

APR PROGRAM STEWARDSHIP

Guidance for Landowners

Stewardship

The APR agreement is a long-term obligation to protect farmland in Massachusetts. By entering into an APR agreement with MDAR you are ensuring that your land is permanently protected for agricultural purposes. An APR agreement is a legally binding and permanent interest in your property. MDAR's stewardship program is a resource to help ensure that terms are carried out.



THE APR AGREEMENT

The APR agreement is a binding agreement between you and the state of Massachusetts. It exists in perpetuity, runs with the land, binds all future owners of the APR land, and is recorded at the appropriate Registry of Deeds. Any inconsistency between the language of an APR agreement and the language of a regulation or policy (such as a new MDAR policy) will be resolved in favor of the APR agreement.

Baseline Documentation Report

A baseline document report (BDR) is prepared for every new APR to document the conditions of the property at the time it is protected. The BDR contains a detailed narrative, maps, and photographs to describe the property. MDAR stewardship staff and contractors use the BDR as a reference during monitoring visits to identify changes to the property (human-made or natural) and assure that the terms of the APR are upheld in perpetuity. If you need a copy of your BDR, please contact MDAR.

APR Documents

Each APR agreement is unique. You should keep copies of correspondence and documents stored in a safe place and be able to refer to them at any time. These might include your APR agreement, letters, notices, specific paperwork for your APR land, and information regarding the APR program. MDAR keeps records on file if you need a copy and APR staff are available to answer questions.

If you are interested in adding or modifying property structures and/or land use activities, please read your APR agreement and contact APR stewardship staff beforehand to be familiar with your rights and responsibilities under the APR agreement. There are times when MDAR approval is needed before changes can be made; see guidance on agricultural and non-agricultural changes that require a certificate of approval or a special permit can be found on the pages that follow.



Communication with MDAR

MDAR staff are available year-round for questions and answers. To help MDAR ensure consistency with the APR agreement, stewardship staff may also contact you annually to provide an opportunity:

- For you to ask questions
- For you to request approvals or permits for changes and activities that impact your farmland
- To give you information about technical assistance and grants to support your farm viability and growth

MDAR stewardship staff, state-approved contractors, and/or NRCS staff may conduct reviews which include:

- Annual, routine, visual inspections of your farm with prior notice to you
- On-site visits regarding an approval or a violation that requires a follow up
- Reports with photos, maps or written documents to describe conditions of the property over time

The Approval Process for Changes to Your APR Land

Over time, you may want to make changes on a property with an addition or an innovative project. Changes that require prior approval may include, but are not limited to, these activities and uses: buildings and structures, field alterations, educational use, energy installation, events, recreation, agritourism activities, and vehicle storage/parking.

Changes to your property may require an approval from the APR program. Contact APR stewardship staff to discuss any changes requiring approval and send an MDAR application for the change to MDAR.

If the application is approved, and after the change is implemented, the stewardship staff will make a site visit to confirm that the outcome aligns with the terms of the approval and to document the project.

The following two pages describe the two approval processes for: 1) a certificate of approval (COA) for agricultural changes and 2) a special permit for non-agricultural changes. Both approvals assure that any changes made will protect or improve the agricultural land.

Compliance

If it comes to MDAR's attention that the terms of the APR agreement are not being upheld, procedures for enforcement of those terms include but are not limited to the following:

- A site visit by MDAR staff.
- If a violation of the APR terms is identified, a written notice is sent to you requesting voluntary restoration or reparation of the property. MDAR's goal is to communicate and work cooperatively so that you and

MDAR will achieve mutually acceptable solutions. If a satisfactory agreement is reached between you and MDAR, an inspection will be made to confirm satisfactory implementation, and you will receive written correspondence to confirm resolution of the issue.

- If MDAR and the landowner cannot reach a satisfactory resolution, MDAR may pursue resolution through legal means.

Refer to your APR agreement to see prohibited uses, acts, and structures on your APR property. These may include, but are not limited to: residential dwellings, dumping of waste, earth mining/removal, storage of vehicles, and easements for utilities or roads.

