

## **Andover Wetlands Protection By-law – A Fact Sheet for Applicants**

Wetlands (also known as wetland resource areas) and their corresponding buffer zones are protected by state law under the Massachusetts Wetlands Protection Act (WPA). Wetlands are also locally protected in the Town of Andover under the more stringent Andover Wetlands Protection By-law (the by-law).

### **What is the By-law?**

The by-law was adopted by Andover Town Meeting vote on May 11, 1999. The by-law's implementing regulations took effect on April 13, 2002.

Activities that will remove, fill, dredge, or alter wetlands or buffer zones are prohibited under the WPA and the by-law without first obtaining a permit from the Andover Conservation Commission.

Regulated activities include, but are not limited to:

- Building/Construction/Land Development
- Backyard Improvements, Including Patios, Pools, Sports Courts, Fences, etc.
- Utility work
- Vegetation Removal
- Grading, Excavation, Earthwork of Any Kind
- Septic System Installation

Regulated wetland resource areas include wetlands (including ponds, lakes, rivers, and streams) and their associated buffer zone, which extends 100 feet beyond the boundary of the wetland resource area itself. Wetlands may be bordering on rivers or streams or may be isolated on the landscape. In addition, the Riverfront is a regulated resource area that extends 200 feet out from a perennial (flowing year-round) stream of any size. Examples of perennial streams in Andover include the Shawsheen River, Fish Brook, Husseys Brook, and Rogers Brook.

**The Andover Wetlands Protection By-law (the by-law) provides greater protection than State law under the WPA. Generally, under the by-law, the inner 25 feet of the wetland buffer zone is a No-Disturb Area and the inner 50 feet is a No-Build Area. Under the by-law, the 100-foot buffer zones as a whole are considered resource areas, so they are provided additional protection under the by-law.**

**Additional information about setbacks under the by-law are available in the Table provided on page 3 of this document.**

Wetland resource areas that are of critical importance for wildlife, such as vernal pools, are specifically protected under the by-law.

### **Does the by-law apply to my proposed project?**

If your proposed project is not listed as a specific exemption in the by-law, then the by-law applies. Notably, projects associated with houses built after January 1, 1999 are applicable under the by-law.

The following is text from the by-law that summarizes the exceptions to project review and permitting under the by-law. The formatting has been edited for clarity.

***“The application and permit required by this by-law shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, sewer, telephone, telegraph and other telecommunication services, or the installation of new municipal utilities, provided that written notice has been given to the Commission prior to the commencement of the work, and provided that the work conforms to performance standards and design specifications in any regulations adopted by the Commission.***

***The application and permit required by this by-law shall not be required for work performed for normal maintenance or improvement of land in agricultural use.***

***The application and permit required by this by-law shall not apply to emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this by-law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.***

***The application and permit required by this by-law shall not be required for work which is performed in connection with the ordinary maintenance or improvement of a single- or two-family house lawfully in existence or for which a building permit had been issued on or before January 1, 1999, including, but not limited to, building additions, septic system replacements and sewer connections, and the conversion of lawn to accessory uses such as decks, sheds, patios and pools; except the application and permit required by this by-law shall apply to the construction of freestanding structures which have a footprint greater than 500 square feet. [Amended 4-23-2007 ATM, Art. 53]” \*\*\*\****

\*\*\*\* The by-law shall apply to the construction of freestanding structures which have a footprint greater than 200 square feet (not 500 square feet). This specific regulation in the By-law was voted in at the April 23, 2007 Andover Town Meeting, Article #53.\*\*\*\*

***“ The application and permit required by this by-law shall not be required for the maintenance and repair of buildings, other structures, driveways, roads, parking areas, drainage structures and basins, lawns or athletic fields in existence on January 1, 1999, provided that such work is conducted in conformity with any general guidelines or performance standards which the Conservation Commission may, by regulation, adopt to protect the interests identified in § 1 of this by-law. Other than stated in this section, the exceptions, exemptions and grandfathered activities provided in the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00, shall not apply under this by-law.”***



**Please note that if your proposed project is reviewable under the Andover Wetlands Protection By-law, a butter notification is required.**

## Building/Structure Setbacks under the by-law and the by-law's implementing regulations

### Building/Structure Setbacks

The following setbacks are established for buildings/structures placed adjacent to;

A: Any bank, bordering vegetated wetland, isolated vegetated wetland, marsh, wet meadow, bog, swamp, reservoir, pond, creek, river or stream, or any land under said waters,

B: Areas located within Town of Andover Watershed Protection Overlay District,

C: Any vernal pool

Except as permitted with an Order of Conditions for a water dependent structure or if no practicable alternative is determined to be available after completion of an alternatives analysis.

<b>Building/Structure</b>	<b>Area A</b>	<b>Area B</b>	<b>Area C</b>
1. Buildings/Structures that require a building permit except as listed below.	50	75	100
2. Structures that are exempt from building permits except as listed below. (The distances are the same as those required for Buffer Strips)	25	50	75
3. Swimming Pools & Pool decks	35	60	85
4. Parking Lots for 3 or fewer vehicles	30	55	80
5. Parking Lots for 4 or more vehicles	50	75	100
6. Access Roads except those allowed as a limited project.	35	60	85
7. On grade patios and similar impervious surfaces *13	30	55	80
8. Fences under 7' ht., landscape walls, and landscaping. (The distances are the same as those required for Buffer Strips)	25	50	75
9. Retaining walls	30	55	100
10. Sports Courts	35	60	85
11. Driveways	30	55	80
12. Solar panels supported by columns with an open and vegetated area beneath them *19	30	55	80
13. Solar panels with an other than vegetated area, or with an enclosed area beneath *20	50	75	100

For more information, please refer to the “Wetland Permitting with the Andover Conservation Commission – How the Process Works – An Applicant’s Guide” as well as the by-law and its implementing regulations.

**The by-law is located online here:**

Andover Conservation Department Webpage > Permits and Applications

[Andover Wetlands Protection By-Law](#)

**The by-law’s implementing regulations are here:**

Andover Conservation Department Webpage > Permits and Applications

[Andover Wetland Protection Regulations](#)

Andover MIMAP GIS Viewer and Database is here:

[Andover MIMAP](#)

Provides helpful spatial information regarding parcels and the location of wetland resource areas

**If you have questions, please contact the Andover Conservation Department. The phone number for the Andover Conservation Department is (978) 623 8630. Email is [cdpconservation@andoverma.us](mailto:cdpconservation@andoverma.us)**

