

Town of Ayer Expedited Permitting Guidebook

A Guide to the Review and Approval Process
for Priority Development Sites



Town of Ayer Expedited Permitting Guidebook

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Introduction: This guidebook is designed to streamline a permitting process by presenting a description of the permitting process for both applicants and Town staff in the Town of Ayer. It is intended solely for the development of Chapter 43D Priority Development Sites that are located in the Town of Ayer and is only to be used for such purposes. According to state regulations, a Priority Development Site (PDS) must be:

- Commercially or industrially zoned (including mixed use);
- Eligible for construction of a structure of 50,000 sq. ft. or more;
- Designated by the state of Massachusetts Interagency Permitting Board; and
- Wherever possible, priority development sites should be located adjacent to areas of existing development or in underutilized buildings or facilities, or close to appropriate transit services.

The Expedited Permitting Program gives a town the ability to promote commercial development on pre-approved parcels by offering expedited local permitting on those parcels. Such development shall be primarily commercial however mixed-use properties shall also qualify for priority designation so long as they conform to the statutory requirements for a priority development site. Other advantages of designating priority development sites in a community include eligibility for and priority consideration for PWED and CDAG funding, priority consideration for other quasi-public financing, brownfields remediation assistance, enhanced online marketing and technical assistance from MassDevelopment and/or the Montachusett Regional Planning Commission. A full listing of additional resources concerning Chapter 43D including fact sheets, frequently asked questions, and contact persons can be found at www.mass.gov/mpro.

The Town of Ayer seeks to foster high quality development in the Town that will create jobs for residents, broaden the Town's tax base and enhance Ayer as a viable place to live and work. At the Fall 2007 Special Town Meeting it was voted that the Town accept provisions of Chapter 43D of the MA General Laws (See Attachment 1, Chapter 43D of the MA General Laws) as amended pursuant to Section 11 of Chapter 205 of the acts of 2006, and to approve the filing of a formal proposal with the Interagency Permitting Board for the designation as an overlay for land within the following area:

- Healthcare Services District. The Health Care Services District comprises the portions located in Ayer of a parcel, which is known as 200 Groton Road (a/k/a Washington Street). See Town of Ayer Zoning Bylaws for Boundaries of District.

Projects located on Priority Development Sites continue to have flexibility; the applicant may still apply for permits and approvals under Chapter 40B to the same extent as if the property was not designated as a Priority Development Site. However the provisions of Chapter 43D relating to permit processing and appeals shall not apply to projects seeking permits and approvals under Chapter 40B.

This manual may not include all regulations and permits required for every project and does not fully describe permits that may be required by federal or state agencies, and, when in conflict, Chapter 43D of the MA General Laws take precedence over this Guidebook. However, strict adherence to local permitting requirements will prevent

expensive project delays and reduce the risk of having to make costly plan revisions. In turn, officials will work closely with applicants to guide them through the development process to help achieve the successful completion of projects.

SECTION 1: Chapter 43D Step-by-Step Permitting Instructions

The following is a chronological step-by-step explanation of the permit process:

Pre-Application Review:

1. **The Board of Selectmen will appoint the Director of Planning and Development (“Director”) as the Single Point of Contact for the purpose of coordinating and facilitating the MGL Ch 43D land use permitting process.** The Director will report directly to the Board of Selectmen.

While the Director has no authority to negotiate any commitments that would bind any regulatory agency, the Director will be able to help you determine if your project meets the regulations, what permits will most likely be needed, and approximately how long the process will take.

The Director can also provide you with application forms, procedures involved in various permits, information on meeting schedules, and other pertinent data. A brief description of each Town department is also available to assist applicants (See Section 2, Municipal Contact List). Thus it is recommended that the applicant schedule a Pre-Application Review with the Director.

2. **Schedule a Preliminary Consultation Meeting with the Technical Review Committee.** It shall be the applicant’s responsibility to initiate the pre-application process. The applicant shall request the Director to schedule a pre-application meeting with the Technical Review Committee during regular business hours. The Technical Review Committee, appointed by the Board of Selectmen, is comprised of a staff level group made up of the primary reviewers of plans for any application¹. Members include representatives of the Planning Board (Director of Planning and Development), the Board of Health (Health Agent), Board of Selectmen (Town Administrator), Building Department, Historic Commission, Department of Public Works, Parks and Recreation Department, Board of Assessors, Conservation Commission (Conservation Agent), and Public Safety (Fire Department and Police Department)². The meeting will be scheduled at least one week in advance during normal business hours at the Ayer Town Hall.

¹ Town Hall Staff will review applications in an attempt to avoid unnecessary deficiencies in the application and promote efficiency in the formal review and hearing process. Staff will review an application for its thoroughness and completeness; however, staff will not be responsible for assuring the accuracy, completeness or thoroughness of any application submitted for review. It is the responsibility of the applicant to assure that the application to be submitted is thorough, complete and accurate.

² Chapter 43D Regulations, 400 CMR 2.03 (See Attachment 1) prohibit the Zoning Appeals Board from having a Technical Review Committee Member. However, it should be noted that any permits issued by the Ayer Zoning Appeals Board must be included for review with the 180-day time frame.

The purpose of the preliminary consultation meeting is to help applicants and potential applicants through the development review and permit process by identifying regulations that apply to the project, identifying site design issues that are of concern and discussion of potential solutions, identifying permits that will be required and the process for obtaining them, clarifying procedures, and establishing relationships early in the process. Not only does this allow prospective applicants to discuss proposed developments and receive input prior to officially submitting permit applications, but it also helps departments to find solutions that meet the needs of multiple boards and commissions, further facilitating the permitting process.

In an effort to make these meetings as productive as possible, it is highly recommended that a preliminary plan or conceptual plan be submitted to the Director of Planning and Development at least one week prior to the preliminary consultation. This will enable the Technical Review Committee to conduct a preliminary review. The more detail contained on the plan, the more productive and informative the meeting will be.

Upon completion of the meeting, the Chairman of the Technical Review Committee shall prepare a Summary Report outlining the issues discussed, permits to be obtained, the submission requirements for each Issuing Authority, a planned sequence of submissions to each Issuing Authority, and a timetable, where appropriate, identifying any permits or approvals that will require action prior to other permits or approvals. This report will be forwarded to the project proponent and to all Issuing Authorities that have jurisdiction over the project, as well as the Board of Selectmen. The Director shall provide the applicant with a comprehensive packet of permit applications necessary for the Priority Development Site (PDS) project (See Attachment 2).

Application Submitted:

- 3. Submit a Completed Application Form to the Director of Planning and Development.** Both the applicant and the landowner must sign the Application Form (“Application”). The Application must be accompanied with the required filing fee and twenty-seven (27) copies of all plans and supporting documentation for determination of completeness prior to submission to the Town Clerk for certification (See Attachment 3, Chapter 43D Application). A Chapter 43D Filing Fee has been established by the Town to be assessed on Priority Development Site (PDS) Permit Applications to be used by the municipality for implementing MGL Ch. 43D (See Attachment 4, Applicable Ch 43D Permits and Associated Fees).

The Application shall include, at a minimum, the following as attachments thereto:

- A. Complete applications for all permits or approvals required from any Issuing Authority, unless the Summary Report includes a phased submission process, in which case the complete applications for all first-phase permits shall be submitted at the time of submission of the Application;
- B. A certification of intent to submit each remaining application for any other permit or approval included in the Summary Report, within the timetables established therein, signed by the applicant;
- C. A complete copy of the Summary Report, signed by the applicant, which shall constitute the applicant's written acceptance of, and agreement to adhere to, the contents of the Summary Report; and
- D. A certification by the applicant as to the completeness of the Application.

No application for any permit or approval shall be filed individually with any Issuing Authority or with the Town Clerk until such time as the Director has determined the Application to be a complete submission in accordance with Step 4 below.

4. **Within ten (10) business days of the receipt of the Application by the Director, the Technical Review Committee will hold a meeting to determine whether or not the Application is complete.** The Director will schedule the meeting during regular business hours in the Town Hall. The Technical Review Committee shall determine whether the Application that was submitted to the Director (See Step 3) is complete or incomplete. If the Application is determined to be complete, the Chairman of the Technical Review Committee shall notify the applicant, in writing by certified mail, within 20 business days from receipt of the completed Application, that the Application is complete. A copy of the notice shall be provided to the Board of Selectmen. If the applicant is not noticed within 20 business days as to whether the Application is complete or incomplete, the Application shall be deemed complete (400 CMR 2.08: Applications and Completeness Review). The 180-calendar-day review period shall commence the day after notice of completeness is mailed or upon expiration of 20 business days if the applicant is not noticed.

If it is determined by the Technical Review Committee that an Application is incomplete, the Chairman of the Technical Review Committee shall notify the applicant in writing by certified mail with an explanation as to why the Application is incomplete, and request the information necessary to complete the Application. A copy of the notice shall be provided to the Board of Selectmen. The resubmission of an Application package will begin a new 20-day review period (400 CMR 2.08: Applications and Completeness Review). Subsequent completeness decisions must be sent by certified mail and conform to the process previously described.

If the applicant is required to provide additional information and does not provide same within ninety (90) days of receiving notice thereof, the Application shall be considered withdrawn and the Board of Selectmen shall notify the Interagency Permitting Board that the permitting process has been discontinued.

