

SMALL DOCK AND PIER GENERAL LICENSE FOR COASTAL STRUCTURES

1. GENERAL

The Department hereby authorizes eligible structures, exclusively limited to noncommercial, small-scale, water-dependent docks, piers and similar structures that are accessory to residential use, in accordance with the provisions of M.G.L. c. 91, § 18C, and 310 CMR 9.29. The following standards shall apply:

(A) Eligible projects shall:

- a) Be limited exclusively to noncommercial, water-dependent uses accessory to residential property;
- b) Be limited to pile-supported structures and associated ramps and floats;
- c) Not be located in a Designated Port Area (DPA);
- d) Not be located in an Area of Critical Environmental Concern (ACEC);
- e) Include no associated dredging or filling;
- f) Be the only structure authorized by M.G.L. c. 91, § 18C, and 310 CMR 9.29 on said parcel;
- g) Include no roofed structures or other superstructures on any portion of the approved structure; and
- h) Preserve all rights held by the Commonwealth in trust for the public to use tidelands for lawful purposes; and
- i) Preserve public rights of access on private tidelands for fishing, fowling and navigation.

(B) Eligible projects shall not:

- a) Include commercial marinas or large-scale docks, piers, or similar structures;
- b) Exceed the minimum size necessary to achieve the intended water-dependent use;
- c) Extend beyond the length required to achieve safe berthing;
- d) Impair the lines of sight necessary for navigation;
- e) Interfere with access to adjoining areas by extending substantially beyond the projection of existing structures adjacent to the site;
- f) Interfere with access or public rights associated with a public landing, easement, or other public access to water;
- g) Generate water-borne traffic that would substantially interfere with other vessels; and
- h) Impair in any other substantial manner the ability of the public to swim or float freely upon the waterways.

(C) Applicability. This General License authorizes structures certified under the procedures established in 310 CMR 9.29. An affirmed Certification from the Department, once recorded by the recipient ("Certificate holder") in the appropriate

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Registry of Deeds, shall have the effect of making this General License applicable to a particular structure.

2. LOCATIONS

This General License authorizes placement of an eligible structure for which a Certification has been submitted and affirmed pursuant to 310 CMR 9.29 on:

Private Tidelands in accordance with the public easement that exists by law on private tidelands, the Certificate holder shall allow the public to use and pass freely upon the area of the subject property lying between the high and low water marks for the purposes of fishing, fowling, and navigation and the natural derivatives thereof; and/or

Commonwealth Tidelands whereby the Certificate holder shall not restrict the public's right to use and 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.

3. CONDITIONS

1. Access

- a) 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, the Certificate holder shall allow the public in the exercise of such rights to pass freely over, under or around all structures within such area. Accordingly, the Certificate holder shall place and maintain, in good repair, a public access sign on the easterly/westerly or northerly/southerly sides of the pier, dock or similar structure authorized herein, or at each property line, adjacent to the high water shoreline. Said signs shall comply with the Department's signage guidelines and shall be posted immediately upon completion of construction. Nothing in this condition shall be construed as preventing the Certificate holder from excluding the public from portions of said structure(s) or property not intended for lateral passage.
- b) In partial compensation for the private use of structures on Commonwealth tidelands, which interfere with the rights of the public to use such lands, the Certificate holder 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. This condition shall not be construed to prevent the Certificate holder 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, § 17C, shall apply.

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2. For proposed structures or those previously unauthorized located in flowed tidelands, eligible structures (pile-supported docks, piers, and similar structures and associated ramps and floats) shall:
 - a) Be no larger than a combined size of 600 square feet below the mean high water mark;
 - b) Not exceed a maximum width of 4 feet, excluding piles, for the fixed, pile-supported portion of the structure;
 - c) Otherwise comply with the applicable provisions of this General License.
3. Unless otherwise expressly provided by this General License, the Certificate holder 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 General License.
4. Any change in use or any structural alteration of any structure by a Certificate holder shall require approved recertification in accordance with the provisions and procedures established in M.G.L. c. 91, § 18C. Any unauthorized substantial change in use or unauthorized substantial structural alteration of any structure authorized herein shall render the affirmed Certification void.
5. An affirmed Certification for a structure under this General License may be revoked by the Department for noncompliance with the terms and conditions set forth herein. The affirmed Certification may be revoked after the Department has given written notice of the alleged noncompliance to the Certificate holder and those persons who have filed a written request for such notice with the Department, and afforded a reasonable opportunity to correct said noncompliance. Failure to correct said noncompliance after the issuance of a written notice by the Department shall render the affirmed Certification void. The Commonwealth may then proceed to remove or cause removal of said structure at the expense of the Certificate holder, its successors and assigns as an unauthorized and unlawful structure.
6. All structures certified under this General License shall be maintained in good repair and in accordance with the terms and conditions stated herein.
7. Nothing in this General License shall be construed as authorizing encroachment in, on or over property not owned or controlled by the Certificate holder, except with the written consent of the owner(s) thereof.
8. This Waterways General License, and all affirmed Certifications of coverage thereunder, are 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 M.G.L. c. 131, § 40, the Wetlands Protection Act.