Refer to your APR agreement, "The Approval Process For Changes to Your APR Land" section above, and the following pages for examples of activities and uses that may require a Certificate of Approval or Special Permit.

Certificate of Approval (COA)

You should review your APR agreement and talk with APR staff to understand what does and does not require approval.

Changes in **agricultural** structures or activities require a COA. Unless otherwise stated in your APR agreement changes:

- Cannot result in impervious surfaces greater than five acres or five percent of the APR land, whichever is less, and if the APR agreement has a more stringent requirement, it will prevail
- Must minimize, to the fullest extent possible, the loss of agricultural soils
- Must not interfere with agricultural operations and will preserve, maximize, and realize the agricultural potential of the APR land, and in addition, improve future agricultural operations

Examples of actions that require a COA include, but are not limited to activities such as:

- Construction of a farm stand, housing for farm labor, an alternative energy system, or any other agriculture-related structure (NOTE: Roof-mounted solar does not require approval)
- Soil excavation for any reason

YOUR RESPONSIBILITIES

- You must begin the approved activity within one year of receiving the COA.
- Construction or excavation must be completed within two years.
- You must follow the conditions set forth in the COA.
- You must notify MDAR in writing within 30 days of the completion of the COA activities.

MDAR RESPONSIBILITIES

Upon completion of the COA activities, MDAR shall:

- Inspect the completed COA to determine compliance with the agreement.
- Confirm the inspection results in writing.

A COA application is available on page D:6 and at www.mass.gov/apr at “APR Program Details”.

PROCEDURES FOR A COA

- ① You review your APR agreement and contact APR stewardship staff with any questions.
- ② You send a signed COA application describing the proposed use, activity, or structure.
- ③ Within 90 days, MDAR will review the application, may inspect the APR property, and issue a decision.
- ④ If approved, MDAR will issue a COA which may require specific conditions, in writing.
- ⑤ If denied, MDAR will mail a written notice and offer the right to request (within 21 days) an appeal hearing before the Agricultural Lands Preservation Committee (ALPC). *See page D:4 for more information.*

Special Permit

A **non-agricultural** activity on an APR property requires a special permit. It may be issued for a five-year-maximum timeframe and may be renewable upon request after review by MDAR. The activity must align with the APR agreement, Massachusetts building codes, and APR program special permit guidelines in effect at the time of the application.

Examples of non-agricultural events or activities include but are not limited to: concerts, festivals, races, weddings, or the use of land to store or park trailers, boats, cars, or other non-agricultural equipment.

MDAR MAY GRANT A SPECIAL PERMIT IF:

- The APR farmland is actively used for full-time commercial agriculture.
- The activity is minor, ancillary and subordinate to the agricultural use of the APR property.
- The use or activity does not conflict with the purpose of the APR.
- The request does not require new construction.

YOUR RESPONSIBILITIES

- You must start the activity within one year of approval.
- You must follow the conditions set forth in the special permit
- A special permit may be issued for any length of time up to a maximum of five years.
- You may request that MDAR renew the special permit.
- You may record the special permit at the Registry of Deeds and provide a copy to MDAR.

MDAR RESPONSIBILITIES

- At any time during the initial term or renewed term (if one is granted), MDAR may conduct a site visit to confirm compliance with the special permit.
- Confirm the inspection results in writing to the landowner.

SOURCE: www.mass.gov/files/documents/2016/08/py/apr-special-permit-policy.pdf

PROCEDURES FOR A SPECIAL PERMIT

- ① You review your APR agreement and contact APR stewardship staff with any questions.
- ② Sign and send a request describing all proposed non-agricultural activities or uses.
- ③ MDAR will review the request, may inspect the land, and will issue a decision within 90 days.
- ④ If approved, MDAR will issue a special permit. The APR landowner, among other conditions, may be required to post a bond or other security.
- ⑤ If denied, MDAR will mail a written notice and offer you the right to request (within 21 days) an appeal hearing before the ALPC.

Special Permit information and an application are available on pages D:7-8 and at www.mass.gov/apr at "APR Program Details".

