

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Waterways Regulation Program

Instructions, Do you need a Chapter 91 License?

1. Where is your project located?

The Public Waterfront Act MGL Chapter 91 and its regulations require a Chapter 91 waterways license or permit for any activity located in, under, or over flowed tidelands, filled tidelands, Great Ponds and certain non-tidal rivers and streams located throughout the Commonwealth.

These projects and activities include but are not limited to: construction of docks, piers, wharves, floats, retaining walls, revetments, fill, dredging, beach nourishment, pilings, culverts, bridges, dams and some waterfront buildings, if on filled lands or over the water, that are located in any one of the four geographic areas described below.

Chapter 91 Waterways licenses and permits are necessary to protect and promote the public interest in these water bodies by ensuring that proposed projects and activities do not unreasonably interfere with navigation and the rights of the public or adjacent waterfront property owners; protect water-dependent uses and serve a proper public purpose.

Flowed Tidelands

Flowed tidelands are lands that are in, on, over, and under tidal waters seaward of the current mean high water mark. This jurisdiction extends seaward to the Commonwealth's 3-mile limit of territorial jurisdiction. Any structure or activity seaward of the current mean high water mark requires Chapter 91 authorization.

Filled Tidelands

Filled tidelands are former submerged lands and tidal flats which are no longer subject to tidal action due to the presence of fill. Chapter 91 authorization is required for activities on filled tidelands if located:

- a) in designated port areas (DPAs), or
- b) between the first public way (i.e. road) and the mean high water mark, or
- c) between 250 feet and the shore, whichever is further from the water.

Great Ponds

A Great Pond is a pond having a water surface area of 10 acres or more in its natural (historic) state. Chapter 91 authorization is required for activities in, on, over, or under the entire area of any Great Pond, whether larger or smaller today than it was in the past. Click here for a county-by-county listing of great ponds in Massachusetts:

<http://www.mass.gov/eea/agencies/massdep/water/watersheds/massachusetts-great-ponds-list.html>

Non-tidal Rivers and Steams

A non-tidal river or stream is a river or stream that is not affected by the actions of the ocean's tide. Non-tidal rivers and streams subject to Chapter 91 jurisdiction include sections of the Westfield River in West Springfield and Agawam, non-tidal portions of the Merrimack River, the Connecticut River and any non-tidal river or stream where public funds have been expended and which are navigable during any season by any vessel including canoe, kayak, raft, or rowboat. Certain specified projects not affecting navigation on non-tidal rivers and streams, however, are exempt from Chapter 91 licensing under the provisions of 310 CMR 9.05(3)(g). Any activity that reduces the space available for navigation requires Chapter 91 authorization.

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2. Is your project water-dependent?

Water-dependent uses are those activities that rely upon being in or near the water. If none of the statements below describe your activity in its *entirety*, the Department will consider your project to be **nonwater-dependent**. *Inclusion of a nonwater-dependent use in a water-dependent use proposal will render the proposal as nonwater-dependent*. Upon review of your Chapter 91 Waterways license or permit application, the Department will provide a Use Statement based on the information supplied in the application.

Project Type	Use Statement
Pier (private, non-commercial)	Non-commercial docking and boating access to navigable waters.
Marina (public recreational boating facility)	To provide a public recreational boating facility
Marina (private recreational boating facility)	To provide a private recreational boating facility
Bulkhead/Seawall/Revetment/Riprap, etc.	Shoreline stabilization for the protection of: a) existing structures, or b) a water-dependent use Notes: (1) Pick either a) or b), whichever is appropriate (2) If these structures will protect a new nonwater-dependent use then the use of these structures will also be considered nonwater-dependent. [see CMR 9.12(2)(a)(11)]
Pipeline crossing (sewer, water gas, etc.)	Transmission of water/wastewater/natural gas
Power line crossing	Transmission of electricity, telecommunication
Public Boardwalk/Waterfront Park (including facilities for water-dependent recreation activities)	Public access to waterfront open space for passive recreational purposes
Public Landing/Boat Ramp	Public access to navigable waters
Beach Nourishment	1) Public access to waterfront open space for recreational purposes and 2) Shoreline stabilization
Boathouse (accessory to private noncommercial pier)	Noncommercial storage of boats and other associated water-dependent purposes
Water-dependent Industrial Uses	Boat yards, hydroelectric plants, manufacturing facilities associated with commercial vessel operations.
Waterborne Passenger Facilities (ferries, taxis, etc.)	To provide a waterborne passenger transportation facility
Dams/Tidal Gates	To control water levels

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3. What type of Chapter 91 license or permit will you need?

The Waterways Program offers several types of Chapter 91 Waterways License approvals to address a wide variety of proposed water-dependent and nonwater-dependent use activities. Each type of approval is discussed below.

