



COMMONWEALTH OF MASSACHUSETTS

## *Town of Southwick*

454 COLLEGE HIGHWAY, SOUTHWICK, MA 01077

# **Southwick Conservation Commission**

Telephone (413) 569-6907 Fax (413) 569-5284



### 1.0 Jurisdiction

- 1.1 The Town of Southwick (Town) annual permitting program is authorized pursuant to 310 CMR 9.07(3) and the DEP letter to the Town of Southwick dated January 13, 2010. In the event of any discrepancy between these guidelines and 310 CMR 9.07, the provisions of 310 CMR 9.07 shall apply.
- 1.2 No c.91 license issued by DEP shall be required for qualifying structures that are permitted under this program.
- 1.3 The purpose of this DEP Local Permitting Program is to allow an alternate, simplified means for registering the applicable structures defined in 1.5 in lieu of obtaining a full Chapter 91 License for said structures from the DEP.
- 1.4 Geographic jurisdiction. This annual permitting program applies to structures located, or proposed to be located, on, within, or above any Great Pond, or portion of any Great Pond, in the Town of Southwick.
- 1.5 Activities subject to jurisdiction. An annual permit can only be issued for a structure, defined as a seasonal dock, float, mooring, buoy or other small-scale structure accessory to a residential use, or that serves as a noncommercial community docking facility, provided that:
  - a) for proposed structures, or for structures built or substantially altered after January 1, 1984:
    - i. Any structure is water-dependent, seasonal and pile supported (e.g., by non-driven wooden or metal posts) or bottom anchored, without any fill;
    - ii. Any structure protruding less than 75 feet (unless deemed hardship by Town) from the ordinary high water shoreline, and structures and fill total no more than 600 square feet below the ordinary high water shoreline;
    - iii. The structure is not a marina (e.g., does not serve ten or more vessels);
    - iv. If an Area of Critical Environmental Concern that includes an area subject to jurisdiction is established pursuant to 301 CMR 12.00, then the structure must conform to 310 CMR 9.07(3)(b)(1)(d) and (e).
  - b) for structures or fill constructed prior to January 1, 1984 and not substantially altered since that date:
    - i. Any structure or fill must be water-dependent;
    - ii. Any structure protruding less than 75 feet (unless deemed hardship by Town) from the ordinary high water shoreline, and structures and fill total no more than 600 square feet below the ordinary high water shoreline;
    - iii. The structure is not a marina (e.g., does not serve ten or more vessels).
  - c) Exceptions for year-around structures shall meet the additional conditions defined in 6.2.



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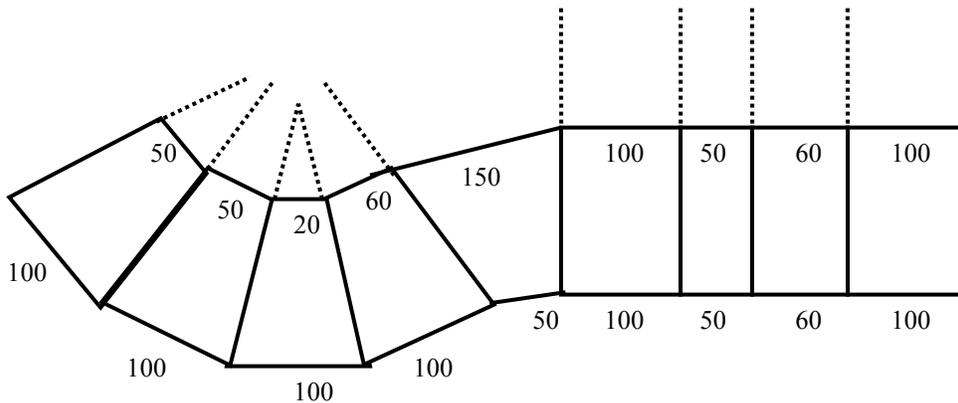
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### 2.0 Application Requirements

2.1 Forms. All applicants for an initial annual permit shall complete an application form to be provided by the Town of Southwick and in accordance with a schedule established by the Town. At a minimum, the application shall be accompanied by plans or other documentation sufficient to accurately show the location and size of the structure. The location of the structure shall be clearly identified with dimensions with respect to the extended property lines (drawn extended into the water). No dock shall be closer than 25 feet to the extended property line, except where there is less than 60 feet of waterfront or extended property lines converge, as in a cove. For these exceptions, the dock and associated boat(s) shall not interfere with a neighbor's access.