No later than one (1) business day after the applicant receives notice that the Application is complete, the applicant shall file with the Town Clerk any permit applications discussed in the Summary Report. Except as otherwise provided herein, the submission requirements shall be in accordance with the by-laws, rules, and regulations of the applicable Issuing Authority.

Completed Application:

5. A Public Hearing/Informational Meeting will be scheduled within 30 days after an Application is determined complete. At this meeting, the applicant will present the project and respond to any informational questions asked by those in attendance.

Fourteen (14) days before the Informational Meeting, notice must be posted, published (once in each of 2 consecutive weeks) and sent to abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the priority development site as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town (400 CMR 2.03). The assessors maintaining any applicable tax list shall certify to the issuing authority the names and addresses of persons entitled to notice of public hearing and such certification shall be conclusive for all purposes. Expenses, exclusively for this Public Hearing/ Informational Meeting and the Public Hearing/ Informational Meeting outlined in Step 7 (See Step 7), have been included in the MGL Ch 43D Priority Site Application Fee. However, it should be noted that the applicant is responsible to conform to the requirements (including any and all expenses) required for each individual application of each applicable regulatory body contained in Attachment 2, Issuing Authority Permit Applications.

At any time prior to a decision of the Town, the applicant may withdraw a submission provided the request is made in writing to the Chairman of the Technical Review Committee and the relevant regulatory bodies. Both the Chairman of the Technical Review Committee and the relevant regulatory bodies shall acknowledge the withdrawal in writing with a copy delivered to the applicant and filed with the Town Clerk.

Prior to the conclusion of the Public Hearing/Informational Meeting, each Issuing Authority shall schedule its first meeting with the applicant at its next regularly scheduled meeting unless the Issuing Authority specifies a later meeting date for good reason. At this time, any Issuing Authority may require the applicant to provide reasonable additional technical data in response to its concerns or the concerns of people who have

submitted comments for the record. In doing so, the Issuing Authority shall establish reasonable time limits for the submission and review of the data, in order that the review process will not be delayed.

6. Each Town department shall review the Application independently and hold separate technical review public hearings if necessary but shall not make its decision until the next scheduled Joint Public Hearing outlined in Step 7. In preparation to act on the Application at the Joint Meeting of regulatory authorities, criteria for evaluation shall include, but not be limited, to the following:

- a. Completeness and technical adequacy of all submissions;
- b. Determination that development at this location conforms to the purpose of the Zoning By-Law which includes promoting and conserving the health and general welfare of the inhabitants of the Town, to secure safety from fire, confusion or congestion; to facilitate the adequate provision of transportation, water, sewerage, and other public services, to avoid undue concentrations of population; to guide development of housing; to encourage the most appropriate patterns of land-use and to increase the desirability of the Town as a place to live and work;
- c. Conformity with the requirements of these rules and compliance with the Zoning By-law and any other applicable by-laws and regulations;
- d. Determination, based upon the Development Impact Statement (where submitted), that the Project, as designed, will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

Each Issuing Authority will be required to provide a written monthly status report to the Expedited Permitting Advisory Committee (EPAC) due no later than the first Tuesday of each month. It should be noted that the EPAC is a separate entity from the Technical Review Committee. The EPAC, created by the Board of Selectmen via appointments from individual contributing Boards, provides oversight on how the Application process is functioning and reports back to the Board of Selectmen on an as-needed basis. The EPAC is also charged with assisting the Director in identifying obstacles to the successful implementation of MGL Ch 43D and offering recommendations for overcoming said obstacles. The EPAC is a nine (9) member group made up of a representative from the Board of Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Fire Department, a Citizen Member, and two business community members.

7. The Director will schedule a Joint Public Hearing/Informational Meeting³ within 180 days after an Application is determined complete for findings of the regulatory

³ It should be noted that notice requirements outlined in Step 5 must be followed for this Joint Public Hearing and the public hearing must take place within 180 days after an application is determined complete.

bodies. At this Public Hearing, any findings of regulatory bodies will be presented. Each Issuing Authority shall make its decision independently at this meeting. Each Issuing Authority shall file a written decision with the Town Clerk within seven (7) days after the Joint Public Hearing and within 180 days beginning the day after notification of completeness.

Failure of any Town department to take action within 180 days of the acceptance of a complete Application shall be deemed approval with a very limited number of exceptions (See Attachment 1, Chapter 43D Regulations, 400 CMR 2.09 Expedited Permitting).

Immediately after the filing of all Issuing Authority decisions with the Town Clerk, or after the expiration of 180 days of the acceptance of a complete Application, whichever occurs first, the Director shall issue a Combined Notification Letter to the Applicant, with a copy to the Board of Selectmen, notifying the Applicant of the filing of all Issuing Authority decisions and of the failure of any Issuing Authority to file a decision.

While lack of time is not an adequate basis for a municipality to deny a permit, the 180 calendar day review period may be extended by the Board of Selectmen, if a previously unidentified permit or review has been determined necessary within the first 150 calendar days of the process. When the Board of Selectmen determines that a previously unidentified permit is necessary, the Board of Selectmen must send immediate notice of such additional requirements to the applicant by certified mail and copy the state's Interagency Permitting Board (400 CMR 2.09). The Board of Selectmen may exercise the extension for a maximum of 30 calendar days. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 30 calendar days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows.

The 180 calendar day review period may be extended when an Issuing Authority determines that (1) action by another federal, state or municipal government agency, not subject to MGL Ch 43D, is required before the Issuing Authority may act; (2) pending judicial proceedings affect the ability of the Issuing Authority or applicant to proceed with the Application; (3) enforcement proceedings that could result in revocation of an existing permit for that facility or activity or denial of the Application have been commenced, in accordance with 400 CMR 2.09.

The applicant can still request a permit modification if deemed necessary (400 CMR 2.10). Issuing authorities shall make every reasonable effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permitting process. Permit modification requests are to be submitted to the Issuing Authority. The applicant shall be informed within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or requires additional information for the Issuing Authority to issue a decision. If additional information is required, the Issuing Authority shall inform an applicant by certified mail within 20 business days after receipt of the required additional information whether the

modification is approved or denied or that further additional information is required by the Issuing Authority in order to render a decision.

If the Board of Selectmen, in consultation with the Issuing Authority, has determined that substantial modifications have been made to the project since the filing of the Application, which affect the ability of the Issuing Authority to make a decision on an Application, an extension of the 180-calendar-day review period may be granted by the state's Interagency Permitting Board for demonstrated good cause at the written request of the Issuing Authority (See 400 CMR 2.09 Permitting Process and Extensions for a full description of Extensions).

Permits issued pursuant to MGL Ch 43D shall expire 5 years from the date of the expiration of the applicable appeal period unless exercised sooner (400 CMR 2.14). Where permits cover multiple buildings and/or parcels, commencement and continuation of construction of one building shall prevent expiration of all permits on that site.

Appeals of an Issuing Authority's decision or from an automatic grant of approval shall be filed within 20 calendar days after the last permitting decision has been rendered or within 20 calendar days after the conclusion of the 180-day period, whichever is later. The 180-day period shall be increased by the number of days in any extension granted under 400 CMR (Please refer to 400 CMR 2.13: Appeals, for a full description of Appeals).

8. Make sure that you apply concurrently for all other development related permits, approvals and licenses from the Commonwealth of Massachusetts and U.S.

Government. While the Director, Technical Review Committee, and regulatory bodies can provide guidance, the applicant is responsible for applying for state and federal permits. Attachment 5 of this document provides an overview of some common state and federal permits that may be necessary for your project.

Chapter 43D requires that MEPA and Mass Historic Commission reviews shall conclude within 120 calendar days of a state determination of completeness of required review materials (400 CMR 2.16). The reviews are conducted concurrent to the 180-day municipal review period. The Secretary of Energy and Environmental Affairs and the State Secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this section. In the event an applicant fails to comply with all relevant time frames, the time shall be tolled until the applicant files the required documents.

Post-Approval Development Steps⁴:

⁴ Post Approval Development Steps 9 through 12 are Not subject to the 180 day period for issuance of permits. See 400 CMR 2.03 for a definition of "Permit" describing which permits are affected by Chapter 43D.

9. If necessary, **record permit(s) at the Registry of Deeds** after the specified appeal period, required for special permits, variances, and orders of conditions. Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the issuing authority.

10. Apply to the Building Inspector for a Building Permit. Upon receiving all necessary permits, approvals and licenses from regulatory bodies, boards, and commissions and any necessary state and federal approvals, you will need to submit them to the proper regulatory authority before applying for a building permit. Please be aware that building permits issued by the Building Inspector are NOT affected by Chapter 43D and are NOT subject to the 180 day period for issuance of permits.