<u>CHAPTER 91 LICENSE APPLICATION TYPE</u>	<u>MASSDEP APPLICATION #</u>
SIMPLIFIED (For certain Water-dependent Uses, Nonwater-dependent Uses)	BRP WW06
WATER DEPENDENT	
▪ <u>General</u>	BRP WW01
NONWATER-DEPENDENT	
▪ <u>Partial</u>	BRP WW14
▪ <u>Full</u>	BRP WW15
▪ <u>Municipal Harbor Plan</u>	BRP WW16
▪ <u>Joint MEPA/EIR</u>	BRP WW17
AMENDMENT	BRP WW03
▪ For Water-dependent Uses, Nonwater-dependent Uses	

SIMPLIFIED Chapter 91 License [BRP WW06]

MassDEP created Simplified License application procedures especially for *owners of small residential docks, piers, seawalls and bulkheads* that make the license application process easier and less expensive. Residential waterfront property owners should be able to complete and file their Chapter 91 license applications without the need for professional assistance. In addition, the costly requirements for professionally prepared Mylar construction plans generally have been eliminated. However, even if your project is eligible for a Simplified license, you may wish to seek a general Waterways license if you desire a license term for a period greater than 15 years.

Water-dependent and Nonwater-dependent structures eligible for the Simplified application review process include: docks, piers and other small-scale structures that are accessory to residential uses or serve as non-commercial community docking facilities.

Eligible structures must also meet the following size requirements:

- **pre-1984 existing structures - less than 600 square feet; or**
- **post-1984 existing or new structures - less than 600 square feet and water-dependent**

Application Type	Brief Description	Term	Fees	Application Review Period
SIMPLIFIED BRP WW06	For Water-dependent Uses and Nonwater-dependent Uses meeting SIMPLIFIED eligibility requirements.	15 years	Application - \$75.00 Displacement – EXEMPT Occupation – \$1.00/yd ² x term Annual Compliance – EXEMPT	90 days from close of comment period (see 310 CMR 9.10(4))

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INSTRUCTIONS, Do you need a Chapter 91 License?

WATER-DEPENDENT Chapter 91 License [BRP WW 01]

All new or unauthorized water-dependent use projects, subject to the jurisdiction of Chapter 91 and that do not meet the Simplified Waterways License criteria described above, must obtain a General Water-Dependent Chapter 91 Waterways License. Water-dependent uses are those activities that rely upon being in or near the water. These activities are presumed to serve a proper public purpose. Projects that are eligible for a Simplified license, but for which a longer license term is sought, may apply for a general water-dependent Waterways license. **[see page 5, IS YOUR PROJECT WATER-DEPENDENT?]**

Application Type	Brief Description	Term	Fees	Application Review Period
GENERAL BRP WW01	For Water-dependent use proposals that do not meet the SIMPLIFIED eligibility criteria	30 years	Application – \$215 – Residential ≤ 4 units \$330 – Non Residential \$3,350 – Extended Term Displacement - \$2.00/yd ³ Occupation – \$1.00/yd ² x term Annual Compliance – EXEMPT	276 days

NONWATER-DEPENDENT Chapter 91 License [BRP WW14, BRP WW15, BRP WW16, BRP WW17]

All new or unauthorized nonwater-dependent use projects, subject to the jurisdiction of Chapter 91 and that do not meet the Simplified Waterways License criteria described above, must obtain a General Nonwater-Dependent Chapter 91 Waterways License. Projects that are eligible for a Simplified license, but for which a longer license term is sought, may apply for a general nonwater-dependent Waterways license. An applicant may choose one of the following four application review options listed below. In addition to fees and processing time, selection of a particular nonwater-dependent application review option will largely depend upon the nature and complexity of the proposed activity and the level of detailed information compiled and contained in the initial application submittal. **[see page 5, IS YOUR PROJECT WATER-DEPENDENT?]**

Application Type	Brief Description	Term	Fees	Application Review Period
FULL BRP WW14	Must contain complete professionally certified construction plans (Mylar) and obtain all local approvals (see 310 CMR 9.11)	30 years	Application – \$665 Residential ≤ 4 units, \$2,005-Non residential \$3,350 – Extended Term Displacement - \$10.00/yd ³ Occupation – \$2.00/yd ² x term Annual Compliance – \$80.00	231 days
PARTIAL BRP WW15	Same as FULL Application without professionally certified Mylar construction plans and local approvals	30 years	Application – \$665 – Residential ≤ 4 units, \$2,005 - Non residential \$3,350 – Extended Term Displacement - \$10.00/yd ³ Occupation – \$2.00/yd ² x term Annual Compliance – \$80.00	311 days
MUNICIPAL HARBOR PLAN BRP WW16	For projects located in areas with established Municipal Harbor Plans (MHP)	30 years	Application – \$665 – Residential ≤ 4 units, \$2,005 - Non residential \$3,350 – Extended Term Displacement - \$10.00/yd ³ Occupation – \$2.00/yd ² x term Annual Compliance – \$80.00	246 days
JOINT EIR & MEPA BRP WW17	For projects that trigger established MEPA thresholds (see MEPA Regulations; 301 CMR 11.00)	30 years	Application – \$665 – Residential ≤ 4 units, \$2,005 - Non residential \$3,350 – Extended Term Displacement - \$10.00/yd ³ Occupation – \$2.00/yd ² x term Annual Compliance – \$80.00	191 days

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Chapter 91 PERMIT

Projects NOT involving work on fill or structures may apply for a Chapter 91 Waterways Permit for the activities listed below. Permit applications are generally faster to process than license applications. At the applicant's discretion, these activities may instead be included as part of a Chapter 91 Waterways license application.

