

Town of Ayer

CONSERVATION COMMISSION

Town Hall ♦ One Main Street ♦ Ayer, MA 01432

Phone 978-772-8249 ♦ Fax 978-772-8208 ♦ concom@ayer.ma.us



WETLANDS PERMIT APPLICATION INFORMATION PACKET



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Purpose of Conservation Commission

The Ayer Conservation Commission is a volunteer board appointed by the Board of Selectmen, under Massachusetts General Law Chapter 40 Section 8c, and enabled by the Commonwealth of Massachusetts to administer the Wetlands Protection Act and its Regulations. The town of Ayer has established its own Wetlands Protection Bylaw, Article XXVI, passed at town meeting in 1984, to protect additional wetland resource areas and impose additional standards and procedures stricter than those of MGL Ch. 131, §40. The Commission conducts scheduled meetings every second and fourth Thursday of the month or as posted for the purpose of:

- advising applicants on the process of filing for a wetlands permit under the Massachusetts Wetlands Protection Act, MGL Ch. 131, §40 and the Ayer Wetlands Protection Bylaw;
- conducting public meetings or hearings as required for a Request for a Determination of Applicability, Abbreviated Notice of Resource Area Delineation, Notice of Intent, Abbreviated Notice of Intent, Request for Extension of Order of Conditions, or Request for Certificate of Compliance;
- issuing and administering Violation Notices and Enforcement Orders;
- managing town-owned conservation areas;
- planning sessions to address conservation concerns;
- informational meetings with interested citizens; and
- enforcement of the public interests as set forth in the Massachusetts Wetlands Protection Act, MGL, Ch. 131, §40 (Public Water Supply, Private Water Supply, Groundwater Supply, Land Containing Shellfish, Fisheries, Storm Damage Prevention, Prevention of Pollution, Protection of Wildlife Habitat, and Flood Control)

In response to filings and enforcement procedures, the Commission conducts site visits to review wetland delineations and current conditions in the field.

Any advice, opinion, or information given to an Applicant by a Commission member, or by an agency, officer, or employee of the Town of Ayer, shall be considered advisory only, and not binding on the Commission.

Purpose of Conservation Administrator

The Ayer Conservation Administrator is a hired employee whose role is to:

- work under the general direction of the Chair of the Conservation Commission and in accordance with general laws and regulations;
- provide support, coordination, and professional management for the Conservation Commission in carrying out its mandate and its mission to protect the community's natural resources including its biodiversity, unique natural areas, wetlands, and other water resources;
- provide professional supervision for the Commission's work and projects;

- supervise consultants hired by the Commission, and volunteers working on conservation land or Commission projects;
- serve as advisor/liaison to other boards/departments as directed by the Commission, and as a local contact for DEP for state actions taken in Ayer;
- advising applicants on the process of filing for a wetlands permit under the Massachusetts Wetlands Protection Act, MGL Ch. 131, §40 and the Ayer Wetlands Protection Bylaw and Regulations; and
- assist the Commission in the administration and enforcement of the Massachusetts Wetlands Protection Act, MGL Ch. 131, §40 and the Ayer Wetlands Protection Bylaw and Regulations as follows:
 - assure legal requirements are met including postings, timeframes, minutes and other records;
 - review Notices of Intent and/or other filings and associated documents for accuracy, completeness, and compliance with the law and regulations;
 - schedule meetings and/or hearings;
 - process, distribute, and submit MassDEP forms;
 - arrange, conduct, and prepare reports pertaining to site inspections for filings, permits, compliance monitoring, and violations;
 - review and verify field delineations of wetlands and sensitive areas;
 - submit findings and recommendations to the Commission based on field work;
 - draft permits and the associated conditions;
 - monitor sites during construction to ensure compliance with permits;
 - respond to complaints, investigate potential violations, and take appropriate action;
 - maintain case files and materials including computer database;
 - participate in reviewing and amending the wetlands bylaw and its associated regulations;
 - participate in all public meetings and hearings of the Commission;
 - manage Commission office and maintain regular office hours.