Appeal Hearings for Certificates of Approval and Special Permits

You may request a hearing before the ALPC regarding the denial of a COA or a special permit. MDAR will mail you a written denial notice and offer the right to request (within 21 days) an appeal hearing before the ALPC. After receiving your request, the ALPC will:

- ① Hold an adjudicatory hearing which means you may present evidence and facts.
- ② Provide a designated a hearing officer to preside over the hearing.
- ③ Assemble an official record of the hearing.
- ④ Render the final decision and notify you in writing.

APPROVAL WORKSHEET

Subject to Change

Over time you may want to make a change on an APR property with an addition or an innovative project. Changes to your APR property may require an approval from the APR Program. Changes that require approval may include, but are not limited to, activities and uses listed on this worksheet.

A Certificate of Approval (COA) is needed for changes in **agricultural** structures or activities. A Special Permit is needed for a **non-agricultural** activity. If you want to make changes, consult

your APR agreement for what is allowed or not allowed. Approval requirements may vary a lot among older and modern APRs.

Contact APR stewardship staff to discuss any changes requiring approval and send an MDAR application for the change. See pages that follow for the COA and Special Permit applications.

MDAR APR stewardship staff are happy to assist to help you meet your goals and needs.

STRUCTURES & ACTIVITIES	ALLOWED /NO APPROVAL NEEDED	PROHIBITED	COA NEEDED	SPECIAL PERMIT NEEDED	MDAR DISCRETION	COMMENTS
AGRI-TOURISM						
<i>Farm-to-table meals, harvest festival, tours, U-pick</i>						
BUILDINGS & STRUCTURES						
<i>Barn/Shed: animals, equipment, feed, hay, feed, tools, farm vehicles</i>						
<i>Food processing: preservation, refrigeration, storage, wash, pack</i>						
<i>Greenhouse</i>						
<i>Housing: Permanent owner, farm manager, labor</i>						
<i>Housing: Temporary Camp, tent, tiny house, yurt</i>						
<i>Retail: farmstand without utilities, farmstand with utilities, brewery, café, restaurant</i>						
CHANGE IN FIELDS						
<i>Change in agricultural production, regrading field to remove rocks</i>						
EDUCATION						
<i>Summer camp, agricultural education</i>						
ENERGY						
<i>Exploratory drilling, fracking, geothermal, solar in a field, wind, wood stove, other</i>						
EVENTS						
<i>Bed and breakfast, movie set, music concert, wedding</i>						
HORSES						
<i>Riding area, school, stable</i>						
MOVING/STORING: COMPOST, ROCK, SOIL						
<i>Compost processing and storage, excavation for a road or utility, leveling a knoll, mining of soil/sand/gravel, mining or storage of soil, sand, gravel</i>						
RECREATION						
<i>Camping, corn maze, cross-country skiing, hunting, fishing, obstacle courses, races, sports, snowmobiling</i>						
VEHICLES						
<i>Car show, garage, parking area, new access road</i>						
OTHER						

APPROVAL APPLICATION

CERTIFICATE OF APPROVAL (COA)

MDAR APR Program Approval Application – Part 1

Include additional pages to any part if you need more space.

LANDOWNER CONTACT

Full Name: _____

Street Address:	City:	State:	Zip Code:
Phone:	E-mail Address:		

APR PROPERTY

Property Name: _____

Street Address:	City:	Zip Code:
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Is the APR co-held by a municipality? YES NO

If Yes, you may need to request additional approval from the co-holder. Refer to your APR agreement or contact APR staff.

TYPE OF APPROVAL

New Structure Improvement Excavation Alternative Energy Labor Housing* Residential Dwelling*

**NOTE: If Labor Housing or Residential Dwelling are chosen, also use the Special Permit Form (next page)*

Briefly describe the activity needing approval:

Describe the impact to productive, agricultural areas:

ADDITIONAL INFORMATION

Check the item and provide the following information that applies to you:

- Agricultural Structure:** *List the dimensions, square footage, relationship to existing roads, utilities and other buildings, usage of structure, and usage of proposed site.*
- Retail Structure:** *List the types and amounts of products grown and sold, the anticipated products grown, and their seasonality.*
- Agricultural Improvement:** *Describe the improvement, for example: irrigation system, drainage system, composting system, etc. List type and size.*
- Excavation:** *Describe the project, for example: new farm road, leveling a knoll, erosion repair. List the area dimensions and soil volume, and types of soils affected.*
- Energy:** *Describe the energy system, outputs, power offsets, location/siting, and your current on-APR farm energy usage.*

Applicable Information:

SIGNATURE

Landowner(s) Signature:	Date:
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Requirements:

- You must include a map and layout plan that also shows the location of the proposed work. Submit this as Exhibit A with your application.
- Upon review of the application, MDAR reserves the right to request additional materials such as a business plan with projected income, a site map/plan, or farm plan.
- Work related to this application may commence only after receiving a recordable certificate of approval (COA) from MDAR.

APPROVAL APPLICATION

SPECIAL PERMIT FOR NON-AGRICULTURAL USE

MDAR APR Program Approval Application - Part 2

This application must also include the Approval Application Part 1 - Certificate of Approval (COA) on the previous page. Include additional pages to any part if you need more space.

LANDOWNER CONTACT

Full Name:

Street Address:	City:	State:	Zip Code:
Phone:	E-mail Address:		

Proposed Non-Agricultural Use/Event/Activity (herein referred to as "The Activity"):

APPLICATION INFORMATION

If the answer to any of the following questions is "yes", do not proceed with this application. Instead contact APR staff for information on how to proceed.

- Do you have a contract in place with a third party to manage The Activity?
- Do you intend to construct any new structures for The Activity?
- Will the Activity have an adverse impact on soil resources?
- Will the Activity require any excavation?
- Regarding the area where The Activity will be located, has the area been converted from active agricultural use to non-agricultural use in the preceding five years?

PROPOSED NON-AGRICULTURAL USE

List the proposed non-agricultural use, the types of associated activities, dates, attendance, and admission charge:

NON-AGRICULTURAL USE	THE ACTIVITIES	DATE(S)	ATTENDANCE	COST

WHERE THE ACTIVITY WILL BE OCCURRING ON THE APR PROPERTY

Attach a map/sketch/plan with where The Activity will be occurring on the APR property and specifically describe The Activity here.

CURRENT AGRICULTURAL OPERATIONS

Describe all current agricultural operations in detail. *Include the type of operation, seasonality, commercial sales/vending agreements/retail/cooperative ventures.*

APPROVAL APPLICATION

SPECIAL PERMIT FOR NON-AGRICULTURAL USE

MDAR APR Program Approval Application – Part 2 CONTINUED

This application must also include the Approval Application Part 1 - Certificate of Approval (COA) on the previous page. Include additional pages to any part if you need more space.

RELATIONSHIP WITH CURRENT EXISTING AGRICULTURAL OPERATIONS

What is the direct relationship between The Activity and the current existing agricultural operations? *If none exists, state the justification or need for The Activity.*

BENEFIT OF EXISTING AGRICULTURAL OPERATIONS

Describe how The Activity will benefit the existing agricultural operations.

CHANGES TO EXISTING STRUCTURES

Describe any changes you need to make to existing structures to accommodate The Activity.

FINANCIAL ACTIVITY

Gross income from the farm in the preceding two tax years (with the most recent first):

GROSS INCOME YEAR ONE (RECENT YEAR): \$

GROSS INCOME YEAR TWO: \$

Anticipated gross income from the proposed non-agricultural use:

\$

Explain the type of activity and any anticipated increases in sales of farm products as a result of the permitted activity:

NOTE: Upon further review, you may be asked to provide the following: a business plan, projected agricultural uses plan, Natural Resources Conservation Service Farm Management Plan, a surety bond, letter of credit or other form of performance insurance of an amount or value commensurate with potential damages and need for restoration.

All MDAR approvals may be subject to specific binding conditions as stated in the final approval document issued by MDAR. This Special Permit application will not be complete until a field visit has been scheduled with APR staff or with an MDAR-approved contractor. ***This application will not be considered complete without the attachment of a map/sketch/plan showing area of impact/location of The Activity.***