Any dredging*, beach nourishment, disposal involving the subaqueous placement of unconsolidated material below the low water mark, burning of rubbish or other material upon the water in accordance with MGL Chapter 91, Section 52, and any lowering of the water level of a great pond, except for certain purposes described in 310 CMR 9.05(2)(e).

* Maintenance dredging may be permitted for up to 10 years.

Application Type	Term	Fees	Application Review Period
WATER-DEPENDENT BRP WW01	5 – 10 years	Application – \$215.00 – Residential ≤ 4 units, \$330.00 - Non residential Displacement – EXEMPT Occupation – EXEMPT	105 days

AMENDMENT to Chapter 91 License or Permit [BRP WW03]

An applicant may apply to amend an existing Chapter 91 Waterways licensed or permitted facility/use for the following purposes:

- a. authorizing a structural alteration or change in use **not** defined as substantial (see 310 CMR 9.02),
- b. delineating a reconfiguration zone within a marina, or
- c. renewing a license term for period not to exceed a term period authorized under the original license or permit.

Any change in use or substantial structural alteration of any existing licensed structures or fill will require a new Chapter 91 Waterways license or permit. For example, any increase in the length, width, or height of an existing licensed structure or fill would require the issuance of a new license. Maintenance and repair of licensed fill and/or structures in accordance with the regulations is permitted without a license or a license amendment, as is maintenance dredging for 5 years after issuance of the license or permit.

Application Type	Application Fee	Application Review Period
BRP WW03a Amended Residential Water-Dependent Use projects, 4 units or less	\$100	276 days
BRP WW03b Amended Nonresidential Water-Dependent Use Projects	\$125	276 days

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Application Type	Application Fee	Application Review Period
BRP WW03c Amendments for Residential nonwater-dependent use project, four dwelling units or less	\$530	276 days
BRP WW03d Amendments for other nonwater-dependent use projects	\$1,000	276 days
BRP WW03e Amendments for licenses with Extended Terms or facilities described in 310 CMR 9.16(3)(b)2.	\$1,335	276 days

4. Avoid the most common mistakes when applying for a chapter 91 license or permit.

- For large or complex projects**, you may request a pre-application consultation with the Department’s Waterways Regulation Program for preliminary guidance on the applicability of the Waterways Program’s regulatory standards and licensing procedures as they may pertain to your project proposal.
- Follow the construction plan specifications** for your proposed project listed in Appendices A or B of the Waterways License Application.
- Refer to the Application Completion Checklist** (see Waterways Application – Appendix C).
- Submit a completed Chapter 91 Waterways License Application** together with MassDEP’s *Transmittal Form for Permit Application and Payment* to the Department location listed below.

Water-Dependent Applications -

Projects located in MassDEP’s Northeast, Central and Boston regions should submit applications to the Boston office (*same address for non-water dependent applications*). Projects located in MassDEP’s Southeast and Western regions should submit applications to the appropriate regional office. Find your region:

<http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>

Nonwater-Dependent Applications -

MassDEP’s Boston Office – Department of Environmental Protection, Waterways Regulation Program, One Winter Street, Boston, MA 02108

- Submit the appropriate Chapter 91 Waterways Application Fee** payable by check or money order to “The Commonwealth of Massachusetts, DEP” with a photocopy of MassDEP’s *Transmittal Form for Permit Application and Payment* <http://www.mass.gov/eea/agencies/massdep/service/approvals/transmittal-form-for-payment.html> to:

Department of Environmental Protection
P.O. Box 4062
Boston, MA 02211

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5. What regulations apply to the Chapter 91 licensing process?

1. Waterways Regulations, 310 CMR 9.00

- <http://www.mass.gov/eea/agencies/massdep/water/regulations/310-cmr-9-00-massachusetts-waterways-regulation.html#1>
- State House Bookstore - Room 116, Boston, MA 02133, 617-727- 2834
- State House West Bookstore – 436 Dwight Street, Springfield, MA 01103, (413) 784-1376

2. Timely Action and Fee Provisions, 310 CMR 4.00

- State House Bookstore - Room 116, Boston, MA 02133, 617 727- 2834
- State House West Bookstore – 436 Dwight Street, Springfield, MA 01103, (413) 784-1376

6. After you receive a Chapter 91 license

LICENSE RECORDATION

The Chapter 91 license and plan must be recorded at the Registry of Deeds within the property's chain of title within 60 days of the date of issuance. The Licensee is required to provide MassDEP with written notice of said recordation including; date of recordation and instrument number, name of Registry of Deeds or Land Court where recordation was made. *Failure of the Licensee to record said license and plan within this 60-day period will render the license VOID.*

LICENSE RENEWAL AND/OR TRANSFER

A Chapter 91 Waterways license may be renewed if the structure remains sound and conforms to the construction plans in the original application. *The Renewal fee for Simplified Licenses is \$35 and for all other Waterways Licenses - one half (1/2) of the original license application fee.* A license is automatically transferred upon a change of ownership of the property for which the license has been duly recorded.