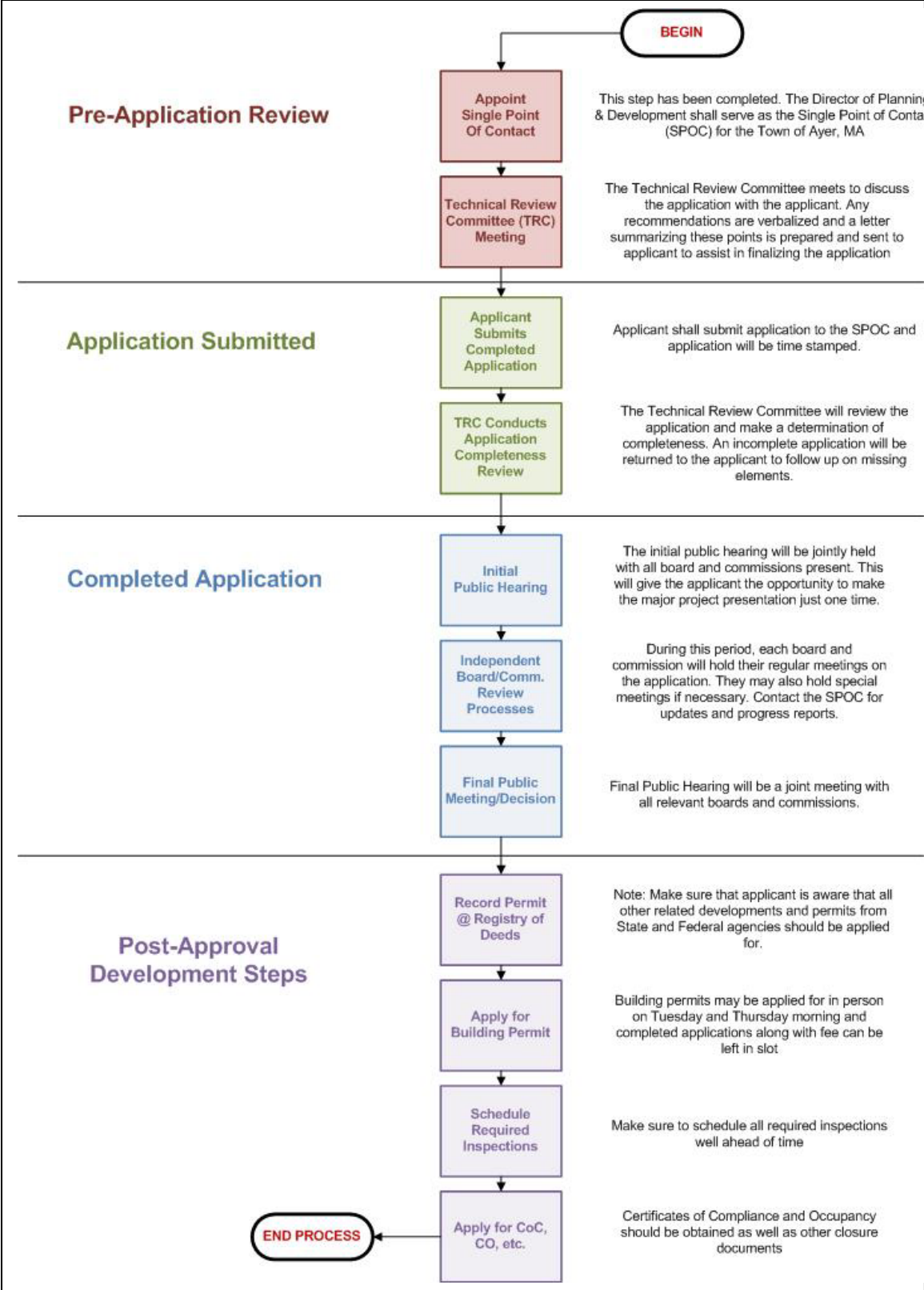
11. Schedule required inspections through the relevant Town department during construction. These inspections are NOT affected by Chapter 43D and are NOT subject to the 180 day period for issuance of permits.

These can include, but are not limited to:

- A. Electric
- B. Gas
- C. Construction
- D. Plumbing
- E. Elevators
- F. Wetlands
- G. Water
- H. Sewer
- I. Stormwater

12. Apply for a Certificate of Compliance (if necessary), Occupancy Permit, and Certificate of Completion. Upon completion of construction, the applicant shall apply to the Conservation Commission for a certificate of compliance for projects involving wetlands, for a certificate of completion for site work including roads and utilities, and to the Building Inspector for an occupancy permit. The Conservation Commission should be notified prior to the issuance of a certificate of occupancy. These are NOT affected by Chapter 43D and are NOT subject to the 180 day period for issuance of permits.

Summary of Project Review and Approval Process



SECTION 2: Municipal Contacts

Director of Planning and Development

Contact Name: Christopher J. Ryan, AICP

Phone: (978) 772-8206

Fax: (978) 772-3017

Email: dpd@ayer.ma.us

The Board of Selectmen appointed the Director of Planning and Development as the **Single Point of Contact** for the purposes of coordinating and facilitating the Chapter 43D land use permitting process. This person centralizes all materials, applications and information regarding various land-use permits and provides application forms, guides to the procedures involved in various permits and information on meeting schedules, among other pertinent data. The Director of Planning and Development also schedules preliminary consultation meetings, Technical Review Committee meetings, and Public Hearings.

Chapter 43D Technical Review Committee

Contact Name: Christopher J. Ryan, AICP

Phone: (978) 772-8206

Fax: (978) 772-3017

Email: dpd@ayer.ma.us

The Technical Review Committee, appointed by the Board of Selectmen, is comprised of a staff level group made up of the primary reviewers of plans for any application. Members include representatives of the Planning Board (Director of Planning and Development), the Board of Health (Health Agent), Board of Selectmen (Town Administrator), Building Department, Historic Commission, Department of Public Works, Parks and Recreation Department, Board of Assessors, Conservation Commission (Conservation Agent), and Public Safety (Fire Department and Police Department). The applicant meets with the Technical Review Committee during the preliminary consultation meeting outlined in Section 1: Step 2 to help potential applicants through the development review and permit process by identifying regulations that apply to the project, identify site design issues that are of concern and discussion of potential solutions, identify permits that will be required and the process for obtaining them, clarifying procedures, and establishing relationships early in the process. The Technical Review Committee also determines whether or not the applicant's formal application is complete (See Section 1: Step 4).

Expedited Permitting Advisory Committee

Contact Name: Christopher J. Ryan, AICP

Phone: (978) 772-8206

Fax: (978) 772-3017

Email: dpd@ayer.ma.us

The Expedited Permitting Advisory Committee (EPAC) is not to be confused with the Technical Review Committee. The EPAC, created by the Board of Selectmen via appointments from individual contributing Boards, provides oversight on how the application process is functioning and reports back to the Board of Selectmen on an as-needed basis. The EPAC is also charged with assisting the Director of Planning Development in identifying obstacles to the successful implementation of Chapter 43D and offering recommendations for overcoming said obstacles. The EPAC is a nine (9) member group made up of a representative from the Board of Selectmen, Planning Board, Board of Zoning Appeals, Conservation Commission, Board of Health, Fire Department, a Citizen Member, and two business community members.

Board of Assessors

Name: Tom Hogan, Assessing Administrator

Telephone: (978) 772-8211

Fax: (978) 772-8222

E-mail: assessor@ayer.ma.us

The Assessors are responsible to the State Commissioner of Corporations and Taxation for the administration of the real estate law. They determine the valuation of all real and personal property within the Town. The Assessors are responsible for setting the tax rate, and granting abatements and exemptions, at their discretion, on property taxes to qualified residents. The board also assesses betterments for public improvements voted by Town Meeting. Finally it maintains complete maps, plans valuation books, and other records on all property in the Town.

As illustrated on the Permitting Matrix (See Attachment 6), the Board of Assessors is available to provide assistance to applicants for Abutters List and Assessors Map & Parcel Number. The principal role that the Assessors play in the permitting process involves abutters lists. Since Assessor's do not determine the scope of the list, the applicant must have a complete understanding of specific requirements prior to approaching the Assessors.

The Assessor's current policy requires that the applicant prepare the abutters list and submit it to the Assessing Department for review and certification. However, for Chapter 43D Priority Development Sites the Assessors will deviate from departmental policy and personally prepare the list of abutters for a fee of \$20.00. Because preparation of an

Abutters List can be somewhat complex, the department should be notified as soon as possible that a list is needed and when it is needed by.

Board of Health

Name: Bridgette Braley, District Health Inspector
Telephone: (978) 772-3335 Ext. 3015
Fax:
E-mail: Bbraley@nashoba.org

The Board of Health performs on the local level many important duties relative to protection of public health, the control of disease, the promotion of sanitary living conditions, and the protection of the environment from damage and pollution. Mandated duties include health care and disease control, enforcement of housing and dwelling codes, monitoring of, and providing for, hazardous waste disposal, and monitoring the sanitary landfill. Responsibilities also include enforcement of Title 5 (the State Environmental Code relative to septage and garbage), investigating nuisances which in the board's opinion may be injurious to health, enforcing Chapter X of the State Sanitary Code involving food service establishments, and enforcing Title 2 of the State Environmental Code regarding safety and sanitation of pools and beaches. Under the subdivision control law, the Board of Health has important responsibilities with regard to subdivision plan review and, under Title 5, inspections of septic system installation and maintenance. The board can also play a role in traffic issues and signage, it is the Special Permit Granting Authority in regards to the Town's Aquifer Protection District, participates in the Site Plan Review process, and issues letters of approval/denial which is required for variance from the state plumbing code.

