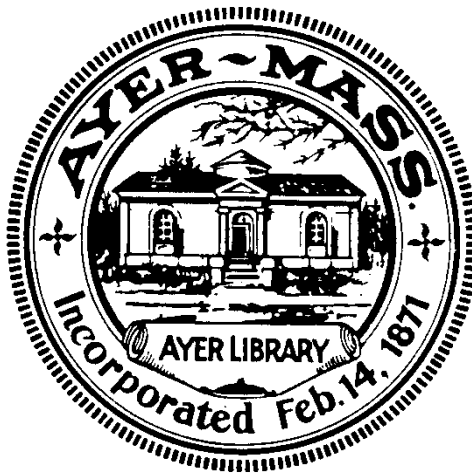


# **DRIVEWAY / ACCESSWAY PERMIT REGULATIONS**

**TOWN OF AYER, MASSACHUSETTS**

**DEPARTMENT OF PUBLIC WORKS**

**February 18, 2021**



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## 1.0 Intent and Administration

- 1.1. The purpose of this regulation for access to the public Right-of-Ways is for the interest of public safety and convenience, and the operation and protection of public works infrastructure. Design and construction standards are required to preserve the integrity, operational safety, and function of the public Right-of-Way.
- 1.2. No person shall construct, alter, relocate or resurface a driveway or accessway (exclusive of sealing, sealcoating, and patching) which provides vehicular access to or egress from a Town road, public way, way approved pursuant to subdivision control procedures, or any existing way which the Town is obligated to maintain without first obtaining a driveway/accessway permit as herein provided.
- 1.3. Any person constructing, altering, or relocating a driveway or accessway servicing a single or two family dwelling shall obtain a driveway/accessway permit, but shall not be subject to the remaining provisions of this bylaw with respect to insurance and bonds.
- 1.4. Work requiring excavation within the Town Right-of-Ways, streets and roads will require a Street Opening Permit in accordance with the Town of Ayer Street Opening Permit Regulations.
- 1.5. The Superintendent of Public Works is the principle Town official responsible for the administration of the Right-of-Ways, Street Opening and Driveway / Access Permits, and these Regulations. The Superintendent may delegate any or all of the duties hereunder.
- 1.6. Where approval of the driveway / accessway requires Planning Board Approval under the Town Subdivision regulations, Planning Board Site Plan and Special Permit regulations or MassDOT permitting, the Applicant shall obtain said approvals and permits and submit with the application.

## 2.0 Definitions

- 2.1. For the purpose of understanding the Regulations, all words shall have their standard meanings. These words are more particularly defined as follows.
  - Alteration: any change of existing conditions.
  - Applicant: any individual, firm, corporation, partnership, or agency, public or private that has filed a Permit Application.
  - Application: Driveway / Accessway Permit Application.
  - AAB : Architectural Access Board, a regulatory agency within the Massachusetts Office of Public Safety. Its legislative mandate states that it shall develop and enforce regulations designed to make public buildings accessible to, as well as functional and safe for use by persons with disabilities.
  - ADA: Americans with Disabilities Act and all the requirements set forth therein.
  - Berm: a shoulder curb on rural and urban highways which do not have continuous curb and require control of drainage; directs water to closed drainage system, prevents sloughing of the pavement edge, and provides additional lateral support
  - Circular Driveway: a residential driveway with two (2) access openings across or through the same frontage.

- Select Board: elected body of officials that direct policy decisions of the Town through the office of the Town Manager.
- Drainage System: the network of culverts, manholes, catch basins, ditches, pipes, swales, gutters, and other man-made and natural courses for controlling stormwater runoff from Town Roads.
- Roadway: a means of vehicular access to a Town road or Town Road Right-of-Way that serves more than one single or individual family dwelling, duplex unit, multifamily unit or commercial establishment.
- Commercial: relating to any property use other than residential use as defined in this section. Lots with seven or more dwelling units, lots with mixed use, and lots with commercial and/or industrial uses shall be “Commercial” lots for the purpose of this regulation.
- Construction Within the Right-of-Way: the alteration of any structure, creation of any new structure, excavation, installation or modification of utilities or subsurface structures, or physical modification within the Right-of-Way.
- Corner Clearance: distance from roadway intersections to the nearest driveway entrance
- Curb: a raised device used extensively on urban streets and highways controls drainage, restricts vehicles to the pavement area and defines points of access to abutting properties
- Curb Cut: the phrase used to refer to the width of the opening to the street.
- Dig Safe shall mean the current existing underground facility damage prevention system established by Massachusetts State statute to provide for safe underground excavation.
- DPW: Department of Public Works.
- Driveway shall mean the portion of a street from the private property to provide vehicular access, parking, and/or storage from the private property to the Town roadway. Driveway Types:
  - Residential: a driveway leading to a Residential use as defined in this section.
  - Commercial: any driveway leading to a Commercial use as defined in this section.
- Emergency shall mean any event which may threaten public health or safety, including but not limited to: damaged or leaking water or gas conduit systems; damaged, plugged or leaking sewer or storm drain conduit systems; damaged underground electrical and communications facilities; or downed overhead pole structures.
- Encroach:
  - The placing, depositing, or parking of any ladder, staging, scaffolding, rigging, tower, fence, wall, material, equipment, machinery, dumpster, container, refuse, debris or any other such object, article or thing used in connection with, or arising out of, any building, construction, demolition or other similar work. Encroach shall also include the placing, depositing, or parking of any trailer,