Examples of Converging & Waterfront Less Than 60 Feet

2.2 Proposed structures. Local Permitting Applications received after May 31, 2010 for proposed structures shall be accompanied by a complete Wetlands Protection Act Notice of Intent (NOI) or a Request for a Determination of Applicability (RDA), including accompanying plans, and either an Order of Conditions, a negative or conditional Determination of Applicability, or evidence of written request for action by the Conservation Commission and subsequent failure of the Conservation Commission to respond within 30 days. Failure of the Conservation Commission to act on a request does not result in a permit. The Applicant can appeal any local failure to act to Massachusetts DEP and request a permit.



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#### 3.0 Public Notice.

3.1 For existing structures not permitted by May 31, 2010, applicants shall provide notice to the Conservation Commission, and to abutters within 100 feet when submitting an application for proposed structures. All applicants shall also publish a public notice of the project in a newspaper of general circulation, which may serve as a joint notice for M.G.L. c.91 and M.G.L. 131 s. 40. Notices must be provided or published at least ten business days prior to the deadline for receipt of applications. Notices must include the applicant's name and address, the location and concise description of the project, the address to which comments may be sent, and the deadline for receipt of comments (as specified by the permitting agency).

#### 4.0 Review Standards

4.1 No permit shall be issued for an existing structure that the Conservation Commission has determined to be in violation of the Wetlands Protection Act in accordance with sections 2.2 and 3.1.

4.2 No permit shall be issued unless the permitting authority makes a finding that the structure is limited to the minimum size necessary to achieve the intended water-dependent purpose. No permit shall be issued for a structure that extends more than 75 feet from the ordinary high water shoreline unless explicitly approved as a hardship.

4.3 No permit shall be issued unless the permitting authority makes a finding that the structure will not significantly interfere with any public rights to use the waterway for fishing, fowling, navigation, and other lawful purposes.

4.4 No permit shall be issued unless the permitting authority makes a finding that the project mitigates for any interference in public rights by providing lateral access, or other necessary mitigation. Any mitigation necessary pursuant to this standard shall be reflected in the permit issued for the project.

4.5 No permit shall be issued unless the permitting authority makes a finding that the project complies with 310 CMR 9.07 and the terms of the DEP letter to the Town of Southwick dated January 13, 2010.

4.6 No permit may authorize structures other than the placement of eligible small structures accessory to residences or a noncommercial community docking facility per 310 CMR 9.07 and section 1.5.

4.7 No permit shall be construed as authorizing the placement of any structures on the private property of anyone other than the applicant if objected to by the owner or owners thereof.

4.8 No permit may authorize the placement of any structures in any navigation channel or turning basin formally designated by the federal or state government or by a municipality pursuant to a municipal harbor plan, unless the designated authority or other agency with jurisdiction over said area has previously approved such placement.

4.9 No permit shall be inconsistent with the municipal harbor plan, if any, or be issued for a structure extending beyond the harbor line.



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4.10 No structure may interfere with public rights associated with a common landing, public easement, or other historical legal form of public access that may exist on or adjacent to the project site.

4.11 Any person receiving a permit for a small structure accessory to a residence shall post signage as required by the Town in accordance with guidance issued by Mass DEP.

4.12 For structures built and installed after December 1, 2006, the use of pressure treated wood is prohibited where it is in direct contact with the water.

4.13 Swim floats shall have reflectors visible on all sides and should be a natural or a painted light color. The deck shall be **24 inches maximum** from the surface of the water unless otherwise specifically approved by the Town.

4.14 Except for normal maintenance and repairs, the physical structure shall not be altered in any way unless a revised application has been submitted and approved by the Town.