Currently the Ayer Conservation Office is staffed by the Administrator on a part-time basis every Wednesday and Friday from 9:30 a.m. to 1:00 p.m. Walk-ins are welcome. However, appointments are strongly recommended for assistance with applications and file reviews due to scheduled field work and meetings.

JURISDICTION

In Accordance with the above Purpose, no person shall remove, fill, dredge, discharge into, or otherwise alter any wetland resource area or buffer zone resource area of the Town of Ayer without an Order of Conditions or a Determination of Applicability from the Town of Ayer Conservation Commission under MGL Ch. 131,§40 and the Ayer Wetlands Protection Bylaw (“Bylaw”).

Wetland and buffer zone resource areas protected include:

- (1) Any vegetated wetland (marsh, swamp, wet meadow, bog, etc.)
- (2) Any river or stream (intermittent or perennial)
- (3) Any lake or pond
- (4) Any bank of the resource areas
- (5) Any certified vernal pool
- (6) All lands within 100 feet of the wetland resource areas
- (7) Any land subject to flooding or isolated land subject to flooding
- (8) All lands within 200 feet of a perennial river or stream
- (9) Land under any of the resource areas identified as jurisdictional

**INSTRUCTION FOR APPLICATIONS
UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT, CH.131, §40
AND
AYER WETLANDS PROTECTION BYLAW**

MassDEP provides standard forms to administer the state Wetlands Protection Act and the Ayer Wetlands Protection Bylaw. Current forms are available in the Commission office or may be downloaded from <https://www.mass.gov/lists/wetlands-permitting-forms> Be sure the form number is preceded by WPA. All filings should be received at least 22 days prior to the next Commission meeting in order to allow sufficient time for advertising and processing. These forms and their uses are outlined below:

WPA Form 1: REQUEST FOR DETERMINATION OF APPLICABILITY (RDA)

This form is filed by an applicant or their representative prior to starting a project to determine the extent of the Commission's jurisdiction on the project site based on proximity to wetland resources. The RDA can also be filed by any concerned citizen to determine if a project may have an adverse impact on a wetland resource. Minor projects are also considered under this filing category. **Under the (SPECIFIC) state statute, the Commission has 21 days in which to issue a Determination of Applicability, the response to Form 1.** This period may be extended if the Commission requests additional information.

To File Form 1: Prepare eight (8) copies of FORM 1 and site specific plans:

- A. Six (6) copies of complete package (form and plans) to be sent by certified mail or hand delivered to:

Ayer Conservation Commission
Town Hall
1 Main Street,
Ayer, MA 01432

- B. One (1) copy to be sent to:

Department of Environmental Protection (MassDEP)
Wetlands Program – Central Region
627 Main Street
Worcester, MA 01608

There is no fee for filing a Request for a Determination of Applicability.

- C. One (1) copy to be retained for the applicant's record.

WPA Form 2: DETERMINATION OF APPLICABILITY (DOA)

This is the official written determination by the Conservation Commission in response to the RDA public meeting process. A Positive finding means the project has the potential to have an effect on the resource. In this case the applicant must file a WPA Form 3 Notice of Intent to continue with the proposed project. A

Negative finding means that no further permitting is necessary under the Wetlands Protection Act, although the Commission may attach Special Conditions under which the work is to be carried out.

WPA Form 3: NOTICE OF INTENT (NOI)

This form is filed by an applicant or their representative when work is proposed within an area under the jurisdiction of the Massachusetts Wetland Protection Act or the Ayer Wetlands Protection Bylaw.