truck or like vehicle adjacent to or in close proximity to aforementioned work, and which is being so used for such purposes.

- An intrusion or use caused by the draining or pumping of water in any manner that may in any way obstruct, impede, or endanger public use or travel, or could cause any icy condition which in any way may obstruct, impede or endanger public use or travel or the Town drainage system.
  - The placing of any booth, stall, stand, display, goods or merchandise for sale, vending machine, billboard, sign, advertising instrument or apparatus, or any other such object, article or thing;
  - The placing or erecting of any shed building, tower, pole, pole line, pipe, wall, fence or any other such structure or object; and
  - The placing of steel plates not properly fastened, not properly ramped, or not properly recessed and fastened.
- Excavation: Action of digging up, drilling, auguring, tunneling, milling, reclaiming, or cable and pipe driving. Excavation does not include the tilling of soil, gardening, or displacement of earth, rock or other material, including the establishment, construction, resurfacing, repaving or reconstruction of any sidewalk and/or driveway approach,
  - Jackie's Law: The Commonwealth of Massachusetts General Law Title XIV: Chapter 82A Excavation and Trench Safety.
  - MassDOT : The Massachusetts Department of Transportation.
  - Permit: Street Opening or Driveway / Accessway Permit,
  - Permittee: Recipient of a Street Opening or Driveway / Accessway Permit.
  - Protected Street: A street that has been resurfaced or rehabilitated within the past (5) five years
  - Right-of-Way: the land acquired for or devoted to roadway and municipal purposes and includes the total width of the Right-of Way as shown on survey plans for the Town of Ayer.
  - Setback: the lateral perpendicular distance between the Right-of-Way line and a roadside building, gasoline pump, curb base, display stand, or other object, the use of which will result in space for vehicles to stop or park between such facilities and the Town Road Right-of- Way.
  - Sidewalk: any public area within a Town Right-of-Way (including driveways) that is available to pedestrian traffic

### **3.0 Driveway / Accessway Permit Application**

3.1. Driveway / Accessway Permit Application can be obtained from the office of the DPW or on-line at [www.ayer.ma.us](http://www.ayer.ma.us) except as otherwise provided in this Regulation. Permits may be applied for on-line using the electronic forms.