Board of Selectmen/ Town Administrator

Name: Shaun A. Suhoski
Telephone: (978) 772-8210
Fax:
E-mail: ta@ayer.ma.us

Jointly, the Selectmen serve as Chief Executive of the Town. As Ayer's principal elective officers, and in addition to their responsibilities under state and local law, the Board of Selectmen has general supervision over all matters that are not specifically delegated by law or by vote of the town to some other officer or board. They are the only officers empowered to enter into contracts on behalf of the town. The Board of Selectmen has the authority and responsibility to provide general policy direction, issue administrative orders, appoint and serve as hiring authority for Town boards committees, and officials who administer Town government, and issue Annual and Special Town Meeting Warrants. The Board also engage and supervise Town Legal Counsel and

approve actions in litigation, authorize all borrowing and all expenditures, including payroll.

The Town of Ayer Board of Selectmen as the Governing Body is the lead agency for MGL Ch 43D and shall make all decisions regarding processes and procedures, appointment of any group or committee working with MGL Ch 43D, or any individual point of contact for the Town of Ayer. The Board of Selectmen also participates in the Site Plan Review process and issues some local permits and licenses including earth removal permits, sewer connection permits, and water connection permits.

Building Department

Name: Gabriel J. Vellante
Telephone: (978) 772-8214
Fax: (978) 772-8222
E-mail:

The Building Inspector works under the general supervision of the Board of Selectmen, but has independent statutory authority under the state zoning and subdivision control laws for the issuance of permits under, and the enforcement of, the state building code. A major responsibility of the Zoning Officer is the interpretation and enforcement of local zoning to ensure compliance with zoning standards voted by Town Meeting. In cooperation with the Fire Chief and other town officials, the Building Inspector insures that public safety standards are met in all buildings, public and private, and in the development that occurs within the Town, and also appoints, under the provisions of MGL Chapter 142 Section 11, the Plumbing and Gas Inspectors, and supervises their work, as well as that of the Wiring Inspector. The Building Department also plays a role in the Site Plan Review process.

It is important to note that Building Permits issued by the Building Inspector are NOT affected by Chapter 43D and are **NOT subject to the 180 day period** for issuance of permits.

Conservation Commission

Name: Becky DaSilva
Telephone: (978) 772-8249
Fax:
E-mail: concom@ayer.ma.us

The Conservation Commission is the official agency specifically charged with the protection of Ayer's natural resources. The Commission also advises other municipal officials and boards on conservation issues relating to these boards areas of

responsibility, which includes participating in the Site Plan Review process, the preliminary subdivision approval process, and the definitive subdivision approval process. The Commission reviews, approves, and regulates all proposed activity, which may have an impact on any resource under its jurisdiction (i.e., currently, any proposed activity within 100 feet of a wetland and/or 200 feet of a river or stream). Applicants must file an application (Notice of Intent) for work to be undertaken in those areas, which are then governed by Orders of Conditions issued by the Commission. Often these must be carried out in perpetuity, i.e. prohibition of fertilizers in environmentally sensitive areas.

Any proposed activity or project that will “remove, fill, dredge, or alter” a wetland resource area, the 200-foot riverfront protection area, or the 100-foot buffer zone associated with a wetland resource area must obtain a permit from the Conservation Commission. The term “alter” includes but is not limited to any development, construction, destruction of vegetation, any change in drainage characteristics or flow patterns, and any change in the groundwater. A wetland resource area includes any stream, river, creek, pond, lake, and the banks associated with them, any meadows marshes, swamps, bogs, any land under water, land subject to flooding, and any riverfront.

An applicant may need to complete a **Request for Determination of Applicability (RDA)**: This application requests the Conservation Commission to determine if the proposed work or property is subject to the MWPA. For simple projects, the Conservation Commission may also determine if the work can be done in a manner that will not negatively impact the resource area. In response to an RDA, the Conservation Commission may issue one of the following decisions:

- **Positive Determination** – the proposed work or property is subject to the MWPA and requires the filing of a Notice of Intent.
- **Negative Determination** – proposed work is not subject to the MWPA.
- **Negative Determination with Conditions** – proposed work is within the 100-foot buffer zone and will not adversely impact the resource area if simple precautions are taken.

A Notice of Intent (NOI) may have to be filed by the applicant. This application provides the Conservation Commission with a detailed description of the proposed work that is located in a resource area, riverfront area or buffer zone that may impact a nearby wetland resource area. In response to a NOI, the Conservation Commission may issue an Order of Conditions permitting the proposed work with conditions consistent with the standards in the Wetlands Protection Act Regulations, which prevent significant adverse impacts to a wetland resource area, or deny the project because it cannot be performed in a manner that prevents negative impacts to a wetland resource area.

Within 21 days of receipt, the Conservation Commission will conduct a site visit. The Conservation Commission will make a recommendation concerning the issuance of an Order of Conditions approving or denying the request.

Fire Department

Name: Robert J. Pedrazzi, Fire Chief
Telephone: (978) 772-8231
Fax: (978) 772-8230
E-mail: firechief@ayer.ma.us

The Town of Ayer Fire Department provides for the safety of life, property, and protection of the environment by serving in a safe and professional manner through the efforts of public education, prevention, fire suppression activities, response to medical emergencies, and mitigation of hazardous conditions. The Fire Chief is a paid full-time employee who oversees the Fire Department, and is responsible for administering the department and approving all rules and regulations for its operation, appointing officers and supervises the purchase, maintenance, and repair of Fire Department property and apparatus, subject to the approval of the Board of Selectmen and Town Meeting appropriation.

Historic Commission

Name: George Bacon (Chair) and Julia Nau-Alekman (Vice Chair)
Telephone: (978) 772-8220 and (978) 772-3017
Fax:
E-mail: hists@ayer.ma.us and Julia.alekman@verizon.net

The Ayer Historical Commission is responsible for community wide historic preservation planning. The Commission has care, custody and control of the Pleasant Street School, listed on the National Register of Historic Places.

Department of Public Works

Name: Michael Madigan
Telephone: (978) 772-8238
Fax: (978) 772-8244
E-mail: dpwsupt@ayer.ma.us

The Department of Public Works is made up of the Highway Department, Sewer Department, and Water Department. The Mission Statement of the Department of Public Works is to provide the public with water, wastewater treatment, solid-waste disposal, roadway upgrades, and snow removal.

The Highway Department is responsible for the ordinary repair and maintenance of public ways in the Town, and their dependent system of sidewalks, traffic control, and snow and ice removal. The Highway Department also applies for state and federal funds, subcontracts for road-work, is responsible for the purchase and maintenance of the Department's capital equipment, and maintains, in cooperation with the Parks and Recreation Department, the Town's commons, parks, and playing fields.

The Water Department is responsible for operation and maintenance of the public water system, ensuring quality of the public water supply, protecting existing water sources and developing new sources and new storage facilities as needed, and working with other town departments and contractors to extend facilities for provision of Town water.

The Sewer Department oversees the town sewer system, the regulation of user fees, the repayment of wastewater system costs, sewer design, construction, and use, and any other problems or issues regarding the sewer system. While the Sewer Department is part of the Department of Public Works, the direct contact is **John Sheehan Telephone: (978) 772-8243 Fax: (978) 772-8244 E-mail: jfs12759@yahoo.com**

Parks and Recreation Department

Name: Jeff Thomas, Supervisor of Recreation and Maintenance
Telephone: (978) 772-8217
Fax: (978) 772-8222
E-mail: parks@ayer.ma.us

The Parks and Recreation Department focuses on the recreational needs of the community. Responsibilities include frequently interacting with other town departments preparing plans for parks, cultural activities, walking and biking paths, and establishing volunteer corps to assist the town in maintaining recreation areas.

Planning Board

Name: Susan Sullivan
Telephone: (978) 772-8218
Fax: (978) 772-3017
E-mail: planning@ayer.ma.us

The Planning Board is mandated by state law to prepare and maintain the Town's Master Plan and Official Map, prepare, adopt, and administer Subdivision Rules and Regulations, and review all subdivisions plans submitted under state and local by-law and regulations. The board also supervises construction of subdivision roads and drainage systems, prepare and present zoning amendments at Town Meeting, report to Town Meeting on proposed zoning amendments.

Permits issued by the Planning Board include Subdivision approval. A Subdivision Plan must be filed when lots are being created that do not have sufficient frontage on an existing way. For more information regarding subdivision approval please see the Ayer Subdivision Rules and Regulations, available from the Town Clerk. However, it is important to note that **ANR plan approval** and **subdivisions** under the subdivision control law are **NOT affected by G.L. Chapter 43D**.

Police Department

Name: Richard J. Rizzo, Police Chief
Telephone: (978) 772-8200
Fax: (978) 772-8237
E-mail:

The Police Department is committed to ensuring public safety through a combination of education and law enforcement efforts in partnership with the community. Under state law the Police Chief is responsible for overseeing and managing the operation of the Police and Communications Departments, and issuing General Orders, Policies and Procedures, and Rules and Regulations of the Department, subject to the approval of the Board of Selectmen. The Police Department also participates in the Site Plan Approval process. The Chief oversees a corps of police officers, auxiliaries, police matrons, and communications personnel; all of these are appointed by the Selectmen and are either employees or officers of the Town.