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Chapter 91 License Application - Timelines At A Glance

MassDEP ACTION	WATER-DEPENDENT (WD)	NONWATER-DEPENDENT (NWD)			
		Partial	Full	Municipal Harbor Plan	Joint MEPA & EIR
- General - Amendment					
- Assign file # - Determine water dependency - Issue public notice	≤ 45 days	≤45 days	≤45 days (Admin. Review)	≤45 days	≤25 days
Public Comment Period (includes Public Hearing)	30 - 60 days	30 – 60 days	30 – 60 days	30 - 60 days	30 – 60 days
Administrative Completeness Review	≤ 60 days	≤30 days	-----	≤30 days	-----
Technical Review & Issue Written Determination	≤ 90 days	≤60 days	≤60 days	≤45 days	≤30 days
Appeal Period	21 days	21 days	21 days	21 days	21 days
Issue license (or 15 days from date of Governor's signature, whichever is later)	-----	≤45 days	≤45 days	≤45 days	≤45 days
Maximum Application Process Time	≤ 276 days	≤ 311 days	≤ 231 days	≤ 246 days	≤ 191 days

NOTE:

All timelines described herein represent maximum time periods. All Chapter 91 license application review timelines begin with the first day following the act that initiates the running of the particular application review period, and includes every calendar day, including the last day of the particular review period that is being computed. Also, if the last day of an application review period is a Saturday, Sunday, legal holiday, or any other day in which the Department's offices are closed, the deadline shall run to the end of the next business day.

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Chapter 91 License Application - *Fees Explained*

APPLICATION FEE

An Application Fee is charged for all Waterways License and Permit applications. The Application Fee is non-refundable and is paid at the time of submission of the original application* by check or money order made payable to *The Commonwealth of Massachusetts, DEP*. Please consult the Chapter 91 Waterways Fee Schedules (pages 2-4) above.

*** Under circumstances of extreme financial hardship, MassDEP grants extended time periods for payment of License and Permit Application fees. Please refer to 310 CMR 4.04(3)(c) to identify the procedures for making a Hardship Request to the Department.**

NOTE: You may be subject to a *double* application fee if your application for Chapter 91 authorization results from an enforcement action by the Department or another agency of the Commonwealth or its subdivisions, or if your application seeks authorization for an existing unauthorized structure or use.

DISPLACEMENT FEE

Is paid by license holders for their use of state waters. Displacement fees are assessed after MassDEP has determined it will approve a license or license amendment application and must be paid prior to MassDEP's issuance of license. *Projects authorized by PERMIT or licensed through the SIMPLIFIED application review process are exempt from Displacement Fees.* Displacement fees are based on per cubic yard of tidelands displaced by the project. Please consult the Chapter 91 Waterways Fee Schedules (pages 2-4) above.

OCCUPATION FEE

Is paid by license holders for their use of state land in projects authorized by the license. Occupation fees are assessed after MassDEP has determined it will approve a license or license amendment and must be paid prior to MassDEP's issuance of the license. *Projects authorized by PERMIT are exempt from Occupation Fees.* The Occupation fee is calculated by multiplying the dollar rate shown by the length of the license term, in years, and by the area of occupied land held by the Commonwealth. This is a fixed fee for the term of the license and is assessed on a lump sum basis, except as provided in 310 CMR 9.16(3)(d). Please consult the Chapter 91 Waterways Fee Schedules (pages 2-4) above.

Please refer to the application fee tables (pages 2- 4 above) for a list of applicable fees.

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Chapter 91 Waterways License Application - 310 CMR 9.00
 Water-Dependent, Nonwater-Dependent, Amendment

Transmittal No. _____

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



For assistance in completing this application, please see the "Instructions".

A. Application Information (Check one)

NOTE: For Chapter 91 Simplified License application form and information see the Self Licensing Package for BRP WW06.

Name (Complete Application Sections)	Check One	Fee	Application #
WATER-DEPENDENT -			
General (A-H)	<input type="checkbox"/> Residential with ≤ 4 units	\$215.00	BRP WW01a
	<input type="checkbox"/> Other	\$330.00	BRP WW01b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW01c
Amendment (A-H)	<input type="checkbox"/> Residential with ≤ 4 units	\$100.00	BRP WW03a
	<input type="checkbox"/> Other	\$125.00	BRP WW03b
NONWATER-DEPENDENT -			
Full (A-H)	<input type="checkbox"/> Residential with ≤ 4 units	\$665.00	BRP WW15a
	<input type="checkbox"/> Other	\$2,005.00	BRP WW15b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW15c
Partial (A-H)	<input type="checkbox"/> Residential with ≤ 4 units	\$665.00	BRP WW14a
	<input type="checkbox"/> Other	\$2,005.00	BRP WW14b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW14c
Municipal Harbor Plan (A-H)	<input type="checkbox"/> Residential with ≤ 4 units	\$665.00	BRP WW16a
	<input type="checkbox"/> Other	\$2,005.00	BRP WW16b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW16c
Joint MEPA/EIR (A-H)	<input type="checkbox"/> Residential with ≤ 4 units	\$665.00	BRP WW17a
	<input type="checkbox"/> Other	\$2,005.00	BRP WW17b
	<input type="checkbox"/> Extended Term	\$3,350.00	BRP WW17c
Amendment (A-H)	<input type="checkbox"/> Residential with ≤ 4 units	\$530.00	BRP WW03c
	<input type="checkbox"/> Other	\$1,000.00	BRP WW03d
	<input type="checkbox"/> Extended Term	\$1,335.00	BRP WW03e