3.2. When submitting the permit application, include:

- Completed application

- Application fees (See Appendix A)
  - Refundable security deposit, (if required) payable to the Town of Ayer
  - A Certificate of General Liability Insurance (if required)
  - Starting and completion dates
  - Detailed sketch that includes scale, dimensions, lines of adjoining property and any existing pole, post, hydrant, catch basin tree or other structure near area of proposed driveway
  - Property owner and contractor signatures on the application.
- 3.3. Projects that require Site Plan Review by the Ayer Planning Board in accordance with Town of Ayer Zoning Bylaws and Subdivision Regulations will require Planning Board Approval prior to submitting application.
  - 3.4. These regulations do not apply to pavement sealing and crack sealing operations.
  - 3.5. If a road has been resurfaced within the last five (5) years (protected street), the permit may be denied for work impacting the new surface or may be approved with specific conditions.
  - 3.6. Permits for routine installations are issued only between April 1st and November 15th.
  - 3.7. The Permit is valid for 60 days from date of issue. This Permit may be renewed at no cost by requesting an extension in writing, including a statement that conditions have not changed since the time of the original submission. The applicant shall file a request for an extension prior to the expiration of the permit. If the permit is allowed to expire without timely renewal the applicant shall reapply for a new Permit and pay the applicable fee
  - 3.8. In order to obtain a permit, the applicant must be current on all of its financial obligations to the Town. In addition, a permit may be withheld or denied if the applicant, owner or contractor are currently in violation of any other town permits.
  - 3.9. A non-refundable application fee is required with each Permit and is due at the time of application submittal. The application fee shall be as stated in Appendix A of these Regulations.
  - 3.10. A Massachusetts Registered Professional Engineers stamp may be required for stormwater improvements and alterations, at the discretion of the Superintendent or designee.
  - 3.11. After the applicant has submitted the required materials and received confirmation that the submission was received by the DPW, the application will be reviewed by the DPW within 10 business days. After 10 business days, if the no action is taken, contractors may proceed with work but still are subject to following all of the regulations in this document.
  - 3.12. During the review process, the applicant shall, at his own expense, provide any additional information relevant to the proposed access required by the DPW. Any new material submitted after the initial submission date shall restart the review period.
  - 3.13. As a result of the review, the application will be approved as submitted with standard condition, approved with additional conditions, or denied as submitted. The decision will be mailed / emailed no later than 10 business days after the submission date.
  - 3.14. Once the permit is issued, the applicant may commence construction after giving 24 hours notice. The applicant is responsible for obtaining all other required permits or approvals before commencing construction.

- 3.15. The Superintendent may suspend a Permit for violation of Permit condition(s) after a written notification to the applicant by certified mail or hand delivery. The applicant has ten (10) days to rectify any work in violation of the Permit requirements. Failure to comply or to respond within the specified time period may result in the revocation of the Permit.
- 3.16. An applicant aggrieved by the decision of the Town may appeal to the Town Manager. The appeal shall be in writing and submitted to the Town Manager within ten (10) business days of date of the decision.

## **4.0 Fees**

- 4.1. No application for a Driveway Permit shall be accepted from any person, firm, corporation, or other entity without a fee payment. Federal, State and Municipal entities are exempt from fee payments, but permit must still be applied for.
- 4.2. Fees shall be as stated in Appendix A.
- 4.3. Payment shall be in the form of a check, money order payable to The Town of Ayer or credit card.
- 4.4. Fees will be refunded if the permit is not approved.

## **5.0 General Conditions**

- 5.1. The permittee shall observe the bylaws, regulations and specifications adopted by the Town of Ayer to govern the work covered by this permit. Failure may result in revocation of this permit.
- 5.2. All materials and work shall be in accordance with the Town of Ayer Subdivision Regulations and DPW Construction Standards.
- 5.3. Notice shall be given by the permittee to the DPW, Police and Fire Departments 24 hours in advance of work.
- 5.4. A copy of the permit shall be kept at the work site and shall be available to Town officials upon request.
- 5.5. Traffic- The Applicant or Contractor shall take appropriate measures to assure that during the performance of the Work, so far as practical, normal traffic conditions shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the adjoining property and to the general public. Unless the requirement for a police detail is waived by the Police Chief, the Applicant or Contractor shall engage a police detail to maintain traffic control and public safety at the project site. Warning signs shall be placed a sufficient distance from the project site in order to alert all traffic coming in both directions. Cones or other approved devices shall be placed to channel traffic. Warning signs, lights, and such other precautions shall conform to the "Manual on Uniform Traffic Control Devices for Streets and Highways (latest edition)". Construction materials and equipment on the site shall be limited in quantity and in the space they occupy so that they do not improperly hinder and block traffic. The Superintendent may require a traffic management plan be submitted in cases of high traffic volume, details or where construction may have significant impacts.

