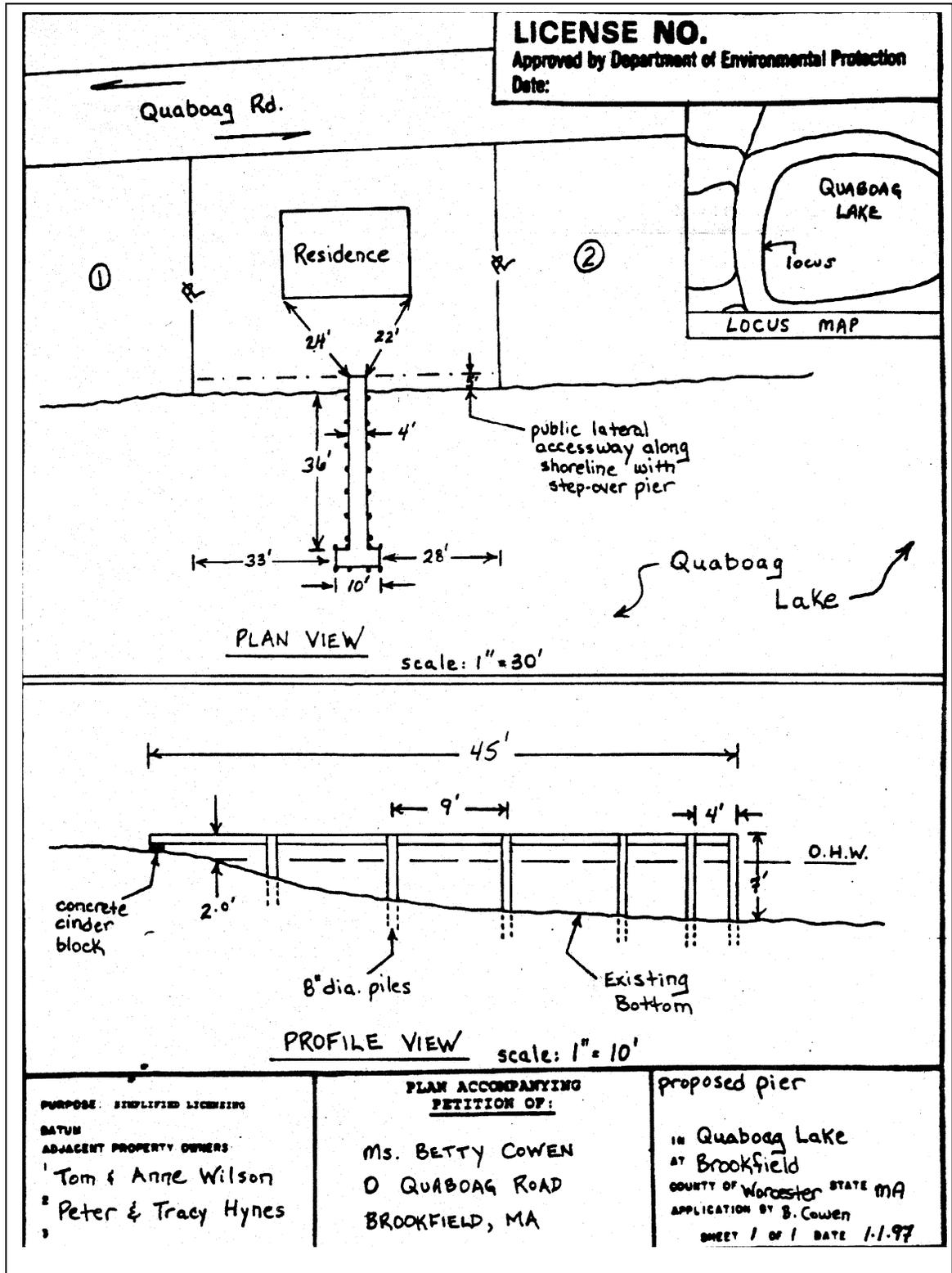
Written comments must be addressed to: MassDEP's Waterways Regulation Program [*select Boston, Southeast or Western Regional office***] located at [*insert mailing address of the appropriate regional office*].

* The applicant should call ahead to the newspaper that will publish the notice to obtain the Notification Date which is the expected date of publication and must be included as part of notice text.

** Depending on the location of the project the comments should be sent to MassDEP's Boston, Southeast or Western office <http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>.

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Appendix B: Simplified License – Sample Plan



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Appendix C : Simplified License Plan – Sample Template

<div style="border: 1px solid black; padding: 5px; width: fit-content; margin-left: auto; margin-right: 0;"> <p>License No.</p> <p>Approved by Department of Environmental Protection Date: _____</p> </div>		
Purpose: Simplified Licensing	Plan accompanying petition of:	Project Description:
Adjacent Property Owners: 1. _____ 2. _____ 3. _____ 4. _____	_____ _____ _____ _____	_____ _____ In _____ At: _____ County of: _____ State: _____ By applicant _____ date: _____ sheet: ___ of ____

The Commonwealth Of Massachusetts



No. **MassDEP USE ONLY** _____

SIMPLIFIED LICENSE
BRP WW06

Applicant must fill in pages 1 and 2 of this license.