WPA Form 4: ABBREVIATED NOTICE OF INTENT (ANOI)

This form may be used in lieu of WPA Form 3 for projects which are likely to result in limited impacts on Resource Areas. Form 4 may be used when:

1. The proposed work is within the Buffer Zone (BZ) or is within Land Subject to Flooding, as defined in part III, Section 10.57 (2) of the DEP regulations: and,
2. The proposed work will alter less than 1000 square feet of surface area within the Buffer Zone or Land Subject to Flooding; and
3. Neither a Department of Army permit nor a Division of Waterways license is required.

WPA Form 4A: ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION (ANRAD)

This form provides a procedure for an applicant to confirm the precise boundaries of Bordering Vegetated Wetlands (BVW) or other resource areas.

To File Form 3, Form 4, or Form 4A:

Prepare eight (8) copies of Form 3, Form 4, or Form 4A as applicable. The completed package should be submitted at least 22 days prior to the Commission's next meeting. The Commission has 21 days in which to advertise and schedule a public hearing upon receipt of the completed Application packet. Each hearing will require more than one meeting. The first meeting provides the applicant with an opportunity to explain the project. The Applicant is responsible for providing adequate documentation and plans. A site walk will then be scheduled and must occur before additional meetings may take place.

Once the public hearing is closed, the Commission must act within 21 days to issue the Order of Conditions. There is a 10 day appeal period, starting when the OOC is signed, which must elapse before work can commence. In general, **the minimum filing process takes approximately 60 days.**

A. Six (6) complete sets of the following sent by certified mail or hand delivered to:

Ayer Conservation Commission
Town Hall
1 Main Street
Ayer, MA 01432

1. Form 3, 4, or 4A
2. Required engineered plans (**see Checklist pages 10-12**):
 - a. Single overview sheet depicting all work specified in the application
 - b. Any additional sheets as required

3. Copy of Pages 1 and 2 of the Wetland Fee Transmittal Form;
4. Copy of the DEP Filing Fee Check (see Section D);
5. Copy of the certified List of Abutters from the Ayer Board of Assessors;
6. Copy of Abutters Notification;
7. Affidavit of Service regarding Abutter Notification
8. Related town permits, if available;
9. Any other information submitted in connection with permit applications, including drainage calculations, wildlife studies, stormwater management plans, or operation and maintenance plans. (Please confer with the Commission Administrator to determine number of copies necessary.)

Please Note: The Commission will schedule a site walk to review the proposed project on site. The following items must be present for the site walk:

1. Wetland biologist's flags delineating the wetlands must be clearly numbered and the locations must be surveyed and indicated on the engineer's plans.
2. All areas of construction and corners of proposed buildings must be staked or marked.
3. All areas of disturbance must be accessible for inspection by the Commission during the walk.

The filing must be accompanied by two checks made payable to Town of Ayer:

- a) Legal Notice publication fee to be submitted at the hearing based on the actual cost of the advertisement
- b) Application filing fee – see DEP Instruction form – Fee Section

The applicant is required to notify in writing all abutters within 100 feet of the proposed project's parcel boundaries. The Certified Mail receipts or Certificate of Mailing must be submitted to the Commission at the time of the public hearing. It is recommended that the applicant submit a "Request for Certified Abutters List" to the Ayer Assessors office before preparing the NOI.

B. One (1) complete set of the following sent Certified Mail to:

Department of Environmental Protection (MassDEP)
Wetlands Program – Central Region
627 Main Street
Worcester, MA 01608

1. Form 3, 4, or 4A
2. Required engineered plans (see Checklist pages 10-12):
 - a. Single overview sheet depicting all work specified in the application
 - b. Any additional sheets as required
3. Pages 1 and 2 of the Wetland Fee Transmittal Form (Appendix B)
4. Copy of the DEP Filing Fee Check (see Section D)
5. Copy of the List of Abutters from the Ayer Board of Assessors
6. Affidavit of Service regarding Abutter Notification
7. Copy of the Town of Ayer Filing Fee Check

8. Any other information submitted in connection with permit applications, including drainage calculations, wildlife studies, stormwater management plans, or operation and maintenance plans.

