



## Town of Ashland, *Office of Conservation*

11/19/2020

**Subject: Order of Conditions 95-945**

Dear Applicant,

Congratulations for the Order of Conditions that has been issued to you! Please see the enclosed Order of Conditions.

Now that you have received your Order of Conditions (OOC), you will need to record the Order of Conditions to the Middlesex South Registry of Deeds. Once the Order is recorded, you will need to forward proof of recording to the Ashland Conservation Commission. You may e-mail a copy to [mdosanjos@ashlandmass.com](mailto:mdosanjos@ashlandmass.com). You will also need to record some statements to the deed as required in the Order of Conditions, Condition Number 22.

You will also need to have a pre-construction site visit with the Ashland Conservation Commission or its Agent. You must have approved erosion controls installed at the time before the site visit, as well as the DEP File Number sign on the property.

Your Order of Conditions is enclosed. Read through your Order of Conditions prior to the start of work for any other conditions that may be required.

Sincerely,  
Ashland Conservation Commission

Town of Ashland  
101 Main Street  
Ashland, MA 01721

Phone: 508-532-7924  
Fax: 508-881-0182  
Email: [mdosanjos@ashlandmass.com](mailto:mdosanjos@ashlandmass.com)

Website: [ashlandmass.com](http://ashlandmass.com)





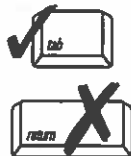
Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
095-0945  
MassDEP File #  
eDEP Transaction #  
Ashland  
City/Town

### A. General Information

**Please note:**  
this form has  
been modified  
with added  
space to  
accommodate  
the Registry  
of Deeds  
Requirements

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



1. From: Ashland  
Conservation Commission

2. This issuance is for  
(check one): a.  Order of Conditions b.  Amended Order of Conditions

3. To: Applicant:

Michael Herbert  
a. First Name b. Last Name  
Town of Ashland  
c. Organization  
101 Main Street  
d. Mailing Address  
Ashland MA. 01721  
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

58 Exchange Realty, LLC  
a. First Name b. Last Name  
c. Organization  
120 Quarry Drive  
d. Mailing Address  
Milford MA. 01757  
e. City/Town f. State g. Zip Code

5. Project Location:

1 East Union St. and 12-16 Union St. Ashland  
a. Street Address b. City/Town  
See Attachment A See Attachment A  
c. Assessors Map/Plat Number d. Parcel/Lot Number  
Latitude and Longitude, if known: 42.260735 -71.449015  
d. Latitude e. Longitude



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### A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):  
Middlesex South
- |                  |  |
|------------------|--|
| a. County        | b. Certificate Number (if registered land) |
| See Attachment A | See Attachment A                           |
| c. Book          | d. Page                                    |
7. Dates:      September 17, 2020      November 16, 2020      November 19, 2020  
a. Date Notice of Intent Filed      b. Date Public Hearing Closed      c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):  
Ashland Public Safety Facility
- |                                      |                            |
|--------------------------------------|----------------------------|
| a. Plan Title                        | b. Signed and Stamped by   |
| Pare Corporation                     | Lance Hill Civil No. 45184 |
| b. Prepared By                       | c. Signed and Stamped by   |
| November 16, 2020                    | As noted                   |
| d. Final Revision Date               | e. Scale                   |
| Response to Comments                 |                            |
| f. Additional Plan or Document Title | g. Date                    |
|                                      | 9/17/2020                  |

### B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- |   |  |   |
|---|--|---|
| a. <input checked="" type="checkbox"/> Public Water Supply  | b. <input type="checkbox"/> Land Containing Shellfish          | c. <input checked="" type="checkbox"/> Prevention of Pollution        |
| d. <input checked="" type="checkbox"/> Private Water Supply | e. <input checked="" type="checkbox"/> Fisheries               | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply   | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control                  |

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

#### Approved subject to:

- a.  the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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**B. Findings (cont.)**

Denied because:

- b.  the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c.  the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3.  Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 1 a. linear feet

**Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)**

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input checked="" type="checkbox"/> Bordering Vegetated Wetland	<u>2,742</u> a. square feet	<u>2,742</u> b. square feet	<u>2,840</u> c. square feet	<u>2,840</u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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**B. Findings (cont.)**

**Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)**

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. <sup>cu yd</sup> nourishment	d. <sup>cu yd</sup> nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. <sup>cu yd</sup> nourishment	d. <sup>cu yd</sup> nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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**B. Findings (cont.)**

\* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23.  Restoration/Enhancement \*:

a. square feet of BVW

b. square feet of salt marsh

24.  Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

**C. General Conditions Under Massachusetts Wetlands Protection Act**

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - a. The work is a maintenance dredging project as provided for in the Act; or
  - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
  - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on November 19, 2023, unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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### C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
 

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]  
"File Number            095-0945            "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

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### C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1)  is subject to the Massachusetts Stormwater Standards
- (2)  is NOT subject to the Massachusetts Stormwater Standards

**If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
  - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
  - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;





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### C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.
- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:
- i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and
  - ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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**C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)**

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
  2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
  3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

**See pages 9A through 9J**

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.

**Ashland Special Conditions  
Findings of Fact  
12-16 Union Street**

**Approved Work:**

Work shall consist of the construction of a public safety building, stormwater management systems, grading, utilities, and a parking lot. The project will connect to town water and sewer. The plans submitted to the Conservation Commission are

The stormwater management system shall consist of tree box filters, an underground concrete detention system, drainage pipes and manholes. As discussed at the Conservation Commission Meeting on November 9, 2020, a berm shall be established and protected during construction to prevent the approved swale from spilling over into the nearby stormwater basin shown on Sheet-300 of the project plans. The berm shall also separate drainage from the basin. See condition number 34.

Test pits are required near a catch basin that is located north of the wetland flag number WF-A3. The test pits are required to identify the existing conditions of the nearby stone-box culvert. Once the contractor determines the method for the test pits, the plans for the test pits shall be submitted to the Conservation Commission or the Agent of the Commission. Data from the test pits shall also be submitted to the Conservation Commission or the Agent of the Commission. See condition number 26.

Snow storage shall be installed within the approved areas shown on the plans. Signs shall be installed near the resource area to prohibit the snow storage there. See condition number 37.

Work will take place within bordering vegetated wetlands (BVW), the locally regulated 25 foot No Disturb Zone (NDZ), and the 100' foot buffer zone. The Commission approved a waiver for work within the BVW and the No Disturb Zone as conditioned for restoration work within the NDZ. See condition number 27.

**General Conditions:**

All state conditions shall apply to this Order of Conditions. The following conditions for the Ashland Wetlands Protection Bylaw is stated between numbers from 21 to 47.

**21. Administrative Conditions**

- a) The project proponent shall be responsible for the compliance with all conditions of this Order. If the property is transferred, this Order of Conditions shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and referenced plans. The project proponent shall provide written verification of the transfer of this Order and understanding of the conditions by the new owner within 60 days of property transfer.

- b) All work must conform to the referenced plan set for the project site. Any changes to the proposed project, relating to the location of proposed contours, limits of work, location of erosion control measures, components of the stormwater management system, permanent or temporary alterations of regulated wetland resource areas, or any other issues jurisdictional to the Conservation Commission shall be submitted to the Ashland Conservation Commission for review and approval prior to the start of construction. The Ashland Conservation Commission shall determine if the proposed change warrants submission of a new Notice of Intent.
- c) All other necessary local, state and federal permits shall be obtained prior to construction.
- d) Pursuant to the 2000 Massachusetts Second Annual Session, Chapter 144, the Ashland Conservation Commission reserves the right to hire, at the applicant's expense, outside consultants to perform inspections and or project review to ensure compliance with appropriate federal, state and local laws and regulations, at any point between the filing of an application to the issuance of a Certificate of Compliance.
- e) In the event of a discrepancy between the project plan and this Order of Conditions, the Order of Conditions shall prevail.
- f) The Ashland Conservation Commission's failure to discover or take action with respect to the proponent's compliance with any part of any condition does not constitute a waiver of rights to enforce this Order of Conditions.
- g) Final construction plans, stamped by an engineer shall be submitted to the Conservation Commission or Agent of the Commission for review and approval.

## **22. Deed Recording**

- a. All restrictions imposed by this Order of Conditions shall continue in force until compliance with the conditions is certified by the issuance of a Certificate of Compliance and said Certificate has been recorded with the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property.
- b. No work activities of any kind within regulated resource areas or the 100-foot buffer zone shall commence until such time that all statutory appeal periods have elapsed and this Order of Conditions has been recorded with the Registry of Deeds.
- c. At least five (5) days before any activity commences on the project site, the applicant shall provide the Ashland Conservation Commission or its Agent and the Ashland Building Department (or Building Inspector) with written documentation that this Order of Conditions has been recorded with the Registry of Deeds. Recording information shall be submitted using the form in Part G (page 12) of this Order of Conditions. This form shall be stamped by the Registry of Deeds and signed by the applicant.