Applicant's name _____ of the Town/City of: _____ Town/City _____ in: _____ County

County and Commonwealth aforesaid, has applied to the Department of Environmental Protection for a Simplified License to:

- Please check:*
- | | |
|-----------------------------------------------------------|------------------------------------------------------------------------------------|
| <input type="checkbox"/> maintain an existing (pre-1984): | <input type="checkbox"/> construct a proposed or maintain an existing (post-1984): |
|-----------------------------------------------------------|------------------------------------------------------------------------------------|
- Please check all that apply below:*
- | | |
|-------------------------------------------------------------|----------------------------------------------------|
| <input type="checkbox"/> pier/dock | <input type="checkbox"/> pier/dock |
| <input type="checkbox"/> boat ramp | <input type="checkbox"/> ramp |
| <input type="checkbox"/> ramp | <input type="checkbox"/> float(s) |
| <input type="checkbox"/> float(s) | <input type="checkbox"/> pile(s) |
| <input type="checkbox"/> pile(s) | <input type="checkbox"/> boat lift |
| <input type="checkbox"/> boat lift | <input type="checkbox"/> pile-supported boat house |
| <input type="checkbox"/> boat house | <input type="checkbox"/> other _____ |
| <input type="checkbox"/> retaining wall/seawall | |
| <input type="checkbox"/> bulkhead | |
| <input type="checkbox"/> rip rap/stone revetment | |
| <input type="checkbox"/> groin(s) | |
| <input type="checkbox"/> Nonwater-dependent (NWD) residence | |
| <input type="checkbox"/> other _____ | |

and has submitted plans of the same; and whereas due notice of said application has been given, as required by law, to the [*Please check one:*] Board of Selectmen Mayor and City Council, of the Town/City of:

Town/City

NOW, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses said Licensee, subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, to:

- | | |
|---------------------------------------------------------------------------|---------------------------------------------------------------------------|
| <i>Please check all that apply:</i> | <i>Please check all that apply:</i> |
| <input type="checkbox"/> maintain existing structure(s) for: | <input type="checkbox"/> construct and maintain structure(s) for: |
| <input type="checkbox"/> non commercial docking/access to navigable water | <input type="checkbox"/> non commercial docking/access to navigable water |
| <input type="checkbox"/> shoreline stabilization | <input type="checkbox"/> other _____ |
| <input type="checkbox"/> residential, NWD building | |
| <input type="checkbox"/> other _____ | |

in and over the waters of: _____ Waterway _____ in the Town/City of: _____ Town/City

and in accordance with the locations shown and details indicated on the accompanying License Sketch Plan No. **MassDEP USE ONLY** _____ (total number of Sheet(s): **FOR MassDEP USE ONLY** _____)

USE: The structures authorized herein shall be for private non-commercial use of the licensee. The structures shall not be used for commercial purposes, leased, rented or otherwise let for compensation. Any change in use shall require an amendment to this license by the Department. The structures authorized herein shall be limited to the following uses: noncommercial docking and boating access to navigable waters.

TERM: This License will expire fifteen (15) years from the date of License issuance. By written request of the Licensee for an amendment, the Department may grant a renewal for the term of years not to exceed that authorized in the original license.

WATERWAYS CONDITIONS:

1. ACCESS: In accordance with any License condition, easement, or other public right of lateral passage that exists in the area of the subject property lying between the high and low water marks” or "below the ordinary high water mark”, the Licensee shall allow the public in the exercise of such rights to pass freely over, under or around all structures within such (intertidal) area. Accordingly, the Licensee shall place and maintain, in good repair, a public access sign on the easterly/westerly or northerly/southerly sides of the pier/dock, authorized herein or at each property line, adjacent to the high water shoreline. Said signs shall comply with the Department’s signage guidelines (see instructions) and shall be posted immediately upon license issuance or completion of construction. Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.

In partial compensation for the private use of structures and/or fill on tidelands and/or private tidelands and/or Great Ponds which interferes with the rights of the public to use such lands, the Licensee shall allow the public to pass on foot, for any purpose and from dawn to dusk, within the area of the subject property lying seaward of the high water mark or, for Great Ponds within the public access way delineated on the License plan/or within 5 feet of the ordinary high water shoreline. This condition shall not be construed to prevent the Licensee from taking reasonable measures to discourage unlawful activity by users of the area intended for public passage, including but not limited to trespassing on adjacent private areas and deposit of refuse of any kind or nature in the water or on the shore. Further, the exercise by the public of free on-foot passage in accordance with this condition shall be considered a permitted use to which the limited liability provisions of M.G.L. c.21, s17c shall apply.

2. This License authorizes structure(s) and/or fill on:

FOR MassDEP USE ONLY

<input type="checkbox"/> Private Tidelands	In accordance with the public easement that exists by law on private tidelands, the Licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, strolling and the natural derivatives thereof.
<input type="checkbox"/> Commonwealth Tidelands	The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. The Commonwealth holds said lands in trust for the benefit of the public.
<input type="checkbox"/> Great Pond	The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.
<input type="checkbox"/> Navigable River or Stream	The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, in the waterway.