4.15 The owner of each powered vessel or registered sailboat moored at a dock or mooring on the Congamond Lakes shall purchase and affix an annual vessel sticker to said vessel *on the port (left) side of the stern (rear)*. The fee for vessel stickers shall be in accordance Section 8.3.

#### 5.0 Decision on Permit Application

5.1 Within 15 days of the receipt of an application, the permitting authority shall act on the permit application by issuing a permit, a permit denial, or requesting more information. In the case of a request for more information, the permitting authority shall act on the permit within 15 days of the receipt of the additional information.

5.2 Any permit issued may contain such terms, conditions, and restrictions as deemed necessary, consistent with these guidelines and 310 CMR 9.07.

5.3 A permit denial shall include the reasons for the denial based on the review standards in these guidelines and 310 CMR 9.07.

5.4 The permitting authority shall not discriminate against any citizen of the Commonwealth on the basis of residency, race, religion, sex, age, disability, or other illegal distinctions.

#### 6.0 Permit Term and Renewal

6.1 Each permit shall specify a term during which it is valid. No permit may be valid for a period longer than to the end of the calendar year in which it was issued.

6.2 All structures shall be removed from the water by December 1<sup>st</sup> of each calendar year and may be returned after "ice out" and only after the renewal fee has been paid. An exception to this regulation may be granted if the structure meets the criteria listed in 6.2 (a) 1- 4.

##### 6.2 (a) Criteria

1. The water-based structure (dock, float, mooring, buoy) has, except for seasonal removal, been continuously in existence and in that location since May 31, 2010. New structures are not eligible.
2. It is not feasible for the water-based structure to be removed yearly without using extraordinary means for removal, or creating an impact to a resource area.



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3. The water-based structure does not present a safety or navigation hazard, and must be deemed to be and be maintained in good condition.
4. The Conservation Commission, Lake Management Committee and Harbormaster must concur in writing that the water-based structure meets the criteria listed above.

#### 6.2 (b) Administration

1. Repairs or modifications to the water-based structure that require filing a Notice of Intent with the Conservation Commission may be grounds for loss of the year-round permit.
2. A permit for the following year must be applied for and applicable fee paid prior to the December 1<sup>st</sup> deadline for removal.
3. The permit shall be revoked by the Town should any of the above criteria not be met on a continuing basis.

6.3 The Town will annually publish a public notice of its intention to renew permits within ten (10) days prior to the renewal date. Information will be included in this public notice as to where to obtain renewal applications, where comments on specific sites may be sent and the cut-off date for receipt of all comments.

6.4 A permit for an eligible small structure attached to land is transferable upon change of ownership of the land to the new owner, and may be renewed upon its expiration in accordance with this section. A permit for a float or other structure not attached to land is not transferable.

6.5 Projects eligible to be permitted by this program that previously obtained an annual permit, a license, or interim approval, may apply to the permitting authority for extension of annual authorization as a renewal. No individual notice is required for a renewal, unless required by the permitting authority.

6.6 A project eligible for a renewal shall submit a renewal request to the Town no later than April 15<sup>th</sup> of the calendar year. The renewal request shall include a statement from the applicant certifying that no changes to the structure have been made and that any conditions of the permit shall be complied with. No changes to a structure or its use may be authorized by a renewal. No renewal shall be issued if the structure is not being maintained in accordance with the permit.

6.7 The permit number shall be affixed by the owner to the outboard end of the dock or on any side of a float, mooring or buoy. The permit number characters shall be of contrasting color and legibility maintained. The numbers on the outboard end of the dock shall be a minimum of 3 inches high and the sides of the outboard section and all other separable dock sections shall be numbered with the same permit number with characters a minimum of 1 inch high.

6.8 The Town will provide an annual sticker for any approved annual renewal. This sticker must be secured by the owner on the outboard next to the permit number.

6.9 Structures that are deemed to be non-conforming to the conditions of the permit, deemed to be a safety or navigational hazard by the Town shall be corrected or removed by the owner within 15 days of notification of same. Docks not made compliant may be removed by the Town and the owner assessed the costs for removal and disposal of same.