B. Applicant Information Proposed Project/Use Information

1. Applicant:

Note: Please refer to the "Instructions"

_____	_____	_____
Name	E-mail Address	
_____	_____	
Mailing Address		
_____	_____	_____
City/Town	State	Zip Code
_____	_____	_____
Telephone Number	Fax Number	

2. Authorized Agent (if any):

_____	_____	_____
Name	E-mail Address	
_____	_____	
Mailing Address		
_____	_____	_____
City/Town	State	Zip Code
_____	_____	_____
Telephone Number	Fax Number	

C. Proposed Project/Use Information

1. Property Information (all information must be provided):

_____	_____	_____
Owner Name (if different from applicant)		
_____	_____	_____
Tax Assessor's Map and Parcel Numbers	Latitude	Longitude
_____	_____	_____
Street Address and City/Town	State	Zip Code

2. Registered Land Yes No

3. Name of the water body where the project site is located:

4. Description of the water body in which the project site is located (check all that apply):

<u>Type</u>	<u>Nature</u>	<u>Designation</u>
<input type="checkbox"/> Nontidal river/stream	<input type="checkbox"/> Natural	<input type="checkbox"/> Area of Critical Environmental Concern
<input type="checkbox"/> Flowed tidelands	<input type="checkbox"/> Enlarged/dammed	<input type="checkbox"/> Designated Port Area
<input type="checkbox"/> Filled tidelands	<input type="checkbox"/> Uncertain	<input type="checkbox"/> Ocean Sanctuary
<input type="checkbox"/> Great Pond		<input type="checkbox"/> Uncertain
<input type="checkbox"/> Uncertain		

C. Proposed Project/Use Information (cont.)

Select use(s) from Project Type Table on pg. 2 of the "Instructions"

5. Proposed Use/Activity description

6. What is the estimated total cost of proposed work (including materials & labor)?

\$ _____

7. List the name & complete mailing address of each abutter (attach additional sheets, if necessary). An abutter is defined as the owner of land that shares a common boundary with the project site, as well as the owner of land that lies within 50' across a waterbody from the project.

_____	_____
Name	Address
_____	_____
Name	Address
_____	_____
Name	Address

D. Project Plans

1. I have attached plans for my project in accordance with the instructions contained in (check one):

Appendix A (License plan) Appendix B (Permit plan)

2. Other State and Local Approvals/Certifications

<input type="checkbox"/> 401 Water Quality Certificate	_____
	Date of Issuance
<input type="checkbox"/> Wetlands	_____
	File Number
<input type="checkbox"/> Jurisdictional Determination	_____
	JD- File Number
<input type="checkbox"/> MEPA	_____
	File Number
<input type="checkbox"/> EOE Secretary Certificate	_____
	Date
<input type="checkbox"/> 21E Waste Site Cleanup	_____
	RTN Number

E. Certification

All applicants, property owners and authorized agents must sign this page. All future application correspondence may be signed by the authorized agent alone.

"I hereby make application for a permit or license to authorize the activities I have described herein. Upon my signature, I agree to allow the duly authorized representatives of the Massachusetts Department of Environmental Protection and the Massachusetts Coastal Zone Management Program to enter upon the premises of the project site at reasonable times for the purpose of inspection."

"I hereby certify that the information submitted in this application is true and accurate to the best of my knowledge."

Applicant's signature

Date

Property Owner's signature (if different than applicant)

Date

Agent's signature (if applicable)

Date

F. Waterways Dredging Addendum

1. Provide a description of the dredging project

Maintenance Dredging (include last dredge date & permit no.) Improvement Dredging

Purpose of Dredging

2. What is the volume (cubic yards) of material to be dredged?

3. What method will be used to dredge?

Hydraulic Mechanical Other

4. Describe disposal method and provide disposal location (include separate disposal site location map)

5. Provide copy of grain size analysis. If grain size is compatible for beach nourishment purposes, the Department recommends that the dredged material be used as beach nourishment for public beaches. **Note:** In the event beach nourishment is proposed for private property, pursuant to 310 CMR 9.40(4)(a)1, public access easements below the existing high water mark shall be secured by applicant and submitted to the Department.

G. Municipal Zoning Certificate

Name of Applicant

Project street address

Waterway

City/Town

Description of use or change in use:

To be completed by municipal clerk or appropriate municipal official:

"I hereby certify that the project described above and more fully detailed in the applicant's waterways license application and plans is not in violation of local zoning ordinances and bylaws."