Town Clerk

Name: Ann Callahan
Telephone: (978) 772-8215
Fax: (978) 772-8222
E-mail: clerk@ayer.ma.us

The Town Clerk serves as Chief Election Officer, Public Information and Legislative Administrator, and Local Registrar of Vital Records and Statistics. The Clerk ensures that appropriate notification and procedure are adhered to in the making of legislative policy by the Town and manages public access to information. The Clerk also issues

various licenses (i.e. marriage, hunting, and dog licenses), serves ex officio as a member of the Board of Registrars and is responsible for carrying out the functions of the Board in the preparation, publication, and circulation of lists of voters. Finally the Clerk prepares the annual street listing of Ayer residents and submits all bylaws passed by Town Meeting to the state Attorney General for approval.

Zoning Board of Appeals

Name: Susan Sullivan
Telephone: (978) 772-8218
Fax: (978) 772-3017
E-mail: planning@ayer.ma.us

The Zoning Board of Appeals (ZBA) acts in a quasi-judicial capacity on the issuance of certain special permit applications (a process that allows the town to conduct a more detailed review of certain uses and structures which may have a significant impact on their surroundings and ensures proposals are consistent with the purposes of the zoning bylaw), petitions for variances from the requirements of the Ayer Zoning Bylaw, and appeals from the acts of the Building Inspector, or from the failure of the Building Inspector to act in response to a complaint from a citizen. The Board also has jurisdiction to act on applications for comprehensive permits for subsidized housing, in which it coordinates review of all other local boards except the Conservation Commission. The Board has power to receive testimony under oath. Most decisions of the ZBA may be appealed by an aggrieved party to the District, Superior, or Land Court.

While the Zoning Appeals Board is prohibited from having a Technical Review Committee Member (See Attachment 1, Chapter 43D Regulations, 400 CMR 2.03), the ZBA is the lead regulatory body that issues Special Permits and Variances. It is important to note that any permits issued by the Ayer Zoning Appeals Board must be included for review within the 180-day time frame.

ATTACHMENT 1: Chapter 43D Regulations

400 CMR 2.00 Expedited Permitting

- 2.01: Purpose
- 2.02: Program Overview
- 2.03: Definitions
- 2.04: Interagency Permitting Board
- 2.05: PDS Designation Process
- 2.06: Grant Application Process
- 2.07: Local Duties Upon Municipal Acceptance
- 2.08: Applications and Completeness Review
- 2.09: Permitting Process and Extensions
- 2.10: Permit Modifications
- 2.11: Automatic Grant of Approval
- 2.12: Cape Cod Commission & Martha's Vineyard Commission Reviews
- 2.13: Appeals
- 2.14: Permit Transfers and Renewals
- 2.15: Municipal Benefits
- 2.16: State Permitting
- 2.17: Regulatory Authority

2.01: Purpose

400 CMR 2.00 *et seq.* establishes rules, standards and procedures for the Expedited Permitting Program created in Chapter 43D. The Executive Office of Economic Development (the "Office") is the regulatory agency for the program and is authorized to issue regulations to explain and to implement its operation.

2.02: Program Overview

The Expedited Permitting Program gives cities and towns the ability to promote commercial development on pre-approved parcels by offering expedited local permitting on those parcels. Such development shall be primarily commercial however mixed-use properties shall also qualify for priority designation so long as they conform to the statutory requirements for a priority development site. The program is at local option.

Cities and towns that accept the provisions of Chapter 43D will be eligible for a one-time technical assistance grant to assist the municipality to improve and streamline the local permitting process for commercial development.

2.03: Definitions

"All persons entitled to notice of hearing", abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the priority development site as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town. The assessors maintaining any applicable tax list shall certify to the issuing authority the names and addresses of persons entitled to notice of public hearing and such certification shall be conclusive for all purposes.

“Appropriate public transit services”, an area that is located within .5 (1/2) miles of any part of an existing Transit Station or Planned Transit Station, including, but not limited to, parking areas proximate to the existing Transit Station or Planned Transit Station, entrance gates, and ticket dispensers, and shall have a form of access to the existing Transit Station or Planned Transit Station, or will have access resulting from a proposed project on the priority development site.

“Area of existing development”, an area within .5 (1/2) miles of parcels with existing public or private infrastructure either currently in use or recently abandoned, which is served by transportation services that include roads, highways, or other forms of public transit.

“Division”, the Division of Administrative Law Appeals.

“Governing body”, in a city having a Plan D or Plan E charter the city manager and the city council and in any other city the mayor and city council, and in towns the board of selectmen, or as otherwise provided by local charter.

“Interagency permitting board”, the board, as described in Section 62 of Chapter 23A established to review and approve or deny municipal priority development site proposals and to administer technical assistance grants.

“Issuing authority”, a local board, commission, department or other municipal entity that is responsible for issuing permits, granting approvals or otherwise involved in land use development including redevelopment of existing buildings and structures.

“Mixed Use”, use of a parcel of real property for both residential and commercial purposes.

“Parties to the proceedings”, any person who provided testimony or submitted written comments on record during a Public Hearing for the project.

“Permit”, a formal determination, order of conditions, license, certificate, authorization, registration, plan approval, zoning relief or other approval or determination with respect to the use, development or redevelopment of land, buildings, or structures required by any issuing authority including but not limited to those under statutory authorities contained in Sections 81A to 81J, inclusive, of Chapter 40A, and Sections 81X to 81GG, inclusive, of Chapter 41, Sections 40 and 40A of Chapter 131, Sections 26 to 32, inclusive, of Chapter 111, Chapter 40C, Sections 13 and 14 of Chapter 148, Chapter 772 of the acts of 1975, or otherwise under state law or local by-law or ordinance, and all associated regulations, by-laws and rules, but not including building permits or approvals pursuant to Sections 81O to 81W, inclusive, of Chapter 41. “Permit” shall not include the decision of an agency to dispose of property under its management or control; predevelopment reviews conducted by the municipality or a technical review team; or permits granted by the Massachusetts Water Resources Authority.

“Permitting Ombudsman”, an individual appointed by the governor that will chair the interagency permitting board and direct that board to conduct state permit evaluation and streamline and expedite state agency permitting procedures. The ombudsman shall facilitate communication between municipalities and state agencies on permitting issues.

“Priority development site”, PDS, a privately or publicly owned property that is: (1) commercially or industrially zoned, or zoned for mixed use development; (2) eligible under applicable zoning provisions, including special permits or other discretionary permits, for development or redevelopment containing at least 50,000 square feet of gross floor area in new or existing buildings or structures; and (3) designated as a priority development site by the board. Several parcels or projects may be included within a single priority development site. Wherever possible, priority development sites should be located adjacent to areas of existing development or in under utilized buildings or facilities, or close to appropriate transit services.

“Secretary”, the secretary of the executive office of economic development.

“Technical review team”, an informal working group consisting of representatives of the various issuing authorities designated by the head of their issuing authority to review requests submitted under this chapter. The technical review team shall not include members of the zoning board of appeals.

“Under utilized building or facility” – a commercial or industrial building or collection of buildings that are currently vacant or that has 50% of its floor area unused, or a site that has previously been cleared of industrial or commercial use, or a site that has been remediated and is vacant or used sporadically.

2.04: Interagency Permitting Board

The members of the board shall be comprised of the state permit ombudsman who will serve as the chair, the secretary of economic development, the secretary of transportation, the secretary of environmental affairs, the secretary of public safety, the director of the department of housing and community development, the director of the department of business and technology, the director of the department workforce development, the director of the department of consumer affairs and business regulation, the chair of the commonwealth development coordinating council, and the executive director of the Massachusetts Development Finance Agency, or their designees. Six members shall be a quorum for the transaction of business. At the direction of the chair, the board shall meet no less than 8 times a year, and review and approve or deny municipal PDS proposals and administer technical assistance grants. The board shall monitor the development of priority development sites as provided for in Chapter 43D and investigate ways in which to expedite priority development site projects. The board shall evaluate state agency permit procedures and recommend changes for improved efficiency. The board shall administer the technical assistance grants program established in Section 3(b) of Chapter 43D.

2.05: PDS Designation Process

For each priority development site proposed, a town must vote to accept Chapter 43D by town meeting and a city must accept Chapter 43D by a majority vote of city council members. In order to qualify for PDS designation, written authorization of the property owner of each parcel included in the PDS application must be granted. Upon local acceptance of Chapter 43D, the governing body must apply to the board for PDS designation. The application shall include: (1) a detailed description of the property; (2) good faith commitment to comply with Chapter 43D; (3) written authorization of the property owner; and (4) at the discretion of the governing body, a request for technical assistance. The applications shall also identify if the site is located adjacent to areas of existing development or in under utilized buildings or facilities, or close to appropriate transit services. The board will review the application to determine whether the parcel meets all of the following requirements:

- (1) commercially or industrially zoned, or zoned for mixed use development;
- (2) eligible under applicable zoning provisions, including special permits or other discretionary permits, for development or redevelopment containing at least 50,000 square feet of gross floor area in new or existing buildings or structures; and
- (3) has met with an affirmative vote of town meeting or city council.

Municipalities are strongly encouraged to consider sites close to areas of existing development, close to appropriate transit services, or containing under-utilized buildings or facilities when nominating potential PDS locations, however meeting one or more of these three principles is not required for the site to qualify for PDS designation.

The board shall have 60 calendar days from receipt of the PDS application to issue a decision.

PDS designation shall apply for a term no less than five years, beginning the day after the 120 calendar day phase-in period as described in Section 2.06. The governing body may decide to terminate PDS designation on a parcel after the initial five year term by providing timely written notice to the board. Absent a termination notice from the governing body, PDS designation shall remain in effect.