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### 7.0 Enforcement & Penalties

7.1 The provisions of this local permitting program under 310 CMR 9.07 shall be enforced by the Town Police and Conservation Commission, as applicable.

7.2 Mass DEP may enforce the provisions of 310 CMR 9.07 upon the request of a local permitting program or upon a finding that the local enforcement is inadequate.

7.3 Unless deemed a major health and/or safety hazard, property owners or violators of this local permitting program for water based structures shall be given 7 days after due notification by certified mail to correct the violation or face a fine of \$50.00 per day thereafter.

7.4 Violators of the moored boat sticker regulation shall be given 7 days after due notification by certified mail to correct the violation or face a fine of \$25.00 per day thereafter.

7.5 Fines paid under this local permitting program or fines paid under the moored boat sticker regulations shall go into a fund to be used for improving lake water quality and/or safety.

### 8.0 Application and Annual Fees

8.1 The Application Fee for the initial structure permit shall be \$40 per structure (i.e., dock assembly, float, mooring, buoy). A dock assembly is defined as a single dock section or multiple sections extending from a single point on the shore (land).

8.2 The Annual Permit Renewal Fee shall be per structure (i.e., dock assembly, float, mooring, buoy) in accordance with Table 1, herein.

8.3 The fee for vessel stickers described in section 4.15 shall be in accordance with Table 1, herein.

8.4 All fees collected under this local program shall go into a Lake Fund that is to be used exclusively for dock inspection and local law enforcement patrols of waterways-related issues (docks, navigation, safety, fishing, etc.) so that the lakes are a safer, more pleasant experience for all its users.

8.5 The fees described herein shall not be applicable to a municipal agency.

### 9.0 Review of Local Decision

9.1 Any applicant aggrieved by a refusal to permit a small structure accessory to a residence or by any condition or restriction imposed relative thereto, shall first file an appeal with the Town's designated Appeal Review Committee, which shall consist of the Board of Selectmen. Any applicant still aggrieved by refusal to permit a small structure accessory to a residence, a noncommercial community docking facility, or by any condition or restriction imposed relative thereto may then file an appeal with Mass DEP pursuant to 310 CMR 9.07(5).



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**Table 1**

### 2015 Rate Structure For Application & Renewal Fees

Residential Water Structure Permits	First Time Register	Annual Renewal or Modification
Lakefront resident/owner docks – Includes one free vessel sticker 1 <sup>st</sup> year	\$ 40.00	\$ 20.00
Lakefront resident/resident moorings, swim floats & buoys	\$ 20.00	\$ 10.00
Lakefront <i>non-resident/owner</i> docks ( <i>i.e., rental property</i> )	\$ 40.00	\$ 20.00
Lakefront <i>non-resident/owner</i> moorings, swim floats & buoys	\$ 20.00	\$ 10.00
<b>Stickers for <u>Registered</u> Vessels moored at Residences</b>		
Lakefront resident (Southwick or Suffield)/owner		
Lakefront <i>non-resident (Southwick or Suffield)/non-owner (i.e., rental property)</i>	\$ 10.00	\$ 10.00
Lakefront <i>non-resident (Southwick or Suffield)/non-owner (i.e., rental property)</i>	\$ 20.00	\$ 20.00
Non-lakefront resident of Southwick or Suffield ( <i>i.e., vessel moored on dock</i> )	\$ 40.00	\$ 40.00
<b>Stickers for <u>Registered</u> Vessels moored at Marinas (2)</b>		
Docks & moorings (Chapter 91 License <u>required</u> by DEP)	\$ -	\$ -
Sticker Fee for registered vessels	\$ 40.00	\$ 40.00
<b>Stickers for <u>Registered</u> Vessels moored at Restaurants (4)</b>		
Docks & moorings (Chapter 91 License <u>required</u> by DEP)	\$ -	\$ -
Sticker Fee for registered vessels	\$ 40.00	\$ 40.00