3. Unless otherwise expressly provided by this license, the Licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon. No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this license.

4. Any change in use or any substantial structural alteration of any structure or fill authorized herein shall require the issuance by the Department of a new Waterways License in accordance with the provisions and procedures established in Chapter 91 of the Massachusetts General Laws. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure or fill authorized herein shall render this Waterways License void.

5. This Waterways License shall be revocable by the Department for noncompliance with the terms and conditions set forth herein. This License may be revoked after the Department has given written notice of the alleged noncompliance to the Licensee and those persons who have filed a written request for such notice with the Department and afforded them a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render this Waterways License void and the Commonwealth may proceed to remove or cause removal of any structure or fill authorized herein at the expense of the Licensee, its successors and assigns as an unauthorized and unlawful structure and/or fill.

6. The structures and/or fill authorized herein shall be maintained in good repair and in accordance with the terms and conditions stated herein.

7. Nothing in this Waterways License shall be construed as authorizing encroachment in, on or over property not owned or controlled by the Licensee, except with the written consent of the owner(s) thereof.

8. This Waterways License is granted subject to all applicable Federal, State, County, and Municipal laws, ordinances and regulations including but not limited to a valid final Order of Conditions issued pursuant to G.L. Chapter 131, s.40, the Wetlands Protection Act.

CONSTRUCTION:

9a. The project shall not significantly interfere with littoral or riparian property owners' rights to access and egress their property from the waterway. All structures shall be set back, at a minimum, at least twenty-five (25) feet from abutting property lines, where feasible.

9b. Structures shall not extend beyond the length of existing piers used for similar purposes; in no case shall the length extend more than $\frac{1}{4}$ of the way across a water body and shall conform to the square footage requirements as stated in Construction Condition 9a.

9c. Within areas of salt marsh, structures shall be constructed with a minimum height of 4 feet above ground level measured from the bottom of the stringer, and maximum width of 4 feet, or at a 1:1 ratio so as not to have an adverse impact on the salt marsh or aquatic vegetation. Whereas, the width of the pier maybe equal to but not greater than the height. Any ladders shall be constructed of durable materials, shall be fixed to the pier in such a manner so as not to rest on the marsh, shall have a minimum width of 2.0 feet, and shall have adequate railings extending above the pier/dock decking in order to facilitate safe passage.

9d. When removed, all seasonal structures shall be stored landward of the mean or ordinary high water shoreline, vegetated wetlands, dunes and all wetland resource areas. Said storage shall be in conformance with any applicable local, state or federal requirements.

9e. The float(s) shall be constructed with an appropriate number of piles/pipes, legs or stop blocks attached to the float structural elements in order to maintain at least 24 inches of clearance off the bottom at extreme low tides.

9f. All work authorized herein shall be completed within five (5) years of the date of License issuance. Said construction period may be extended by the Department for one or more one year periods without public notice, provided that the Applicant submits to the Department, thirty (30) days prior to the expiration of said construction period, a written request to extend the period and provides an adequate justification for said extension.

DOCKING OF VESSELS:

10a. Motorized vessels shall be moored stern seaward of the float and shall have a draft no greater than that which provides a minimum of one foot clearance from the bottom at extreme low water. Where eelgrass is present, vessels shall not have any adverse affects on eelgrass in the area.

10b. Vessels shall be moored such that they do not become grounded at any tide.

10c. No dredging (including, but not limited to effects of prop wash) is permitted herein.

10d. No boat moored at any dock may block or unduly impede navigation within the waterway or the use of any adjacent dock.

COMPLIANCE

The Licensee, within sixty (60) days of completion of the licensed project, shall submit a written statement to the Department that the project has been completed in substantial conformance with the conditions and plans of said license, or a copy of the Certificate of Compliance for this project issued pursuant to the Wetlands Protection Act (if the project was previously issued an Order of Conditions or Superseding Order of Conditions under said Act).

This License shall be void unless the License and the accompanying plan(s) are recorded within 60 days from the date hereof, in the Registry of Deeds for the said County.

Acceptance of this Waterways License shall constitute an agreement by the Licensee to conform with all terms and conditions stated herein. This License is granted upon the express condition that any and all other applicable authorizations required due to the provisions hereof shall be secured by the Licensee prior to the commencement of any activity of use authorized pursuant to this License.

FOR MassDEP USE ONLY:

THE COMMONWEALTH OF MASSACHUSETTS

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands on this _____ day of _____ in the year _____
date month year

Commissioner _____
Program Chief _____

Department of
Environmental
Protection

THE COMMONWEALTH OF MASSACHUSETTS

This License is approved in consideration of the payment into the treasury of the Commonwealth by said --
_____ of the further sum of _____ dollars and zero cents (\$ _____ .00)
Applicant Amount

The amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

Boston

Approved by the Governor.

Governor