- d. Record the following statement on the deed: "Fertilizer used for landscaping shall be low in nitrogen and phosphorous and used sparingly. No pesticides or herbicides shall be used on the property within 100 feet of regulated wetland resource areas. Only non-sodium de-icing agents shall be used on roads, driveways or walks within 100 feet of wetland resource areas." This language must be on the deed or on a restrictive document acceptable to the Town and recorded with the Registry of Deeds. Proof of recording must be provided to the Ashland Conservation Commission prior to issuance of a Certificate of Compliance.
  - e. Record the following statement on the deed: "Wetland resource areas, the 25-foot No Disturb Zone and/or 100-foot buffer zone are present on the property and no work shall be done within any of these areas without receiving prior approval from the Ashland Conservation Commission." A copy of the recorded deed language must be provided to the Ashland Conservation Commission prior to issuance of a Certificate of Compliance.
- 23. Notification of Activity** - The applicant shall provide the Ashland Conservation Commission with written notification at least five (5) days, but not more than ten (10) days, before any activity commences on the project site. This applies to all project activities, including but not limited to, installation of erosion and sedimentation control measures.
- 24. Right to Enter** — Members and agents of the Ashland Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the conditions stated in this Order of Conditions, and may require the submittal of any data deemed necessary by the Commission for that evaluation. The Ashland Conservation Commission also reserves the right to require additional measures if determined necessary to protect resource areas and the interests of the Wetlands Protection Act as defined in M.G.L. Ch. 131 § 40 (310 CMR 10.00).
- 25. Read and Post Order** — The developer or contractor responsible for the project's completion shall be notified of, and made responsible for reading and complying with, the requirements and conditions of this Order of Conditions. A copy of this Order and referenced plans shall be available at the site while activities regulated by this Order are being performed.
- 26. Test Pit Plans and Data**— The Applicant or his representative shall submit the test pit plans once the contractor approves a method. The plans shall be submitted to the Conservation Commission or its Agent. In addition, the test pit data shall be submitted to the Conservation Commission or its Agent.
- 27. Waiver**—The filing of the NOI showed the filling of a bordering vegetation wetland system, and two areas of the 25 foot No Disturb Zone. A waiver was requested from the Applicant, and the Commission approved the waiver with a condition that a wetland replication system is required, as well as the restoration

of three areas of the 25 foot No Disturb Zone. Work shall comply within Sheet C-800 of the approved plans.

**28. Wetland Replication System**—Work to fill in a bordering vegetated system shall comply within the Wetlands Protection Act Regulations (310 CMR. 10.55 (4)), and the conditions shown below:

- a) The wetland replication shall comply and conform to DEP Guidance Document Massachusetts Inland Wetland Replication Guidelines, Guidance No. BRP/DWM/WetG02-2, dated March 1, 2002.
- b) A qualified environmental scientist or botanist with experience in wetland replication (Wetland Monitor) and with a working knowledge of botany and hydrology shall supervise construction of the replication area. The Wetland Monitor shall conduct monitoring of the replication area for the first two complete growing seasons following completion. Monitoring reports shall be submitted to the Ashland Conservation Commission to demonstrate conformance with the appropriate Performance Standards (310 CMR 10.00). A Certificate of Compliance shall not be issued until the wetland replication area is in place and functioning and is verified by the Ashland Conservation Commission.
- c) Alteration of regulated wetland resource areas, 25-foot no disturb area or the 100-foot buffer zone shall not proceed until the replication area has been excavated and prepared, according to design, and is ready to accept wetland soils.
- d) The replication area shall utilize organic soils from the vegetated wetland fill area to the greatest extent possible. Preparation of the replication area shall entail bringing the grade down, leaving trees of 10-inch diameter breast height or greater in place, leaving boulders in place, and generally creating micro topography.
- e) The soils for the replication area shall be amended with a mixture of equal volumes of organic and mineral materials. These materials shall be uncontaminated and shall not include any woodchips. The organic material used shall be well or partially decomposed; clean leaf compost is preferred. Mineral materials shall be predominately in the loam, loamy-sand to silty-loam texture range.
- f) The applicant shall notify the Ashland Conservation Commission by telephone or by email upon completion of the excavation of the replication area and 48 hours prior to alteration of the vegetated wetland. The Ashland Conservation Commission may inspect and request verification of excavated elevations.
- g) Once the replication area has been backfilled with wetland soils, planting shall be completed by the end of October of the construction year.
- h) Planting of the replication areas shall not take place between November 1<sup>st</sup> and April 15<sup>th</sup>.