- 5.6.Noise -The Permittee shall perform the work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In general, work under this permit shall be between the hours of 7:a.m. and 5 p.m. During the hours of 7 p.m. to 7 a.m. the Permittee shall not use, unless otherwise specifically permitted, in writing, by the Superintendent any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.
- 5.7. No work shall result in the concentration and discharge of surface or subsurface water including any mechanical dewatering activity into public or abutting property. All federal, state and local Stormwater Regulations apply.
- 5.8. It is the permittee's responsibility to obtain all applicable federal, state, and local permits prior to commencement of any work on Town owned land.
- 5.9. No newly constructed or reconstructed pavement less than five (5) years old (protected street) will be permitted to cut except in cases of emergency. If a protected street requires excavation due to an emergency, the trench shall be properly compacted and pavement restoration requires placing of binder course pavement to the thickness of the existing pavement, cold planing and overlay of the entire frontage, from curb to curb, of the lot where the excavation is performed. The joints shall be sealed with emulsion seal and sand cover. There shall be a smooth transition from existing pavement to new pavement.
- 5.10. If a temporary pavement is used, the DPW shall be notified and the recipient of the permit shall inform the Superintendent of Public Works or his designee as to when permanent pavement is to be placed. The recipient of the permit shall be responsible until the permanent pavement is in place.
- 5.11. Pavement shall be rolled and compacted to match the existing surface in a good workmanlike manner. A tack coat shall be applied to all adjoining asphalt surfaces prior to paving. Seams shall be sealed with a hot asphalt based sealant after paving.
- 5.12. The repainting of traffic pavement markings shall be the responsibility of the permittee. The Superintendent of Public Works or his designee shall be notified prior to the painting of the new traffic pavement markings.
- 5.13. No construction activity, unless approved by the DPW or authorized representative, shall be performed at times not allowed under Town work hour regulations.
- 5.14. No materials shall be stored in the area of roadway and sidewalk outside of working hours. Any materials or equipment stored within other areas of the Town's Right-of-Way shall be protected with lights and barricades.
- 5.15. When, for reasons of safety, it is necessary for work to be completed outside of working hours, the contractor shall be notified to take immediate corrective action. If the contractor cannot be contacted or if he/she fails to do the work, the DPW shall take corrective action and bill the contractor.
- 5.16. Contractors shall protect all elements of the Town infrastructure.
- 5.17. Notice of Violation - Any person found to be violating any provision of these Regulations shall be served by the Town with written notice stating the nature of the violation and provided with a ten (10) day time limit for the satisfactory correction thereof. The offender



shall, within the period of time stated in such notice, permanently cease and correct all violations. The Select Board have designated the Superintendent to enforce these regulations. The Town will issue a “Notice of Violation” whenever it determines that:

- a. Driveway / Accessway Work is proceeding without a valid permit.
  - b. A contractor is in non-compliance with the Rules and Regulations set forth by the Department of Public Safety.
  - c. Construction is proceeding in a manner that jeopardizes public safety.
  - d. Construction is occurring in violation of these Regulations and/or any other applicable approved specification or details.
  - e. There is damage to the surrounding roadway, public property, and/or utilities resulting from the work.
  - f. There are debris and/or soils in the roadway resulting from the work.
  - g. Work is not completed, including necessary testing and or documentation.
- 5.18. Fines- The Superintendent may impose a \$300.00 fine per day against any Permittee who violates the requirements contained herein until the violation is rectified and accepted by the Superintendent. The Permittee may appeal the fine to the Select Board. The appeal must be made in writing within 10 business days of issuance.
- 5.19. Any person violating any of the provisions of these Regulations shall become liable to the Town for any expense, loss or damage incurred by the Town by reason of such violations.

## **6.0 Specific Conditions for Driveways**

- 6.1. Contractor prior to construction activities shall establish sawcut line for blending limits on existing road and to determine drainage requirements.
- 6.2. No lip or sudden change in grade near edge of road that could interfere with routine snow plow operations allowed.
- 6.3. Driveway and apron shall be graded to not direct stormwater runoff toward roadway. Apron shall be graded to maintain the roadway gutter line.
- 6.4. As specified in the Town requirements the new hot mix asphalt bituminous concrete apron shall meet or exceed the requirements of Ayer DPW Construction Standards including but not limited to:
  - a. 8” minimum gravel compacted sub-base MassDOT M1.03.1 material or better
  - b. 4” Hot Mix Asphalt (HMA) in two courses, 2.5 binder and 1.5” top
- 6.5. Contractor shall notify DPW at least 24 hours in advance of scheduled paving operations.
- 6.6. Where required by DPW, Contractor shall install an anti-mud tracking stabilized construction entrance in accordance with the DPW Construction Standards. Tracking of mud, dirt, and debris onto the public way is prohibited. Failure to comply at any time is subject to fines.
- 6.7. Landscaping: There will be no landscaping including lawn sprinklers and fences on or over the Town Roadway or Town Right-of-Way without prior written approval by the Department of Public Works. This permission will be obtained through the Driveway Permit process, including a site grading plan locating, naming, and describing the desired arrangement, including the ultimate size of the plants involved.