2.06: Grant Application Process

All requests for technical assistance grants shall include a detailed description of how the grant will be used and shall be submitted to the board with the application for PDS designation. Grants shall be used to implement the requirements of Chapter 43D, which shall include but not be limited to, professional staffing assistance, local government reorganization, and consulting services.

The board shall review applications for technical assistance grants, and issue a final decision within 60 calendar days of receipt in concurrence with the Board's decision on the application for PDS designation. All technical assistance grants under Chapter 43D are subject to legislative appropriation.

The grants are to be considered one-time grants. In special circumstances where a specific and originally unforeseen need can be demonstrated, the governing body may be eligible for an additional technical assistance grant if approved by the board and the secretary, provided the governing body has previously identified and successfully permitted at least one PDS prior to the second request for a technical assistance grant.

2.07: Local Duties Upon Municipal Acceptance

A governing body shall be deemed to have accepted the provisions of Chapter 43D by endorsing the check for a technical assistance grant. In the cases where no technical assistance has been granted, the governing body may accept the provisions of Chapter 43D by completing a form provided to them by the board.

Beginning on the day after a governing body accepts the provisions of Chapter 43D, the governing body will have 120 calendar days to conform to the requirements of this program.

These requirements shall be to:

- (a) appoint a single point of contact to serve as the primary municipal liaison for all issues relating to Chapter 43D;
- (b) amend rules and regulations on permit issuance to conform to Chapter 43D;
- (c) along with each issuing authority, collect and ensure the availability of all governing statutes, local ordinances, by-laws, regulations, procedures and protocols pertaining to each permit;
- (d) establish a procedure whereby the governing body shall determine all permits, reviews and predevelopment reviews required for a project; all required scoping sessions, public comment periods and public hearings; and all additional specific applications and supplemental information required for review, including, where applicable, the identification of potential conflicts of jurisdiction or substantive standards with abutting municipalities and a procedure for notifying the applicant of the same;
- (e) establish a procedure, following notification to the applicant of all required submissions, for determining if all the materials required for the review of the project have been completed; and
- (f) establish a procedure to allow for all local permitting decisions for PDS projects to be issued within 180-calendar-days of submission of a completed application.

Nothing in Chapter 43D shall be construed to alter the jurisdiction of issuing authorities.

2.08: Applications and Completeness Review

The governing body shall provide an applicant with a comprehensive packet of permit applications necessary for the PDS project. In order to identify applicable permits for any project, the municipality may conduct preliminary reviews or conferences with the applicant. Once the applicant has submitted an application packet, the governing body has 20 business days to determine completeness of the applications. The governing body shall timely notice the applicant by certified mail as to the completeness of the applications. If the governing body fails to notice the applicant within 20 business days,

the application shall be deemed complete. The 180-calendar-day review period shall commence the day after notice is mailed.

Should the governing body determine an application is incomplete, the governing body shall timely notify the applicant in writing by certified mail with an explanation as to why the application is incomplete, and request the information necessary to complete the application. The resubmission of an application package will begin a new 20-business-day completeness review period. Subsequent completeness decisions must be sent by certified mail and conform to the process outlined in this section.

2.09: Permitting Process and Extensions

The governing body must complete the local permitting process within 180 calendar days after the certified notice of completeness is sent, or the 20-day-completeness review period has expired and the applications are deemed to be complete. This period may be waived or extended for good cause upon written request of the applicant with the consent of the governing body, or upon written request of an issuing authority with the consent of the applicant.

The 180-calendar-day review period may be extended by the governing body, if a previously unidentified permit or review has been determined necessary within the first 150 calendar days of the process. When a governing body determines that a previously unidentified permit is necessary, the governing body must send immediate notice of such additional requirements to the applicant by certified mail and copy the board. The governing body may exercise the extension for a maximum of 30 calendar days. Where public notice and comment or hearing are required for the previously unidentified permit, the required action date shall be not later than 30 days from the later of the close of the hearing or comment period, which shall be scheduled to commence as quickly as publication allows.

The 180-calendar-day review period may be extended when an issuing authority determines that (1) action by another federal, state or municipal government agency not subject to this act is required before the issuing authority may act; (2) pending judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (3) enforcement proceedings that could result in revocation of an existing permit for that facility or activity or denial of the application have been commenced. In those circumstances, the issuing authority shall provide written notification to the secretary and the board by certified mail. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant, the secretary, and the board by certified mail, and shall complete its decision within the time period specified in this section, beginning the day after the notice to resume is issued by the governing body.

If governing body, in consultation with the issuing authority, has determined that substantial modifications to the project since the application render the issuing authority incapable of making a decision on an application, an extension of the 180-calendar-day review period may be granted by the board for demonstrated good cause at the written

request of the issuing authority. The issuing authority shall provide terms for the extension including the number of additional days requested. Within ten business days of receipt of the request, the board, or permitting ombudsman if designated by the board, shall respond to the issuing authority with an extension determination.

If the applicant makes a substantial modification to a project for the purpose of public benefit, the issuing authority may request an extension from the board, and if granted, shall make every reasonable effort to expedite the processing of that permit application.

2.10 Permit Modifications

Issuing authorities shall make every reasonable effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permitting process. An issuing authority shall inform an applicant within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or requires additional information for the issuing authority to issue a decision. If additional information is required, the issuing authority shall inform an applicant by certified mail within 20 business days after receipt of the required additional information whether the modification is approved or denied or that further additional information is required by the issuing authority in order to render a decision.

2.11: Automatic Grant of Approval

Failure by any issuing authority to take final action on a permit within the 180-calendar-day review period, or properly extended review period, shall be considered a grant of the relief requested of that authority. In such case, within 14 days after the date of expiration of the time period, the applicant shall file an affidavit with the city or town clerk, attaching the application, setting forth the facts giving rise to the grant and stating that notice of the grant has been mailed, by certified mail, to all parties to the proceedings as defined by Section 2.03 and all persons entitled to notice of hearing in connection with the application as defined by Section 2.03.

An issuing authority may not use lack of time for review as a basis for denial of a permit if the applicant has provided a complete application and met all other obligations in accordance with this chapter.

The automatic grant of approval shall not occur:

(a) where the governing body has made a timely determination under Section 2.07 that the application packet is not complete and the applicant does not provide the requested information within 90 calendar days. In this case, the governing body shall notify the board of the discontinuance of the permit process;

(b) the governing body, in consultation with the issuing authority, has determined that substantial modifications to the project since the application render the issuing authority incapable of making a decision on an application;

(c) the governing body has determined that a final application contains false or misleading information. In such event, the governing body must submit a statement of

findings to the board by certified mail and copy the applicant by certified mail. Such a finding may be appealed in Land Court on a motion of the applicant. Pending a court's ruling, the 180-calendar-day review period shall be tolled. If a court rules in favor of the appellant, the 180-calendar-day review period shall resume. If the court rules in favor of the governing body, the 180-day review process shall be waived.

2.12: Cape Cod Commission & Martha's Vineyard Commission Reviews

In municipalities where the Cape Cod Commission or Martha's Vineyard Commission have the authority to review permit applications, the municipality shall consult with the Cape Cod Commission or Martha's Vineyard Commission before commencing with a project on a PDS. The Commission and the municipality shall work together to consider any areas of potential concern or conflict prior to issuing applications for that project, and make every reasonable effort to expedite the processing of such applications. In municipalities that fall within the jurisdiction of either Commission, the 180-day review period will be tolled on the day the referral is made to the Cape Cod Commission and the Martha's Vineyard Commission and will resume when those bodies complete their review.

2.13: Appeals

Appeals of an issuing authority decision or from an automatic grant of approval shall be filed within 20 calendar days after the last individual permitting decision has been rendered or within 20 calendar days after the conclusion of the 180-day period, whichever is later. The 180-day period shall be increased by the number of days in any extension granted under this chapter.

The applicant or any person aggrieved by a final decision of any issuing authority, or by the failure of that authority to take final action concerning the application within the time specified, whether or not previously a party to the proceeding, or any governmental officer, board, or agency, may appeal to the Division by bringing an action within 20 calendar days after a written decision was or should have been rendered. Appeals from decisions of multiple permitting authorities shall be filed simultaneously and shall be consolidated for purposes of hearing and decision. This section shall not apply to appeals pursuant to Sections 40 and 40A of Chapter 131, which shall continue to be appealed in accordance with said Chapter 131, Chapter 30A and applicable regulations.

When hearing appeals under this chapter, the Division shall revise its rules, procedures and regulations to the extent necessary to accord with the requirements of Chapter 43D. The division shall render a final written decision within 90 days of the receipt of the appeal. Thereafter, an aggrieved party may appeal to the superior court department or to the Land Court in accordance with Section 3A of Chapter 185, by bringing action within 20 days after a written decision was or should have been rendered.

2.14: Permit Transfers and Renewals

Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the issuing authority.

Issuing authorities may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the procedures and timelines specified in this chapter.

Permits issued pursuant to Chapter 43D shall expire 5 years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of one building shall prevent expiration of all permits on that site. No permit issued under this chapter shall be affected by changes in the law subsequent to the issuance of such permits. Nothing in this section shall limit the effectiveness of Section 6 of Chapter 40A.