- i) The Wetland Protection Act Regulations outlined in 310 CMR 10.55(4)(b)(6) require that at least 75 percent of the surface of the replacement area be re-established with indigenous wetland plant species within two (2) growing seasons. If monitoring data indicates that this objective cannot be met, a corrective action plan shall be submitted to the Ashland Conservation Commission for approval, and implemented under the supervision of a wetland specialist.
  - j) A 25-foot no disturb area shall be created and subsequently maintained around the wetland replication area.
  - k) The designated Wetland Monitor shall conduct weekly inspections during construction.
  - l) The Wetland Monitor shall be present and shall submit written reports to the Ashland Conservation Commission within one week of the inspection date of the following activities:
    - 1. Before excavation or erosion control installation work begins to inspect site flagging;
    - 2. During excavation of the altered area while soils and/or vegetation are being translocated the replication area;
    - 3. To inspect excavated elevations and estimated post-construction ground water elevation for the replication area;
    - 4. After each stage of grading work in the replication area is completed to inspect finished elevations;
    - 5. After one growing season to observe vegetation development and regulatory compliance;
    - 6. After two growing seasons to observe vegetation development and regulatory compliance;
    - 7. After three growing seasons to observe vegetation development and regulatory compliance.
  - m) The Ashland Conservation Commission reserves the right to make a determination as to the success or failure of the wetland replication efforts and reserves the right to require additional replication.
- 29. Construction Sequence** - A construction sequence is to be submitted to the Commission for review and approval prior to construction activities.
- 30. Preconstruction Meeting**—Prior to any work on the project site, the applicant shall request a pre-construction meeting between the developer, contractor, Erosion Control (assigned to the project in accordance with Conditions 32), the building inspector and members of the Ashland Conservation Commission or its agent. Meeting participants shall review in detail this Order of Conditions, the appropriate site plans, the Notice of Intent and other appropriate environmental protection documents and issues. The Conservation Agent or Ashland Conservation Commission shall be provided the name, telephone number and email address of the person who will be immediately responsible for supervision of all work on the project site and compliance with this Order of Conditions. The

Conservation Agent or Ashland Conservation Commission shall be notified in the event that the site supervisor or contractor is changed.

### **31. Erosion Controls**

- a) Prior to commencing **ANY** alteration activities, erosion and siltation control barriers shall be placed along the line depicted in the referenced plans. Prior to installation, the location of erosion and siltation control barriers shall be established by survey methods and staked. **The use of construction hay is prohibited by this Order of Conditions.**
- b) Should the Ashland Conservation Commission determine additional erosion controls are needed, the developer or contractor shall immediately comply with the request from the Ashland Conservation Commission or its Agent.
- c) The limit of work for the project shall be the erosion control barrier as illustrated on the referenced plans. No temporary or permanent construction work, storage of materials, discarding of materials, or access by construction personnel or equipment shall occur beyond the limit of work as delineated by the erosion control barrier. Sediment runoff is not permitted to leave the site. Perimeter erosion controls include but are not limited to silt fencing, silt socks, and straw bales provided they are installed per state and manufacturer standards. Untreated stormwater discharge into public roadways or stormwater systems will result in fines from the Department of Public Works.
- d) All erosion control barriers shall be properly installed before any site work, including clearing, can proceed. Once the erosion controls are installed, the Ashland Conservation Commission shall be notified and the site shall be inspected. Approval of the erosion control installation by the Ashland Conservation Commission or its agent is required before further site construction is initiated.
- e) The erosion and siltation controls shall be maintained in a state of good repair until all disturbed areas have been permanently stabilized, or until a determination has been made by the Ashland Conservation Commission indicating that control measures are no longer necessary.
- f) All erosion and siltation controls measures and structures are to be inspected daily and maintained as necessary. Additionally, an inspection shall be made after every rainfall event equal to or greater than .25" in a 24-hour period or greater than 1.0" per hour to ensure their integrity.
- g) The areas of construction shall be left in a stable condition at the close of each construction day. Erosion and siltation controls shall be inspected at this time and repaired, maintained or reinforced as necessary.