C. One (1) complete set of the above for the applicant's records.

D. Send Pages 1 and 2 of the Wetland Fee Transmittal Form **with a check or money order** for the State's portion, payable to the Commonwealth of Massachusetts to:

MassDEP- LOCK BOX
PO BOX 4062
BOSTON, MA 02211

WPA Form 4B: ORDER OF RESOURCE AREA DELINEATION (ORAD)

The Commission issues this form to confirm the delineation of a wetland resource area.

WPA Form 5: ORDER OF CONDITIONS (OOC)

This is an official permit listing the findings and conditions issued in response to Form 3 (Notice of Intent) or Form 4 (Abbreviated Notice of Intent).

WPA Form 6: NOTIFICATION OF NON-SIGNIFICANCE (NON)

This is an official response to Form 3 (Notice of Intent) or Form 4 (Abbreviated Notice of Intent) which states that the work proposed is not significant impairment to the Resource Areas protected under the Wetlands Protection Act.

WPA Form 7: EXTENSION PERMIT FOR ORDER OF CONDITIONS (EOOC)

This is an official document that extends the Order of Conditions for a period up to 3 years, at the discretion of the Ayer Conservation Commission. This must be recorded at the Registry of Deeds.

The applicant must submit the Ayer Conservation Commission's Order of Conditions Extension Request Form to the Commission at least thirty (30) days prior to the OOC expiration date. The Commission will hold a public meeting to review the applicant's current project status and compliance with the existing OOC. A site inspection will be required prior to the Commission's extension approval.

WPA Form 8A and Form 8B: REQUEST FOR CERTIFICATE OF COMPLIANCE and CERTIFICATE OF COMPLIANCE (COC)

Form 8A is the official form to request a Certificate of Compliance. Form 8B is the official document issued by the Commission, certifying that the proposed work under the Order of Conditions has been satisfactorily completed. If only a portion of the proposed work has been completed then a Partial Certificate of Compliance may be issued, but only at the Commission's discretion. There may be special conditions left in perpetuity on the property. This form must be recorded by the applicant at the Registry of Deeds to clear the property's title.

Notice of Intent Plan Checklist

- ☒ Plan Size: Maximum 30 inches by 42 inches; Minimum 11 inches by 17 inches.
- ☐ Scale: as needed to show all necessary details, but at a ratio no greater than 1" = 40'
- ☐ Title Block: Located at lower right hand corner with:
 - ☐ Name of applicant and/or land owner
 - ☐ Developer lot number, street number, street name, Tax Assessor's Map and Parcel number
 - ☐ Original date of creation
 - ☐ Revision area for dates and nature of revisions
 - ☐ Scale
 - ☐ Name and legal address of creator of document
- ☐ North arrow
- ☐ Locus map
- ☐ Nearest utility pole number, if applicable
- ☐ Reference benchmark (vertical datum used)
- ☐ Legend depicting all natural resources, significant site features, and plan notations
- ☐ All resource areas
- ☐ Wetland boundaries indicated by numbered points corresponding to delineation flags placed in the field
- ☐ Labeled buffer zone boundary lines:
 - ☐ 25' and 100' to Bordering Vegetated Wetlands
 - ☐ 25' and 100' to Vernal Pools
 - ☐ 25' and 100' to Isolated Wetlands
 - ☐ 25' and 100' to Ponds and Lakes
 - ☐ 25' and 100' to Banks
 - ☐ 25' and 100' to intermittent Streams
 - ☐ 100' and 200' to Perennial Streams and Rivers
- ☐ Resource areas within 200' of proposed work
- ☐ Existing conditions, e.g. structures including out buildings, stone walls, trails, etc.
- ☐ All existing topography and proposed contours at a contour interval no greater than two feet
- ☐ Plan views and cross-sections of proposed construction and replication areas