6.8. Control Dimensions: All driveway access to a Town Roadway or Town Right-of-Way shall conform to the following:

	Minimum Driveway Pavement Width - Feet	Minimum Width at Street - Feet	Maximum Width at Street - Feet
Single Family	12	16	24
Common Driveway	18	22	24
Commercial	22	24	24*

\* Commercial Driveway Maximum Width may be increased based on Planning Board Site Plan Approval

- 6.9. Tree Removal: All proposed tree removals or relocation of trees within the Town Roadway or Town Right-of-Way shall conform to Chapter 87, Section 3 of Massachusetts General laws and Town Bylaws and regulations. Any applicant contemplating tree work should contact the Town Tree Warden.
- 6.10. The Town may require that the applicant place granite curbing at areas where traffic channeling and control and public safety would be affected. The applicant will do such placement at his own expense.
- 6.11. Any alterations to the existing sidewalk shall meet the requirements of ADA.
- 6.12. Where a curb is to be altered at an existing corner or a corner created by a new design, ADA approved wheelchair ramps shall be installed.
- 6.13. In any access that cuts a sidewalk, curb returns and transition curbs will be placed as necessary to maintain the integrity of the sidewalk and shall ADA wheelchair ramps shall be constructed.
- 6.14. For commercial Driveway Permit applications, the applicant shall submit detailed calculations and site grading plans in accordance with Ayer Subdivision, Site Plan, Special Permit and Stormwater Regulations as applicable.
- 6.15. Drainage system design shall be in accordance with DPW Construction Standards.

## APPENDIX A – PERMIT FEES

**Trench Permit** (Jackie's Law): by contractor **\$100**

### Permit Fees:

#### **Street Openings and Excavations within Public Right-of-Way (ROW)**

100 sq. ft. or less	\$100
Greater than 100 sq. ft.	\$200

#### **Non-Excavation or Public ROW Obstruction** (i.e., debris containers, equipment and other obstructions)

Per Day	\$10
Per Month	\$200

#### **Driveways/Aprons**

New; Reconstruction, Alteration, Enlargement or work of any kind within Public Way

Residential	\$50
Commercial	\$150
Resurfacing Existing Driveway (no excavations, alterations, or changes within public way)	\$25

#### **Coring or** (drilling, boring or coring in street)

Up to 5 Corings	\$35
6 Corings or More	\$50

#### **New Pavement - Open Road**

0 – 12 Months Old	\$2,500
13 – 24 Months Old	\$2,000
25 – 36 Months Old	\$1,500
37 – 48 Months Old	\$1,000
49 – 60 Months Old	\$500
61 Months or Older	Standard Permit Fee

#### **Refundable Security Deposit** (per project)

Excavation	\$5,000
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## APPENDIX B – INSURANCE REQUIREMENTS

Before any person, utility, corporation, or company is granted a Street Opening or Driveway / Accessway permit to work in a public way in the Town of Ayer, the Permittee must first submit insurance under which the Town of Ayer shall be named as an additional insured, carried with an insurance company licensed to write such insurance in the Commonwealth of Massachusetts. Town of Ayer's insurance requirements are as follows:

### **A. Worker's Compensation**

- a. Statutory State – Massachusetts
- b. Coverage Limit \$100,000 each employee
- c. Additional Endorsements
  - i. Voluntary Compensation

### **B. General Liability of (Comprehensive Form of Policy)**

- a. Limits of Liability
  - i. Bodily Injury and Property Damage – Combined Single Limit of \$1,000,000 with a \$2,000,000 Annual Aggregate Limit. The Town of Spencer should be named as "Additional Insured."
  - ii. Property Damage
- b. Arrangement of Coverage
  - i. Premises Operations
  - ii. Products – Completed Operations
  - iii. Owners & Contractors Protective
  - iv. Explosion, Collapse and Underground

### **C. Umbrella**

- i. Broad Form Comprehensive General Liability endorsement or equivalent (to include Broad Form Contractual, Personal Injury, Broad Form Property Damage, Incidental Malpractice, etc.)
- ii. Cross Liability

Limit of Liability: \$2,000,000 (minimum) occurrence, \$2,000,000/aggregate.  
The Town of Ayer should be named as "Additional Insured."

### **D. Automobile Liability (Comprehensive Form of Policy)**

- a. Limits of Liability
  - i. Bodily Injury and Property Damage and Combined Single Limit of \$1,000,000. The Town of Ayer should be named as "Additional Insured."