2.15: Municipal Benefits

Municipalities that adopt the provisions of Chapter 43D are eligible for priority consideration for state grants, including but not limited to, community development action grants, public works economic development grants, brownfields remediation grants, and other state resources such as quasi-public financing and training programs.

The Commonwealth, through the Massachusetts Office of Business Development, and a contract with the Massachusetts Alliance for Economic Development, shall promote PDS locations to the real estate and business community nationwide. The contract with the Massachusetts Alliance for Economic Development shall be contingent upon legislative appropriation.

2.16: State Permitting

Reviews required under the Massachusetts Environmental Policy Act, Sections 61 to 62H, inclusive, of Chapter 30, or the Massachusetts Historical Commission, Sections 26 to 27C, inclusive, of Chapter 9, shall conclude within 120 calendar days of a state determination of completeness of required review materials, as established by the executive office of environmental affairs in consultation with the state secretary. The aforementioned reviews shall take place concurrently with the 180-calendar-day municipal permitting review process. The secretary of environmental affairs and the state secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this section. In the event an applicant fails to comply with all relevant time frames, the time shall be tolled until the applicant files the required documents.

2.17: Regulatory Authority

420 CMR 2.00: Chapter 43D

ATTACHMENT 2: Issuing Authority Permit Applications

ATTACHMENT 3: Ch. 43D Application

TOWN OF AYER

1 Main Street
Ayer, Massachusetts 01432
Telephone (978) 772-8206
FAX: (978) 772-3017

MASTER APPLICATION FOR PERMITS CHAPTER 43D – PRIORITY DEVELOPMENT SITE

Priority Development Site: _____
Location (Street Address)

Applicant _____ Landowner _____

Name of Primary contact: _____ Name of Primary contact: _____

Address _____ Address _____

Telephone _____ Telephone _____

Facsimile _____ Facsimile _____

E-mail: _____ E-mail _____

Applicant Relationship
to Project (e.g. Engineer,
Designer, etc) _____

*Please attach additional pages as needed.

This application is for:

Project name: _____

Briefly describe the proposed project (Please attach additional pages as needed):

Property location:

The property is located on the following public way(s)

Town of Ayer Assessors' Map/Parcel # *(please list all map/ parcels- duplicate page as needed)*

Map/Parcel #	Street address	Acreage
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total land area including all map/parcels in the site(s): _____

Recording information for each parcel:

Map ____, **Parcel #** _____. The owner's title to the land is derived under deed from _____, dated _____, recorded in Registry of Deeds, Book _____, Page _____, **OR** Land Court Certificate of Title No. _____, Book _____, Page _____.

Map ____, **Parcel #** _____. The owner's title to the land is derived under deed from _____, dated _____, recorded in Registry of Deeds, Book _____, Page _____, **OR** Land Court Certificate of Title No. _____, Book _____, Page _____.

Map ____, **Parcel #** _____. The owner's title to the land is derived under deed from _____, dated _____, recorded in Registry of _____.

Deeds, Book _____, Page _____, **OR** Land Court Certificate of Title No. _____, Book _____, Page _____.

Existing and proposed structures:

Number of existing structures: _____ Total square feet: _____

Number of new structures: _____ Total square feet: _____

Structures to be demolished: _____ Total square feet: _____

Proposed uses:

COMMERCIAL

Proposed number of retail/ service establishment units: _____	Square feet per unit: _____
Proposed number of business professional office units: _____	Square feet per unit: _____
Proposed number of restaurant units: _____	
Number of seats: _____	Square feet per unit: _____
Take out: _____	Square feet per unit: _____
TOTAL PROPOSED UNITS: _____	TOTAL SQUARE FEET: _____

RESIDENTIAL

Total number of Residential Structures: _____	
Total number of Residential Units Per Structure: _____ (If applicable, please attach additional pages to explain residential units per structure)	
Total number of Residential Units: _____	
One bedroom units: _____	Square feet per unit: _____

Two bedroom units: _____	Square feet per unit: _____
Three bedroom units: _____	Square feet per unit: _____
Affordable units: _____	Square feet per unit: _____
TOTAL PROPOSED UNITS: _____ TOTAL SQUARE FEET _____	

Estimate of total sewage disposal: _____
(in gallons per day based upon Title Five estimates – see 310 CMR 15.00)

Percent of lot coverage (buildings only): _____

Percent of impervious area (buildings, parking, access roads, sidewalks): _____

Twenty-seven (27) copies of the following (unless otherwise noted) must be submitted in both paper and electronic format (PDF):

- _____ Signed Application Form.
- _____ Narrative Statement describing the project along with any requests for waivers or variances.
- _____ A list of abutters within 300 ft (Assessors will provide abutters list upon request of applicant for Ch.43D Applicants (\$20.00 fee applies))
- _____ Complete applications for all permits or approvals required from any Issuing Authority unless the Summary Report⁵ includes a phased submission process, in which case the complete applications for all first-phase permits shall be submitted at the time of submission of the Application. Each application for a permit or approval must be in accordance with the rules and regulations of the particular Issuing Authority.

⁵ See Step 2 of the Town of Ayer Chapter 43D Step-by-Step Permitting Instructions for a description of Summary Report. The Summary Report is forwarded to the project proponent and to all Issuing Authorities that have jurisdiction over the project upon completion of the Preliminary Consultation Meeting with the Technical Review Committee.

_____ A Certification of intent to submit each remaining application for any other permit or approval included in the Summary Report within the timetables established therein, signed by the applicant.

_____ A complete copy of the Summary Report, signed by the applicant, which shall constitute the applicant's written acceptance of, and agreement to adhere to, the contents of the Summary Report.

_____ A certification by the applicant as to the completeness of the Application.

Please attach Ch. 43D Filing fee of \$1,000.00 (check made out to the Town of Ayer). The Chapter 43D Filing Fee is used by the Town of Ayer for overseeing and administering the expedited permitting process. Funds must be used for the purposes of this law.

Certification by applicant(s) as to the completeness of this application to be signed by all applicants:

Signature of applicant

Date

Print/ Type Name of Applicant

Signature of applicant

Date

Print/ Type Name of Applicant

*Please attach additional pages as needed.

All landowners must sign:

Signature of landowner

Date

Print/ Type Name of Landowner

Signature of landowner

Date

Print/ Type Name of Landowner

*Please attach additional pages as needed.
Application received by the Town Clerk:

Town Clerk

Date

Application deemed to be completed:

Director of Planning and Development
(Ch43D Single Point of Contact)

Date

Received by the Board of Health:

Signed

Date

Received by the Board of Selectmen:

Signed

Date

Received by the Building Department:

Signed

Date

Received by the Conservation Commission:

Signed

Date

Received by the Fire Department:

Signed

Date

Received by the Historic Commission:

Signed

Date

Received by the Highway Department:

Signed

Date

Received by the Planning Board:

Signed

Date

Received by the Police Department:

Signed

Date

Received by the Zoning Board of Appeals:

Signed

Date

Received by the Water Department:

Signed

Date

Received by the Sewer Department:

Signed

Date

ATTACHMENT 4: Applicable Ch. 43D Permits and Associated Fee Checklist

Applicable Ch. 43D Permits and Associated Fee Check List

			Check if Applicable	Check #
Board of Health:				
Special Permit (Aquifer Prot. District)		165.00	<input type="checkbox"/>	
Septic Permit Fee		175.00	<input type="checkbox"/>	
Lot Testing		275.00	<input type="checkbox"/>	
Permit Transfer Fee		25.00	<input type="checkbox"/>	
Permit Extension Fee		25.00	<input type="checkbox"/>	
Well Permit		50.00	<input type="checkbox"/>	
Food Service (Based on Seats)				
	Less than 25 Seats	150.00	<input type="checkbox"/>	
	26-50 Seats	200.00	<input type="checkbox"/>	
	51-150 Seats	250.00	<input type="checkbox"/>	
	151-300	400.00	<input type="checkbox"/>	
	Over 300 Seats	500.00	<input type="checkbox"/>	
Temporary Food Permits		20.00	<input type="checkbox"/>	
Catering		60.00	<input type="checkbox"/>	
Mobil Food		58.00	<input type="checkbox"/>	
Residential Kitchen		100.00	<input type="checkbox"/>	
New/Remodel Plan Review		125.00	<input type="checkbox"/>	
Retail Food		100.00	<input type="checkbox"/>	
Limited Retail		50.00	<input type="checkbox"/>	
Supermarket with Food Service		150.00	<input type="checkbox"/>	
Tanning	First Bed	100.00	<input type="checkbox"/>	
	Each Additional Bed	15.00	<input type="checkbox"/>	
Frozen Dessert License		25.00	<input type="checkbox"/>	
Milk License		2.00	<input type="checkbox"/>	
Board of Assessors				
Abutters List		20.00	<input type="checkbox"/>	
Conservation Commission:				
Abbrev. Notice of Res. Area Delin.		0.00	<input type="checkbox"/>	
Notice of Intent		67.50+	<input type="checkbox"/>	
Request for Determination of Applic.		0.00	<input type="checkbox"/>	

