

Rockport Conservation Commission Policy: Amending a Final Order of Conditions

INTRODUCTION & DESCRIPTION:

Circumstances arise that may require deviations from an issued Order of Conditions (OC). Local Conservation Commissions are not required by the Wetland Protection Act (the Act) or the Rockport Wetland Protection By-law (the By-law) to allow for any amendments to an issued OC. The Rockport Conservation Commission (the Commission) will consider changes to OC and requires one of the following three (3) options for an applicant's request to be considered to address deviations from the approved work.

RCC Wetland Bylaw Regulations:

Section IV. Changes of Work Described in the Notice of Intent

*After an Order of Conditions has been issued, the applicant shall notify the Commission of any proposed changes to the work contained in the Notice of Intent. Such changes shall be presented to the Commission in a plan a minimum of three (3) business days prior to a regularly scheduled Commission meeting for the Commission's review. If, in the opinion of the Commission, the proposed changes significantly alter the nature or increase the scope or impacts of the intended work, the Commission shall notify the applicant whether the filing of an amended or a new Notice of Intent is required to accommodate the proposed changes. **No work related to the proposed changes shall commence until the Commission has reviewed and approved the proposed changes and notified the applicant in writing.** Failure to comply with this section may result in fines and shall be deemed good cause to revoke or modify the Order of Conditions in accordance with Section V of the By-law.*

POLICY:

1. Minor Amendment to a Final Order of Conditions:

The Commission will consider relatively minor changes which result in the same or decreased impact on the interests protected by the Act or the By-Law as Minor Amendments. The Commission does not charge a fee for Minor Amendments. The original Order of Conditions must be valid and not expired. Request for a Minor Amendment involves submitting **in writing** a description of the change(s), as well as the address, Assessors' Map and Lot, and the DEP#. We may require a plan or portion of a plan that illustrates the change(s) being requested. The applicant or their appointed representative must attend a regularly scheduled Conservation Commission meeting. Minor Amendment request may be presented during the *Citizen's Inquiry* section at the beginning of regularly scheduled meetings. The Commission will send the applicant a letter stating its decision. **NO WORK ON THE CHANGE(S) MAY TAKE PLACE UNTIL THE APPLICATN HAS RECEIVED THE LETTER ALLOWING IT.**

Factors the Commission considers in making this determination:

- Purpose, including intended use of the completed project, has not changed.
- Scope of the project has not substantially increased or changed. The Commission considers change(s) to be small and inconsequential to the shape, size, and location of the approved structure's footprint(s), and the area to be disturbed by any change(s) to the site, or the required site work. The work described in the requested change(s) is of lesser impact to the resource area than the current approved project.
- Project meets the relevant performance standards of Act and the By-law.

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- Potential for adverse impacts to the protected statutory interests will not be increased. The issued Order and Conditions will not need to be changed

If the determination is made by the Commission that the change(s) requested exceeds what it finds appropriate for a minor amendment, then applying for a Formal Amendment or new Notice of Intent will be required.

2. Formal Amendment to a Final Order of Conditions:

When the changes proposed are more complex than the Commission will accept as a Minor Amendment, the applicant may apply for a Formal Amendment to the Order of Conditions. When applying for the Formal Amendment, the applicant must pay a fee to the Town of Rockport (see Fee Schedule in the Rockport Wetlands Bylaw Regulations). The State of Massachusetts does not provide a form to request an Amendment to the OC. The request must be made **in writing** to the Commission at least 10 business days prior to a meeting, and include a description of the change(s), in addition to the address, Assessors' Map and Lot, and the DEP#; and a plan or the portion of a plan that illustrates the change(s) being requested. Project abutters and abutters to abutters within 300 feet must be notified, a legal notice in the local newspaper will be required, and a public hearing must be held to review the request. If approved, the Commission will send the applicant an Amended Order of Conditions on WPA Form 5 with additional Findings & Conditions added. Prior to working on the changes, an Amended Order of Conditions will need to be recorded at the registry of deeds, with evidence of this recording submitted to the Conservation Office.

3. New Notice of Intent (NOI):

When the Commission finds that the requested changes deviate so much from the original NOI, and/or could have a significant increased impact(s) on the wetland resource area(s), then the applicant must submit a new NOI. Such a filing will proceed as outlined in WPA and By-law requirements for a NOI.

POLICY REASONING:

The above policy is to help applicants understand how the Commission responds to requests for changes to permits it has issued. The Rockport Conservation Commission stands ready to work with all home owners to best obtain our mutual goals.

For further information, please contact:

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