**32. Rock Construction Entrance**—A rock construction entrance (RCE) shall be installed prior to any grading activities to prevent sediment trackout onto public roadways. The RCE shall consist of AASHTO No. 1 rock, and have a



minimum depth of eight inches. The RCE shall be a minimum of 10ft wide by 50ft long. All vehicles exiting the construction site onto public roadways shall travel over the RCE. The length may be extended an additional 50ft or a wash rack shall be installed if requested by the Conservation Commission or the Department of Public Works if trackout persists.

- 33. Stockpiles**—All stockpiles shall be a maximum height of 20 feet with a maximum of a 2:1 slope on all sides, and be surrounded by temporary erosion controls within three feet of the base of the stockpile and down gradient of the stockpiles when not in use for more than 24 hours. Soil stockpiles shall be located 50 feet from any wetland, waterbody, drain inlet, or open channel. Stockpiled soil on site shall be stabilized by mulching or temporary vegetation if the stockpiles remain inactive for more than 14 days.
- 34. Berm**—A berm shall be installed to separate stormwater flow/drainage from the existing non-jurisdictional basin and the approved swale. This is shown on the approved plans on Sheet-300, between the wetland flags that are labeled as WF-B5, WF-B7, and WF-101.
- 35. Stormwater BMPs**—During construction, all stormwater BMPs shall be stabilized with erosion control matting.
- 36. Soil Stabilization** — Seeding or sod shall permanently stabilize all disturbed soils. During construction, disturbed soils shall be temporarily stabilized by the use of invasive species-free mulch or spread straw, or other method approved by the U.S. Department of Agriculture or Natural Resources Conservation Service, and approved by the Ashland Conservation Commission. All disturbed areas shall be brought to final finished grade and either (a) loamed and seeded within fourteen (14) days of final grading accordance with NRCS guidelines for permanent stabilization or (b) stabilized in another manner approved by the Ashland Conservation Commission.
- 37. Snow Storage Signs**— snow storage signs shall be installed at the locations depicted on the approved plans. The signs shall contain language prohibiting snow storage within the protected resource areas.
- 38. Landscaping**—Landscaping specimens shall be native to the Northeast of the United States. No invasive or likely invasive species shall be planted within jurisdictional areas.
- 39. Catch Basins**

  - a) Silt sacks, or approved equivalent, shall be installed on all new and existing functioning catch basins and drop inlets in the project area.
  - b) Rims of all catch basins shall be set flush with pavement throughout the construction of the project.

- 40. Remove Debris from Wetlands** — All man-made debris shall be removed from the wetlands and 25-foot No Disturb Zone and disposed of properly prior to requesting a Certificate of Compliance.
- 41. Downstream Impacts**—The issuance of this Order of Conditions does not in any way imply nor certify that the site or downstream areas will not be subject to flooding, storm damage, or any other form of damage due to wetness.
- 42. Request for Certificate of Compliance** — At least 30 days prior to the expiration of this Order of Conditions, the applicant must either request an extension to this Order or request a Certificate of Compliance. The applicant shall submit a written request for a Certificate of Compliance, together with an as-built plan and an affidavit prepared by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts, stating that the site has been developed in accordance with the requirements of this Order of Conditions, based upon an on-site inspection and the referenced site plan. The affidavit shall state any deviations from the approved plans and this Order of Conditions.

The as-built plans shall include all components of the project including but not limited to stormwater structures and systems elevations and inverts. The Ashland Conservation Commission or its agent reserves the right to inspect the complete site before the issuance of a Certificate of Compliance. Upon receipt of a Certificate of Compliance, erosion controls shall be removed within 60 days. If a partial Certificate of Compliance is issued, there will be no additional fee if a full Certificate of Compliance is requested within six months. Failure to request a Certificate of Compliance or extension before expiration of this Order of Conditions will constitute a violation of the Ashland Wetlands Protection Bylaw and shall be punishable by the fine schedule set forth in the bylaw.