Printed Name of Municipal Official

Date

Signature of Municipal Official

Title

City/Town

H. Municipal Planning Board Notification

Notice to Applicant:

Section H should be completed and submitted along with the original application material.

Name of Applicant

Project street address

Waterway

City/Town

Description of use or change in use:

To be completed by municipal clerk or appropriate municipal official:

"I hereby certify that the project described above and more fully detailed in the applicant's waterways license application and plans have been submitted by the applicant to the municipal planning board."

Printed Name of Municipal Official

Date

Signature of Municipal Official

Title

City/Town

Note: Any comments, including but not limited to written comments, by the general public, applicant, municipality, and/or an interested party submitted after the close of the public comment period pertaining to this Application shall not be considered, and shall not constitute a basis for standing in any further appeal pursuant to 310 CMR 9.13(4) and/or 310 CMR 9.17.

Appendix A: License Plan Checklist

General View

- PE or RLS, as deemed appropriate by the Department, stamped and signed, in ink, each sheet within 8 1/2 inch by 11 inch border
- Format and dimensions conform to "Sample Plan" (attached)
- Minimum letter size is 1/8 of an inch if freehand lettering, 1/10 of an inch if letter guides are used
- Sheet number with total number in set on each sheet
- Title sheet contains the following in lower left: Plans accompanying Petition of [Applicant's name, structures and/or fill or change in use, waterway and municipality]
- North arrow
- Scale is suitable to clearly show proposed structures and enough of shoreline, existing structures and roadways to define its exact location
- Scale is stated & shown by graphic bar scale on each sheet
- Initial plans may be printed on bond; final plans due before License issuance must be on 3mil Mylar.

Structures and Fill

- All Structures and Fill shown in full BLACK lines, clearly labeling which portions are existing, which are Proposed and indicating Existing Waterways Licenses
- Cross Section Views* show MHW* and MLW* and structure finish elevations
- Dredge or Fill*, actual cubic yardage must be stated and typical cross sections shown
- All Structures and Fill shown in full BLACK lines, clearly labeling which portions are existing, which are Proposed and indicating Existing Waterways Licenses
- Cross Section Views* show MHW* and MLW* and structure finish elevations
- Dredge or Fill*, actual cubic yardage must be stated and typical cross sections shown
- Actual dimensions of structures(s) and or fill and the distance which they extend beyond MHW* or OHW*
- Change in Use of any structures on site must be stated

* See 310 CMR 9.02, Waterways Regulations definitions of High Water Mark, Historic High Water Mark, Historic Low Water Mark, and Low Water Mark. *Note:* DEP may, at its discretion, accept appropriately scaled preliminary plans in lieu of the plans described above. In general, DEP will accept preliminary plans only for non-water dependent projects and projects covered by MEPA to address site design components such as visual access, landscaping & site coverage. *Anyone wishing to submit preliminary plans must obtain prior approval of the DEP Waterways Program before submitting them with their application.*

Appendix A: License Plan Checklist (cont.)

Boundaries

- Property lines, full black lines, _____, along with abutters' names and addresses
- Mean High Water (MHW)* or Ordinary High Water (OHW)*, full black line _____
- Mean Low Water (MLW)*, black dotted line, (.....)
- Historic MHW* or OHW* (— — — —)
- Historic MLW* (..._..._..._)
- State Harbor Lines, black dot-dash line (- . - . - .) with indication of Chapter & Act establishing them (Ch. , Acts of)
- Reference datum is National Geodetic Vertical Datum (NGVD) or (NAVD).
- Floodplain Boundaries according to most recent FEMA maps
- Proposed & Existing Easements described in metes & bounds

Water-Dependent Structures

- Distance from adjacent piers, ramps or floats (minimum distance of 25' from property line, where feasible)
- Distance from nearest opposite shoreline
- Distance from outside edge of any Navigable Channel
- Access stairs at MHW for lateral public passage, or 5 feet of clearance under structure at MHW.