Project Review (for Consultant Review, see MGL ch. 44, s. 53G)		Varies	<input type="checkbox"/>	
Legal Notice		50.00	<input type="checkbox"/>	
Fire Department				
Oil Burner Permit		25.00	<input type="checkbox"/>	
LP Gas Storage Permit		25.00	<input type="checkbox"/>	
Mfg. Storage and Transp. Of Fireworks		25.00	<input type="checkbox"/>	
Oper. and Maint. Garage Serv. Station		25.00	<input type="checkbox"/>	
Transportation of Flamm./Comb. Liq.		25.00	<input type="checkbox"/>	
Commercial Cooking Operations		no fee	<input type="checkbox"/>	
Tanks and Containers Fuel Storage		25.00	<input type="checkbox"/>	
Fire Sprinkler System Permit		25.00	<input type="checkbox"/>	
License for Fuel Storage		25.00	<input type="checkbox"/>	
Fire Alarm System Permit		25.00	<input type="checkbox"/>	
Planning Board:				
Site Plans		300.00	<input type="checkbox"/>	
	Legal Ad for Site Plan	tbd	<input type="checkbox"/>	
Project Review (for Consultant Review, see MGL Ch. 44, s. 53G)			<input type="checkbox"/>	
Not to exceed \$5,000.00				
Board of Selectmen				
Beer/Wine/Alcohol Licenses	Wine and Malt	1,500.00	<input type="checkbox"/>	
	All Alcoholic Bev.	3,000.00	<input type="checkbox"/>	
Earth Removal Permit		600.00	<input type="checkbox"/>	
Common Victuallers License		50.00	<input type="checkbox"/>	
	Legal Ad for Comm. Victuallers License	tbd	<input type="checkbox"/>	
Department of Public Works				
Curb Cut/Driveway Permit		25.00	<input type="checkbox"/>	
Sewer Connection Permit		1500.00	<input type="checkbox"/>	

Water Connection Permit		1400.00	<input type="checkbox"/>	
Zoning Board of Appeals				
Special Permit		165.00	<input type="checkbox"/>	
Variance		165.00	<input type="checkbox"/>	
Appeal		165.00	<input type="checkbox"/>	
Ch 43D Technical Review Committee				
Ch 43D Filing Fee		1,000.00	<input type="checkbox"/>	

**TOTAL
ADMINISTRATIVE
FEES:**

**TOTAL PROJECT
REVIEW FEES:**

Director of Planning and
Development

Date

ATTACHMENT 5: Potential State and Federal Permits

Potential State and Federal Permits - The following list is by no means exhaustive, and if any questions exist the applicant is encouraged to seek legal counsel. The majority of small development projects will not have need for any federal or state permits or approvals, but as projects increase in size and complexity, the applicant should be aware of the potential applicability of any one or more of the following:

State Permits

Massachusetts Environmental Policy Act (MEPA): Requires the submission of an Environmental Impact Report (EIR) for “works, projects and activities” undertaken, funded or requiring a permit from state agencies if the project exceeds specified thresholds. MEPA and historic reviews shall take place concurrently with each other, within 120 days of the state determination of completeness of required review materials, as established by Executive Office of Environmental Affairs in consultation with the State Secretary. The aforementioned reviews shall take place concurrently with the 180-calendar-day municipal permitting review process. The secretary of environmental affairs and the state secretary shall establish time frames for all required filings and additional filings by the applicant in order to comply with this section. In the event an applicant fails to comply with all relevant time frames, the time shall be tolled until the applicant files the required documents.

Massachusetts Clean Waters Act, Surface Water and/or Groundwater Discharge Permits: Surface Water Discharge Permits, administered jointly by the federal Environmental Protection Agency and the Massachusetts Department of Environmental Protection, are required for point source discharges to U.S. Waters and application should be made simultaneously to both agencies. A permit may also be required for stormwater discharges where runoff is substantially contaminated or if contamination exists because the discharge is located within an industrial area or is associated with industrial activity. If the project is in an un-sewered area, a Disposal Works Construction Permit must be obtained from the local board of Health in accordance with Title 5 of the State Environmental Code. If a sewage disposal system with capacity in excess of 15,000 gallons per day will be constructed, a groundwater discharge permit must be obtained.

Massachusetts Clean Air Act Approval: Required in writing from the Department of Environmental Protection for the plans, specifications, and proposed operating procedures for the construction, substantial reconstruction or alteration of any stationary source of air pollution, unless specifically exempted. Stationary sources emitting certain pollutant levels must register with DEP as well. Anyone constructing or demolishing a commercial building, or residential building with 20 or more units, must notify DEP at least 10 working days prior to starting work, if it will create emissions that cause or contribute to a condition of air pollution.

Massachusetts Endangered Species Act: Prohibits taking or possession of any plant or animal species listed in the federal Endangered Species Act, or the alteration of a significant habitat.

Hazardous Waste Management Permits: May be required from the federal Environmental Protection Agency or state Department of Environmental Protection if any wastes generated by the project are hazardous, depending on the types of quantities generated; contact the Ayer Fire Department for information.

Massachusetts Historical Commission Approval: Required if a designated historical or archeological landmark will be altered or effected by a project undertaken by a state agency or any private party seeking any state funding, permits or licenses for the project.

401 Water Quality Certification: Required by the Massachusetts Department of Environmental Protection for any project that will alter over 5,000 square feet of wetlands and/or the dredging of more than 100 cubic yards of Land Under Water as defined in the Massachusetts Wetlands Protection Act.

Forest Cutting Permit: The Massachusetts Forest Cutting Act (MGL Chapter 132) requires landowners to file a Forest Cutting Pan with the Department of Environmental Management for the harvesting of forest products that exceeds specified thresholds.

State Highway Access Permit: Required in writing from the Massachusetts Highway Department if a project will involve the creation, alteration, expansion or substantial impact upon an opening onto a state highway. This includes property, which as access directly onto state highways and property, which abuts a state highway layout.

Federal Permits

Section 404 of the Federal Clean Water Act: Required by the Army Corps of Engineers (Corps) for work affecting the “course, location, condition or capacity” of navigable rivers and tidal areas.

National Environmental Policy Act, or “NEPA”: Requires the preparation of an environmental impact statement (EIS) to assess the impact of a major federal action, i.e. projects and programs entirely or partly financed, assisted, conducted, regulated or approved by federal agencies, that may have a significant impact on the quality of the human environment. Major federal actions are either defined by statute or determined by agency officials.

National Historic Preservation Act Section 106 Review: Requires that certain federally assisted, permitted and licensed activities that might have an adverse effect on properties listed with, or eligible for listing with, the National Register of historic Places be reviewed concerning that effect and its consequences; Section 106 review is accomplished by submitting a Project Notification Form to the Historical Commission.

Environmental Protection Agency Stormwater Notices of Intent and/or NPDES Permits: Required for stormwater discharges associated with certain industrial activities. Industrial activity was recently redefined to include “construction activity including

clearing, grading, and excavation activities except operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale. The project owner and operator are required to file a Notice of Intent and pollution abatement plan with the Environmental Protection Agency.

ATTACHMENT 6: Permitting Matrix (Ch 43D Related Permits and Others)

<div style="border: 1px solid black; padding: 5px; text-align: center;"> PERMITTING MATRIX TOWN OF AYER SPRING 2008 Version 3 - April 08, 2008 Legend R = Lead Agency * = Participating Agency </div>	Board of Assessors	Board of Health / NABH	Board of Selectmen	Building Department	Conservation Commission	Fire Department	Department of Public Works: Highway Division	Historic Commission	Historic Districts Commission	Planning Board	Police Department	Department of Public Works: Sewer Department	Department of Public Works: Water Department	Zoning Board of Appeals	43D Technical Review Committee	Town Clerk
	Abutters List	R														
Allowed Use/Determination of Zoning				R												
ANRAD					R											
ANR's										R ³						
Assessors Map & Parcel Number	R															
Beer/Wine/Alcohol Licenses			R													
Building Inspections				R ³												
Building Permits				R ³												
Cannon or Motor Firing						R ³										
Certificate of Occupancy				R ³	*											
Certified Legislation																R ³
Commercial Cooking Operations						R										
Common Victuallers License			R													
Curb Cut/Driveway Permit							R									
Definitive Subdivisions					*		*			R ³		*	*			
Drainlayer Authorization												R ³				
Earth Removal Permit			R													
Expedited Permitting Application		*			*	*				*				*	R	
Explosives						R ³										
Floor Drain Regulations		R ³														
Food Service Permits		R														
LIP and 40B Applications					*									R ³		
Mass Historical Applications								R								
Mtg. Storage/Transp. Of Fireworks						R ³										
Notice of Intent					R											
Oper. & Maintenance Garage Station						R ³										
Preliminary Subdivisions					*		*			R ³		*	*			
Private Well Permit		R										*				
RDA					R											
Septic Tank Permits		R			*											
Sewer Connection Permit												*				
Site Plan Review		*	*	*	*	*	*	*		R	*	*	*		*	
Special Permits		R ¹												R		
Tanning		R ³														
Traffic issues & signage							R									
Transfer Station Use Permit		R ³					*									
Transp. Of Flamm./Combust. Liquids						R ³										
Water Connection Permit												R				
Water Connector Authorization																
Zoning Appeals														R		
Zoning Variances		R ²												R		

¹ Aquifer Protection District Special Permit coordinated by the Board of Health

² Required for variance from the state plumbing code requires a letter of approval/denial from the Board of Health

³ Not all permits are affected by Chapter 43D and therefore are not subject to the 180 day period for issuance of permits. This includes building permits issued by the building inspector,

