



TOWN OF WELLFLEET HEALTH & CONSERVATION DEPARTMENT

220 West Main Street
Wellfleet, MA 02667

508-349-0308
Fax 508-349-0327

Wellfleet Conservation Commission Policy 2003 – 1 Buffer Zone Policy – Jurisdictional Opinion

Introduction: There are many occasions when members of the general public inquire of the Conservation Agent(s) whether an activity is within the jurisdiction of the Conservation Commission and whether such activity will require the filing of a Request for Determination of Applicability (RDA) or a Notice of Intent (NOI). The Conservation Commission has jurisdiction over activities which will remove, fill, dredge or alter an area subject to protection under the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131 s. 40) and the Wellfleet Environmental Protection Bylaw, including that area of land extending 100 feet horizontally outward from the boundary of all resource areas subject to protection. This does not exempt you from the MESA filing. It is the responsibility of the land owner or project proponent to determine if their project falls within priority Habitat or Estimated Habitat. Certain project types are exempt from MESA review. Failure to file under the MESA constitutes a violation of the Act and is subject to a fine.

Purpose: To establish guidelines and standards for the Conservation Department to determine which type of activities require the filing of a RDA or NOI and those which may proceed after a receiving a jurisdictional opinion by the Conservation Agent(s).

Procedure:

1. Any person seeking a an opinion from the Conservation Department, shall file a Request for Jurisdictional Opinion with the Conservation Department.
2. The Conservation Agent(s) will review the project description AND conduct a site inspection to gather any information necessary to render a Jurisdictional Opinion (including photographs).
3. The Conservation Agent(s) will issue a Jurisdictional Opinion, which shall be valid for one year from the date of the request.
4. Upon the completion of the work the applicant shall file a Request for a Site Inspection.
5. Upon receipt of the Request for Site Inspection, the Conservation Agent(s) will inspect the site for compliance with the original request.

**The Conservation Department shall notify the Conservation Commission of the jurisdictional opinions issued between Commission meetings and the Conservation Commission shall affirm such opinions. If the approval of individual decisions is denied by the Commission, the applicant shall be notified in writing of the Commission decision, with no prejudice to the applicant, and may required to file a Request for Determination or Notice of Intent.

If any of the following activities are undertaken without first receiving a Jurisdictional Opinion, Order of Conditions, or Determination of Applicability OR if activities which were not included in the Request for Jurisdictional Opinion have been undertaken, the Conservation Commission may pursue enforcement action and/or fines up to \$200/day per violation.

Minor Activities: The Wellfleet Conservation Commission hereby finds, only in accordance with the procedures above, that the following minor activities, when proposed to be undertaken in the Buffer Zone, do not constitute an alteration as defined at 310 CMR 10.00 and therefore do not require the filing of an RDA or NOI:

1. Removal of tree(s) which may pose a hazard to public safety, an existing structure or driveway
2. Planting of native species of trees, shrubs or groundcover (does not include turf lawns)
3. Brush pile(s); burning of brush with a proper permit from the fire department
4. Stacks of cordwood (firewood) only up to 3 cords for personal use
5. Conversion of patios, sheds or other impervious surfaces and lawns to more natural areas planted with native species
6. Activities that are temporary in nature, have negligible impacts, and are necessary for planning and design purposes (e.g. installation of monitoring wells, re-drilling existing wells in the same location, exploratory borings, sediment sampling, surveying, deep hole & percolation tests)
7. Any work within the footprint of an existing structure that will not alter the surface of the land (e.g. replacement of windows and doors, shingling and siding, replacing a deck on the existing footings). *Note:* Demolition and re-construction of a dwelling shall require the filing of a Notice of Intent.
8. Maintenance of existing structures (e.g. replacement of railings or planks on an existing stairway)
9. Resurfacing of existing pavements



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Jurisdictional Opinion

The activity described above:

- requires the filing of a **Notice of Intent**
- requires the filing of a **Request for Determination of Applicability**
- is within the Buffer Zone** AND qualifies as a Minor Activity, as defined in the Wellfleet Conservation Commission Policy # 2003-1, and is not an alteration as defined at 310 CMR 10.00 and the Wellfleet Environmental Protection Bylaw. Only the proposed activity described in the request may proceed without further review.
The proposed activity meets the definition of Minor Activity # _____.
_____ is not within the jurisdiction of the Conservation Commission and may proceed without further action.

This jurisdictional opinion applies only to this request, as proposed in the project description attached, and does not constitute confirmation or approval of any delineation of a wetland resource area nor does it constitute approval of any work not included in this request. If any activity described above results in an adverse impact to a wetland resource area or if work is undertaken which is not explicitly described above, the Conservation Commission may issue an enforcement order and/or fines in the amount of \$200 per day per violation, and may also require the filing of a Restoration Plan, a Request for Determination of Applicability or a Notice of Intent to address any concerns. This opinion shall expire one year from the date of the issuance of the Jurisdictional Opinion.

On behalf of the Wellfleet Conservation Commission,

Signature: _____ Date: _____
Conservation Agent

Request for Site Inspection

I, _____, request the Wellfleet Conservation Commission and/or its agents to
(applicant name)
conduct a site inspection at _____, in order to determine whether the activities
(project location)
proposed in the Request for Jurisdictional Opinion have been completed satisfactorily.

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- The activity described in the Request for Jurisdictional Opinion has been completed satisfactorily.
- The activity described in the Request for Jurisdictional Opinion has NOT been completed satisfactorily.



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Request for Jurisdictional Opinion

Date: _____

Property Owner: _____

Project Location: _____

Map/Parcel #: _____

Mailing Address: _____

Phone #: _____

Project Description:

I hereby grant permission to the Wellfleet Conservation Commission and/or its agents to enter onto my property to gather evidence required to render a jurisdictional opinion and to monitor the activity described above for compliance. Upon completion of the activity described above, I will submit a Request for a Site Inspection by the Conservation Commission and/or its agent(s).

Signature: _____
Applicant

Date: _____