#### **Conditions to Extend Into Perpetuity**

- 43. Stormwater Operations & Maintenance** Best management practices, outlined in the approved documents, include maintenance and operations procedures which will apply to the site once the project is complete and ongoing. Maintenance and operations procedures associated with the site drainage structures will not require supplemental filings after the Certificate of Compliance is issued provided items that the maintenance activities comply with the Operations and Maintenance Plan entitled: *Site Owner's Manual: Parking Lot Improvements*, dated June 29, 2020.
- 44. Snow Storage and Disposal** — All snow storage and disposal shall conform to the Department of Environmental Protection's Snow Disposal Guidelines. As stated in Condition 22(d), only environmentally-friendly de-icing agents that have been approved by the Ashland Conservation Commission may be used on roads, driveways or walkways. This condition shall remain in effect in perpetuity and shall not be released by a Certificate of Compliance.

- 45. Emergency Release, Spills, or Other contamination Release-**the owner will provide for Ashland Conservation Commission review and approval prior to construction an Emergency Response Procedure for accidental release of contaminants. This procedure will include notification of the Ashland Fire Department for any uncontrolled release, maintenance of a site spill response kit suitable to clean up and contain a 40-gallon spill, and procedures for containment of any spill.
- 46. Landscaping Waste** — No grass clippings, leaves or other landscaping waste may be deposited in any detention basin, forebay, wetland resource area or 25-foot no disturb area. This condition shall remain in effect in perpetuity and shall not be released by a Certificate of Compliance.
- 47. Land disturbance-** The Applicant is responsible for disturbance of the property and any fill, soils, clay, or other natural or man-made debris that is brought on site. It is the responsibility of the applicant to ensure that all materials coming in are clean. All materials that are removed from the site shall be properly disposed of.

**Attachment A: Property Information and Deeds**

<b>Address</b>	<b>Assessor's Map</b>	<b>Assessor's Lot</b>	<b>Book</b>	<b>Page</b>
16 Union Street	15	76	66338	0298
12 Union Street	15	77	01480	0259
1 East Union Street	15	78	01480	0259



Massachusetts Department of Environmental Protection  
 Bureau of Resource Protection - Wetlands  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
 095-0945

MassDEP File #

eDEP Transaction #

Ashland

City/Town

**D. Findings Under Municipal Wetlands Bylaw or Ordinance**

1. Is a municipal wetlands bylaw or ordinance applicable?  Yes  No
2. The Ashland Conservation Commission hereby finds (check one that applies):

- a.  that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b.  that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Wetlands Protection Bylaw

c. 280

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See pages 9A through 9J.



**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
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Provided by MassDEP:  
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 City/Town

**E. Signatures**

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

11/19/20  
1. Date of Issuance

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

5  
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signature [Handwritten Signature]

Signature Catherine Van Landu

Signature Gene F. Crouch

Signature [Handwritten Signature]

Signature Gregory D. Wands

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Printed Name Gabriel Toledo

Printed Name CATHERINE VAN LANDER

Printed Name GENE F. CROUCH

Printed Name K.G. Naupane

Printed Name Gregory D. Wands

Printed Name \_\_\_\_\_

Printed Name \_\_\_\_\_

Printed Name \_\_\_\_\_

by hand delivery on

by certified mail, return receipt requested, on

11/19/2020  
Date

\_\_\_\_\_  
Date



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

## WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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### F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:  
 095-0945  
 MassDEP File # \_\_\_\_\_  
 eDEP Transaction # \_\_\_\_\_  
 Ashland  
 City/Town

### G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Ashland  
 Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Ashland  
 Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location \_\_\_\_\_ MassDEP File Number \_\_\_\_\_

Has been recorded at the Registry of Deeds of:

County \_\_\_\_\_ Book \_\_\_\_\_ Page \_\_\_\_\_

for: \_\_\_\_\_  
 Property Owner

and has been noted in the chain of title of the affected property in:

Book \_\_\_\_\_ Page \_\_\_\_\_

In accordance with the Order of Conditions issued on:

\_\_\_\_\_ Date

If recorded land, the instrument number identifying this transaction is:

\_\_\_\_\_ Instrument Number

If registered land, the document number identifying this transaction is:

\_\_\_\_\_ Document Number

\_\_\_\_\_ Signature of Applicant







**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee  
Transmittal Form**

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**A. Request Information**

1. Location of Project

a. Street Address

b. City/Town, Zip

c. Check number

d. Fee amount

2. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

4. DEP File Number:

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



**B. Instructions**

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**Request for Departmental Action Fee  
Transmittal Form**

DEP File Number:

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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**B. Instructions (cont.)**

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection  
Box 4062  
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.