

Rockport Conservation Commission Policy: Enforcing Violations of State & By-law Rules & Regulations

INTRODUCTION & DESCRIPTION:

Excerpt from the Rockport Wetlands Protection by-law; Sec. 9:

“Any person, who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300.00. Each Day or portion thereof during which a violation continues, or unauthorized fill, or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.”

POLICY:

The Rockport Conservation Commission will utilize the following guidelines when seeking compliance of the Massachusetts Wetlands Protection Act, and the Rockport Wetlands By-law. Enforcement shall include any or all of the following:

Informal Enforcement:

- **A phone call from the Rockport Conservation Commission or Agent, or a visit to the property.** Many people are unaware of the law and often all that is needed to obtain compliance is an explanation of the violations, the Commission's filing requirements, and what should be done to prevent environmental damage.
- **The violator shall be asked to attend the next Commission meeting and to file a Request for Determination (RFD) or Notice of Intent (NOI) by a specified date.** This meeting is meant to be educational rather than confrontational. A RDA or NOI allows abutters to understand the project and give input.
- **A written violation notice to the property owner/violator on Commission letterhead sent via certified mail or hand-delivered by a member or Agent of the Commission or a Constable.** The letter shall list the location and nature of the violation, corrective measures, deadlines for compliance, the source of the Commission's authority, and the consequences of not filing and shall be copied to the property owner if different from the violator.

Formal Enforcement:

1. **If there is no response within 10 days to any of the above actions or if the severity of the violation warrants, an Enforcement Order (EO; Form 9) will be sent via certified mail or hand-delivered by a member or Agent of the Commission or a Constable.** A copy will be sent to DEP, Town Counsel, Board of Selectmen, Town Administrator, Planning Board, Board of Appeals, Board of Health and Building Inspector (as applicable).
2. **Fines:** Violations of the Rockport Wetlands By-law are punishable by fines of up to \$300.00 per day per violation. The Commission may choose to issue a warning in lieu of a fine for first-time offenders. **“After-the-Fact” filings:** When an applicant files for a permit after having started or completed the work, the Commission will consider assessing a fine of no less than \$100 for violating the Rockport Wetlands By-law. The Commission may waive this fine for reasonable cause.

- 3. Civil Litigation:** In situations where the above-mentioned actions are not effective in bringing about compliance with wetland laws, the Commission may seek civil litigation with guidance from Town Counsel.

REASONING:

The above policy is to encourage behavior that improves the natural environment and to increase compliance with the Rockport Wetlands Protection Bylaw and the MA Wetlands Protection Act.

For further information, please contact:

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