- ☐ Location of existing or proposed well and septic system including reserve area
- ☐ Erosion and sedimentation control measures
- ☐ All discharge points and culverts including invert and outlet elevations
- ☐ All property boundaries, rights-of-way, easements, and restrictions
- ☐ Note all State designated areas of protection (e.g. ACEC, Rare Species Habitat) and show any relevant boundaries
- ☐ Pre- and post-development overstory tree canopy line within buffer zone
- ☐ Record the person(s) and firm that delineated the resource areas.
- ☐ Placement of proposed and existing aboveground and underground utilities
- ☐ Stamp and signature of a Registered Professional Land Surveyor or a Registered Professional Engineer
- ☐ Limit of disturbance
- ☐ All notified abutters to affected parcel(s)
- ☐ Proposed locations of materials, equipment and soil storage on site if applicable
- ☐ Proposed location of dewatering basin and construction details if applicable

**Notification to Abutters per the Massachusetts Wetlands Protection Act
and the Town of Ayer Wetlands Protection Bylaw**

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, you are hereby notified of the following:

- A. The name of the applicant is: _____
- B. The name of the land owner is _____
- C. The address of the lot where the resource area is located or activity is proposed is:
- _____

D. The applicant has filed: (check one)

- | | |
|---|---|
| <input type="checkbox"/> Notice of Intent | <input type="checkbox"/> Request for an Amendment to an Order of Conditions |
| <input type="checkbox"/> Abbreviated Notice of Intent | <input type="checkbox"/> Abbreviated Notice of Resource Area Delineation |

The applicant has filed the above application with the Ayer Conservation Commission and is seeking:

- ☐ confirmation of resource area delineation, or
- ☐ permission to remove, fill, dredge or alter an Area Subject to Protection under the Wetlands Protection Act (Massachusetts General Law Chapter 131, Section 40).

E. Copies of the above referenced document/filing may be examined at the Conservation Commission Office, Town Hall, 1 Main Street, Ayer, MA, between the hours of 10:00 a.m. and 1:00 p.m., Wednesdays and Fridays. Please schedule an appointment by calling (978) 772-8249.

F. Copies of the above referenced document/filing may be obtained from: (check one)

- ☐ Applicant (contact information: _____)
- ☐ Owner (contact information: _____)
- ☐ Applicant's Representative (contact information: _____)
- ☐ Ayer Conservation Administrator 978-772-8249 (Wednesdays & Fridays 9:30a.m.-1:30p.m.)

G. Project Description:

H. Information regarding the date, time, and place of the hearing may be obtained from the Ayer Conservation Office by calling 978-772-8249 between the hours of 9:30 a.m. and 1:30 p.m., Wednesdays and Fridays.

Note: Notice of the public hearing, including its date, time, and place, will be published at least five (5) business days prior to the hearing date in either *The Public Spirit* or *The Lowell Sun* newspapers. Such notice will also be posted at the Ayer Town Hall no fewer than forty-eight (48) hours in advance of the meeting.

Note: You also may contact the Department of Environmental Protection Regional Office for more information about this application or the Wetlands Protection Act at (508) 792-7650.

AFFIDAVIT OF SERVICE

Under the Massachusetts Wetlands Protection Act
and
Town of Ayer Wetlands Bylaw and Regulations

To be submitted to the Massachusetts Department of Environmental Protection (MassDEP) and the Ayer Conservation Commission when filing a Notice of Intent.

I, _____, hereby certify under the pains and penalties of perjury that
(Name)
on _____ I gave notification to abutters in compliance with the second
(Date)
paragraph of the Massachusetts General Laws Chapter 131, Section 40, and the MassDEP Guide to
Abutter Notification dated April 8, 1994, in connection with the following matter:

The form of notification, and a list of the abutters to whom it was given and their addresses, are
attached to this Affidavit of Service.

Name (Sign)

Name (Print)

Date