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9. CONSTRUCTION CONDITIONS

9a. The project shall not significantly interfere with littoral or riparian property owners' rights to access and egress their property from the waterway. Wherever feasible, all structures shall be placed perpendicular to the shoreline. All structures in tidelands shall be set back, at a minimum, at least 25 feet from abutting property lines.

9b. Structures shall not extend beyond the length required to achieve Safe Berthing. Safe Berthing is defined herein as assuring minimum water depths of 18 inches. In areas with documented shellfish resources, said minimum Safe Berthing depth shall be no less than 30 inches. In no case shall the structure's length extend more than one fourth of the way across a water body. The structure shall otherwise conform to all other dimensional requirements stated herein.

9c. When removed, all seasonal structures shall be stored outside of wetland resources as defined in 310 CMR 10.00, except for bordering land subject to flooding in accordance with 310 CMR 10.57 and land coastal storm flowage in accordance with 310 CMR 10.04. Said storage shall be in conformance with any applicable local, state or federal requirements.

9d. Within areas of salt marsh, structures shall be constructed with a minimum height of 5 feet above ground level at the mean high water mark as measured from the bottom of the lowest stringer, and maximum total width of 4 feet, excluding piles.

9e. The float(s) in tidelands shall be constructed with an appropriate number of piles/pipes, legs or stop blocks attached to the float's structural elements in order to maintain at least 18 inches of clearance off the bottom at the low water mark or, or 30" in shellfish areas, in accordance with 9b, above.

9f. All work authorized by an affirmed Certification under this General License shall be completed within 5 years of the date of the Department's affirmation. 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, 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.

9g. In order to maintain lateral public access at least a 10-foot section of the fixed pier at mean high water shall be elevated between pilings to provide a minimum clearance of 5 feet as measured from the ground to the bottom of the lowest stringer. In the alternative, stairs may be provided on either side of the pier at mean high water for public access up and over the structure, with the exception that no stairs may be placed in salt marsh. Any cross-bracing of piles shall be set parallel to the mean high water mark to maintain lateral public access in at least a 10-foot section at mean high water.

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4. COMPLIANCE

4.1 This General License shall be void unless it is recorded by the Department in every Registry of Deeds in the Commonwealth upon issuance, indexed under "Commonwealth of Massachusetts" as the Grantor. An affirmed Certification issued under this General License shall be void unless it and its accompanying plans are recorded within 60 days from the date of the Department's acknowledgement, in the Registry of Deeds for the County where the structure is located. The Certificate holder shall provide notification to the Department within 30 days of the recording in accordance with 310 CMR 9.18(2). Work or change in use shall not commence until the affirmed Certification is recorded and the Department has received notification of the recordation.

4.2 Submission of a Certification under the provisions of 310 CMR 9.29 to be covered by this General License and recording of an affirmed Certificate in the Registry of Deeds shall constitute an agreement by the Certificate holder to conform with all terms and conditions stated herein. All affirmed Certifications are issued with the express condition that any and all other applicable authorizations required shall be secured by the Certificate holder prior to the commencement of any activity or use authorized pursuant to this General License.

4.3 The enforcement provisions of 310 CMR 9.08 shall apply to any structure eligible for certification or Certified under the General License pursuant to 310 CMR 9.29. The Department shall perform annual audits to monitor compliance with the General License standards and conditions in accordance with M.G.L. c. 91 § 18C. Consistent with the provisions of 310 CMR 9.26, the Department may revoke a Certification for non-compliance with the standards and conditions set forth in the General License or individual Certification.

5. FEES

No Certificate under this General License shall be affirmed by the Department unless and until all applicable fees have been paid.

6. LICENSE TERM

This General License for projects located in tidelands shall have a term of 30 years from [DATE OF ISSUANCE]. The length of term for an individual Certification will vary depending on the date the Certification is affirmed by the Department. All Certifications affirmed under this General License shall expire on [EXPIRATION DATE], unless a shorter term is specified by the Department in its affirmation of the Certification, and may be recertified in accordance with 310 CMR 9.29(7).

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

Commissioner _____

**Department of
Environmental
Protection**

THE COMMONWEALTH OF MASSACHUSETTS

BOSTON,

Approved by the Governor.

Governor