

## **An Introduction to the Provincetown Conservation Commission**

(Adapted from information found on the Massachusetts Association of Conservation Commissions website [www.maccweb.org](http://www.maccweb.org))

Conservation Commissions are regulatory boards responsible for protecting the land, water and biological resources within a community by regulating development within wetlands, managing conservation lands, and conducting outreach and education to further natural resource planning and environmental programs. Conservation commissions are made up of volunteer citizens. Some commissions have multiple paid professional staff; some do not have any clerical assistance.

Here is a 7-minute video about Conservation Commissions in Massachusetts:

<https://www.maccweb.org/media/legacy/legacy3.html>

The Provincetown Conservation Commission is responsible for protecting the land, water and biological resources of Provincetown and also manages Provincetown conservation lands including Old Colony Pathway and the B-Street Community Garden.

### **Conservation Commissions Act**

The Commonwealth of Massachusetts invented the municipal conservation commission in 1957 when it passed the Conservation Commission Act (MGL Ch. 40 §8C) authorizing each city and town in Massachusetts to establish a locally appointed municipal agency “for the promotion and development of the natural resources and for the protection of watershed resources of said city or town.” Specifically, Conservation Commissions were charged with:

- (1) Planning for natural resource protection
- (2) Coordinating with other groups with similar goals
- (3) Acquiring important land and water areas (in fee or through restrictions), and
- (4) Managing these properties (to “maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces”).

Under the Conservation Commission Act, conservation commissions can acquire and manage land. The Provincetown Conservation Commission, in partnership with the Open Space Committee, currently manages conservation areas such as the Shank Painter Pond, Clapps Pond, Whistle Path Woods and Foss Woods. These properties, along with several others, total over 160 acres. The Commission is responsible for managing these lands to provide essential habitat to wildlife, preserve the ecological health of our Town and provide opportunities for passive recreation. Most parcels have trails open to the public. Locations of the parcels and individual parcel maps are available on the Conservation Commission’s website. Residents are encouraged to explore these natural areas scattered across Provincetown.

### **Wetland Regulation**

Recognizing the vital functions served by wetlands, in 1972 the State of Massachusetts gave

conservation commissions responsibility for administering the Massachusetts Wetlands Protection Act (MGL Ch. 131 §40). This Act serves to protect the following public interests:

- Public and Private Water Supply
- Groundwater Supply
- Land Containing Shellfish
- Fisheries
- Storm Damage Prevention
- Prevention of Pollution
- Flood Control and
- Protection of Wildlife Habitat.

As the Act is implemented almost exclusively by local conservation commissions, the role of conservation commissions in community government has expanded. As each municipality directs its own development and natural resource protection, conservation commissions' wetland regulatory responsibilities have continued to grow, especially with the addition of new laws and regulations such as the Rivers Protection Act and stormwater permitting requirements. Now, any work that would alter vegetation, grading, structures, or drainage within 100 feet of a coastal or inland wetland or within FEMA mapped flood zones A and V (or within 200 feet of a perennial stream, although there are no streams in Provincetown!) must be permitted by the conservation commission – regardless of whether it is on public or private land. The Town of Provincetown website offers access to MapsOnline, which is useful in identifying properties subject to Provincetown Conservation Commission jurisdiction.

### **Wetland Protection Bylaw**

In 1966, Article 89 of the state Constitution, known as the Home Rule Amendment, was adopted allowing cities and towns to adopt laws “not in direct conflict with the General Laws of the state”. It is the source of the power of communities to create charters, but and is also used to adopt bylaws and ordinances. Under Article 89, many commissions have local bylaws or ordinances protecting wetlands and land. These local rules can be more stringent than the established State regulations, but not less so.

As of 2012, 30% of Massachusetts's 351 communities had adopted wetlands bylaws or ordinances. The Provincetown General Bylaw Chapter 12: Wetlands Protection Bylaw was adopted in 2009 and includes within its jurisdiction isolated vegetated and un-vegetated wetlands not protected under the Wetlands Protection Act. As of the 2011 Town Meeting, the Provincetown Conservation Commission expanded Chapter 12 jurisdiction to include areas protected by the Massachusetts Endangered Species Act. Since much of the easily developed land (not on steep slopes, not heavily wooded, or near a right of way) has already been developed in Provincetown, this addition to the local bylaw intends to prevent or mitigate the potential for future development to negatively impact wildlife habitat.

### **Community Preservation Act**

For municipalities such as Provincetown that have adopted the Community Preservation Act, conservation commission's obligations have expanded yet again to provide representation on the Community Preservation Committee (CPC) and consult on proposed projects. Provincetown has an active CPC with one Commissioner serving on the CPC.

### **Provincetown Conservation Commission**

The Provincetown Commission consists of five regular members, two alternates, and one professional staff member. Deb Albenberg, Environmental Planner and Conservation Agent, can be reached at (508) 487-7000 X 554 or at [dalbenberg@provincetown-ma.gov](mailto:dalbenberg@provincetown-ma.gov). Provincetown's Conservation office is part of the Planning Department and is located within the Community Development Department located in the basement of Town Hall.

Provincetown Conservation Commission reviews roughly 80 wetland and Estimated and Priority Habitat applications per year. The review process includes project review, sites visits and public hearings. In addition to Mass DEP Requests for Determination of Applicability (RDAs) and Notices of Intent (NOIs), the Conservation Commission also processes Administrative Review applications and Local Bylaw Filings for projects subject to the Provincetown Wetlands Protection Bylaw, Chapter 12, but not subject to the Massachusetts Wetlands Protection Act. Types of applications filed and permits issued depend on the proposed project's proximity to protected resource areas and the potential of the proposed work to alter a resource area. The Conservation Agent is available to inform applicants of the level of review required, guide applicants through the review process, and review applications to ensure they are accurate and complete. Upon approval, permits issued by the conservation commission generally include "conditions" ordered by the Commission to prevent erosion, sedimentation, and pollution, and to ensure effective environmental restoration. The conservation commission also monitors project implementation to ensure compliance throughout the construction process.

The Provincetown Conservation Commission meets on the first and third Tuesdays beginning at 6:30 pm, generally preceded by a Work Session beginning at 6:00 pm. Most hearings are held in the Judge Welsh Room at Town Hall. At its meetings, the Conservation Commission listens to applicant presentations, asks clarifying questions, discusses projects as they apply to State and local regulations, and votes on approving or denying permit applications. Land management and administrative issues are also discussed. The Commission welcomes guests and interested members of the public to its meetings. Conservation commission applications, deadlines, meeting dates, agendas, and materials are all available on the Conservation Commission website.