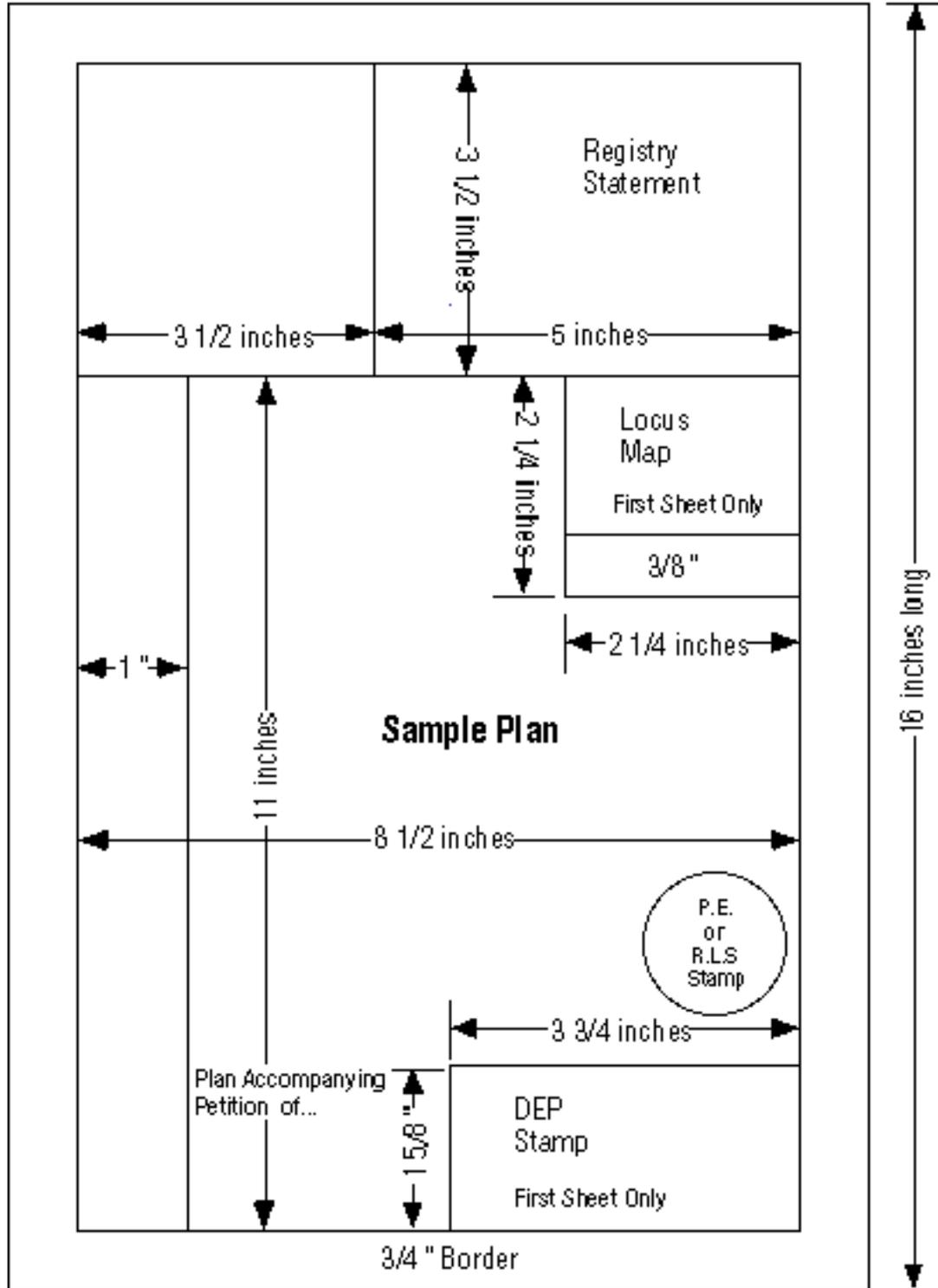
Non Water-Dependent Structures

- Depict extent of "Water-dependent Use Zone".

See Waterways Regulations at 310 CMR 9.51-9.53 for additional standards for non water-dependent use projects.

Note: Final Mylar project site plans will be required upon notice from the Department, prior to issuance of the Chapter 91 Waterways License.

Appendix A: License Plan Checklist Cont.



Appendix B: Dredging Permit Plan Checklist

For projects applying for dredging permits only, enclose drawings with the General Waterways Application that include the following information:

General View

- Submit one original of all drawings. Submit the fewest number of sheets necessary to adequately illustrate the project on 8-1/2 inch X 11 inch paper.
- A 1-inch margin should be left at the top edge of each drawing for purposes of reproduction and binding. A 1/2 inch margin is required in the three other edges.
- A complete title block on each drawing submitted should identify the project and contain: the name of the waterway; name of the applicant; number of the sheet and total number of sheets in the set; and the date the drawing was prepared.
- Use only dot shading, hatching, and dashed or dotted line to show or indicate particular features of the site on the drawings.
- If deemed appropriate by the Department, certification by the Registered Professional Engineer or Land Surveyor is included.

Plan View

- North Arrow
- Locus Map
- Standard engineering scale.
- Distances from channel lines and structures if appropriate.
- Mean high water and mean low water shorelines (see definitions of "High Water Mark" and "Low Water Mark" at 310 CMR 9.02, C. 91 Regulations).
- Dimensions of area proposed to be dredged or excavated.
- Notation or indication of disposal site.
- Volume of proposed dredging or excavation.
- Ordinary high water, proposed drawdown level, and natural (historic) high water (for projects lowering waters of Great Ponds).

Section Views

- Existing bottom and bank profiles.
- Vertical and/or horizontal scales.
- Proposed and existing depths relative to an indicated datum.
- Elevation and details of control structure (for projects lowering waters of Great Ponds).

Appendix C: Application Completeness Checklist

Please answer all questions in the General Waterways Application form. If a question does not apply to your project write "not applicable" (n/a) in that block. Please print or type all information provided on the form. Use black ink (blue ink or pencil are not easily reproducible, therefore, neither will be accepted). If additional space is needed, attach extra 8-1/2" x 11" sheets of paper.

- Proper Public Purpose:** For nonwater-dependent projects, a statement must be included that explains how the project serves a proper public purpose that provides greater benefit than detriment to public rights in tidelands or great ponds and the manner in which the project meets the applicable standards. If the project is a nonwater-dependent project located in the coastal zone, the statement should explain how the project complies with the standard governing consistency of the policies of the Massachusetts Coastal Zone Management Program, according to 310 CMR 9.54. If the project is located in an area covered by a Municipal Harbor Plan, the statement should describe how the project conforms to any applicable provisions of such plan pursuant to 310 CMR 9.34(2).
- Plans:** Prepared in accordance with the applicable instructions contained in Appendix A-B of this application. For initial filing, meet the requirements of 310 CMR 9.11(2)(b)(3).
- Applicant Certification:** All applications must be signed by "the landowner if other than the applicant. In lieu of the landowner's signature, the applicant may provide other evidence of legal authority to submit an application for the project site." If the project is entirely on land owned by the Commonwealth (e.g. most areas below the current low water mark in tidelands and below the historic high water mark of Great Ponds), you may simply state this in lieu of the "landowner's signature".
- Municipal Zoning Certification:** If required, applicants must submit a completed and signed Section E of this application by the municipal clerk or appropriate municipal official or, for the initial filing, an explanation of why the form is not included with the initial application. If the project is a public service project subject to zoning but will not require any municipal approvals, submit a certification to that effect pursuant to 310 CMR 9.34(1).
- Municipal Planning Board Notification:** Applicants must submit a copy of this application to the municipal planning board for the municipality where the project is located. Submittal of the complete application to DEP must include Section H signed by the municipal clerk, or appropriate municipal official for the town where the work is to be performed, except in the case of a proposed bridge, dam, or similar structure across a river, cove, or inlet, in which case it must be certified by every municipality into which the tidewater of said river, cove, or inlet extends.
- Final Order of Conditions:** A copy of one of the following three documents is required with the filing of a General Waterways Application: (1) the Final Order of Conditions (with accompanying plan) under the Wetlands Protection Act; (2) a final Determination of Applicability under that Act stating that an Order of Conditions is not required for the project; or (3) the Notice of Intent for the initial filing (if the project does not trigger review under MEPA).
- Massachusetts Environmental Protection Act (MEPA):** MGL 30, subsections 61-61A and 301 CMR 11.00, submit as appropriate: a copy of the Environmental Notification Form (ENF) and a Certificate of the Secretary of Environmental Affairs thereon, or a copy of the final Environmental Impact Report (EIR) and Certificate of the Secretary stating that it adequately and properly complies with MEPA; and any subsequent Notice of Project change and any determination issued thereon in accordance with MEPA. For the initial filing, only a copy of the ENF and the Certificate of the Secretary thereon must be submitted.

Note: If the project is subject to MEPA, the Chapter 91 Public Notice must also be submitted to MEPA for publication in the "Environmental Monitor". MEPA filing deadlines are the 15th and 30th of each month.

Appendix C: Application Completeness Checklist (cont.)

- Water Quality Certificate:** if applicable, pursuant to 310 CMR 9.33, is included.
- Other Approvals:** as applicable pursuant to 310 CMR 9.33 or, for the initial filing, a list of such approvals which must be obtained.

Projects involving dredging:

- The term “dredging” means the removal of materials including, but not limited to, rocks, bottom sediments, debris, sand, refuse, plant or animal matter, in any excavating, clearing, deepening, widening or lengthening, either permanently or temporarily, of any flowed tidelands, rivers, streams, ponds or other waters of the Commonwealth. Dredging includes improvement dredging, maintenance dredging, excavating and backfilling or other dredging and subsequent refilling. Included is a completed and signed copy of Part F of the application.

Filing your Completed General Waterways Application:

- For all Water-Dependent applications** – submit a completed General Waterways Application and all required documentation with a *photocopy* of both payment check and DEP’s *Transmittal Form for Permit Application & Payment* to the appropriate DEP Boston or regional office (please refer to Pg. 10 of the “Instructions” for the addresses of DEP Regional Offices).
- For all Non Water-Dependent applications** – submit a completed General Waterways Application and all required documentation with a *photocopy* of both payment check and DEP’s *Transmittal Form for Permit Application & Payment* to DEP’s Boston office.

Department of Environmental Protection
Waterways Regulation Program
One Winter Street
Boston, MA 02108

- Application Fee Payment for ALL Waterways Applications:** Send the appropriate Application fee* (please refer to Page 1 of the “Application”), in the form of a check or money order, along with DEP’s *Transmittal Form for Permit Application & Payment*.

Department of Environmental Protection
P.O. Box 4062
Boston, MA 02211

* Under extreme circumstances, DEP grants extended time periods for payment of license and permit application fees. If you qualify, check the box entitled “Hardship Request” on the *Transmittal Form for Permit Application & Payment*. See 310 CMR 4.04(3)(c) to identify procedures for making a hardship request. Send hardship request and supporting documentation to the above address.

NOTE: You may be subject to a **double application fee** if your application for Chapter 91 authorization results from an enforcement action by the Department or another agency of the Commonwealth or its subdivisions, or if your application seeks authorization for an existing unauthorized structure or use.