

# **Abutter Notification Information – An Applicant’s Guide for Abutter Notification When Submitting Wetland Permit Applications to the Andover Conservation Commission**

If your project requires notification of abutters, this document is intended to help guide you through this process.

## **Projects that Require Abutter Notification**

As required under the state’s wetland protection regulations (the Massachusetts Wetlands Protection Act) and the Town of Andover’s Wetland Protection Regulations (the Andover Wetlands Protection Bylaw), the following wetland permit applications require abutter notification:

- 1) All Notices of Intent (NOI’s).
- 2) All Abbreviated Notices of Resource Area Delineation (ANRAD’s), sometimes referred to as Orders of Resource Area Delineation (ORAD’s).
- 3) Only Requests for Determination of Applicability (RDA’s) that are required to be filed under both the Andover Wetlands Protection Bylaw AND the Massachusetts Wetlands Protection Act.

\*If an RDA is filed under the Wetlands Protection Act only, no abutter notification is required. \*

## **Steps for Completing the Abutter Notification Process**

1. Identify if your project application requires abutter notification. \* (see above)\*
2. If your project requires abutter notification, contact Andover Conservation Staff via email at [cdpconservation@andoverma.us](mailto:cdpconservation@andoverma.us) to request an Abutter List Request form. In your email, please include the address of the project location.
3. Andover Conservation Staff will provide you with the Abutters List Request form to request the certified abutters list for your project via email. Fill out the top portion only and return the completed form via email to Andover Conservation Staff at [cdpconservation@andoverma.us](mailto:cdpconservation@andoverma.us).
4. Andover Conservation Staff will then coordinate with Andover’s Assessors Office to generate a Certified Abutters List. Once this list is generated, it will be forwarded to the applicant via email, together with the Abutter Notification Letter and Affidavit of Service.
5. When you have received the list of abutters, fill out the Abutter Notification Letter and Affidavit of Service. Then, using Certified Mail or Certificates of Mailing through the USPS, send a copy of the completed Abutter Notification Letter to each of the abutters on the list that is provided by Andover’s Assessor.

**\*You may email the completed Abutter Notification Letter to Conservation Staff for review prior to mailing by sending it via email to: [cdpconservation@andoverma.us](mailto:cdpconservation@andoverma.us) \***

More information about Certified Mail through the USPS is here:

<https://faq.usps.com/s/article/Certified-Mail-The-Basics>

More information about Certificates of Mailing through the USPS is here:

<https://faq.usps.com/s/article/Certificate-of-Mailing-The-Basics>

6. Forward the completed Affidavit of Service, signed and dated, to the Andover Conservation office with a copy of the Certified Mailing or Certificate of Mailing. This may be done by hand delivery, or a copy of these documents may be sent to Conservation Staff via email at [cdpconservation@andoverma.us](mailto:cdpconservation@andoverma.us).
7. Please keep in mind that, per the Andover Wetlands Protection Act and the Andover Wetlands Protection Bylaw regulations, timing of the abutter notification mailings and the procedure for doing so is important. \*

**\*WPA:** *“Mailing at least seven days prior to the public hearing shall constitute timely notice.”*

**\*Bylaw:** Mailing at least seven days prior to the public hearing is also required.

**\*Abutter Notification Mailings postmarked less than the seven days prior to the scheduled public hearing will result in the public hearing being delayed for correct notification of abutters to a future Conservation Commission Meeting agenda.**

### **Additional Helpful Information**

#### **Definition of Abutter in the Massachusetts Wetlands Protection Act:**

*“Abutter means the same as owner of land abutting the activity.”*

*“Owner of Land Abutting the Activity means the owner of land sharing a common boundary or corner with the site of the proposed activity in any direction, including land located directly across a street, way, creek, river, stream, brook or canal.”*

#### **Definition of Abutter in the Andover Wetlands Protection Bylaw:**

*“Abutter: The owner of any land within 100 feet of the property line of the land where the activity is proposed, as determined by the most recent Assessors' records, including any land located directly across a street, way, river, stream or pond.”*

#### **Definition of Abutter in the Andover Wetlands Protection Regulations:**

*“Abutter – the owner of any land within 100 feet of the property line of the land where the activity is proposed, as determined by the most recent assessor’s records including any land located directly across a street, way, river, stream, or pond. When an activity is on a parcel of land that is fifty acres or larger, or for linear projects such as roadways, pipelines and other linear utilities, “abutter” shall be defined as the owner of any land within 1000 feet from the limits of the proposed activity that is subject to the Wetlands Protection Act.”*

For information about whether the Andover Wetlands Protection Bylaw applies to your project, please refer to the Bylaw Fact Sheet, available here: [Bylaw Fact Sheet](#)

For more information about the wetland permitting process more broadly, please refer to the Andover Wetland Permitting Applicant's Guide, available here: [Wetland Permitting in Andover - An Applicant's Guide](#)

### **Selected Text in the Wetland Regulations About Abutter Notification**

#### **Massachusetts Wetlands Protection Act**

##### **310 CMR 10.05(4):**

*“Concurrent with the filing of the Notice of Intent, the applicant shall provide notification to all Abutters. Notwithstanding the foregoing, the requirement to provide Abutter notification is subject to the following limits. **An applicant is required to provide notification to an Abutter whose Lot is separated from the Project Locus by a public or private street or body of water only if the Abutter's Lot is within 100 feet from the property line of the Project Locus. An applicant who proposes work solely within Land under Water Bodies or Waterways, or solely within a Lot with an area greater than 50 acres, is required to provide notification only to Abutters whose Lot is within one hundred feet from the Project Site. An applicant proposing a Linear- shaped Project greater than 1,000 feet in length is required to provide notification only to Abutters whose Lot is within 1,000 feet from the Project Site.** Abutter notification is not required for projects proposed by the Massachusetts Department of Transportation Highway Division pursuant to St. 1993, c. 472 as approved on January 13, 1994. **The applicant shall provide notification at the mailing addresses shown on the most recent applicable tax list from the municipal assessor. Notification shall be at the applicant's expense. The notification shall state where within the municipality copies of the Notice of Intent may be examined or obtained and where information on the date, time, and location of the public hearing may be obtained.** To ensure compatibility with local procedures, applicants must comply with any rules of the local conservation commission pertaining to the location for examining or obtaining the Notice of Intent and information about the hearing. The applicant shall provide written notification to all Abutters required to be notified by hand delivery or certified mail, return receipt requested, or by certificates of mailing. Mailing at least seven days prior to the public hearing shall constitute timely notice. The applicant shall present either the certified mail receipts or certificate of mailing receipts for all Abutters at the beginning of the public hearing. The presentation of the receipts for all abutters required to be notified as identified on the tax list shall constitute compliance with Abutter notification requirements. The conservation commission shall determine whether the applicant has complied with Abutter notification requirements. The Department will dismiss Requests for Action based on allegations of failure to comply with Abutter notification requirements, absent a clear showing by an Abutter seeking Department action that the applicant failed to notify the Abutter.”*

#### **Andover Wetlands Protection Bylaw, Section 6:**

*“Any person filing a permit application or a request for determination with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered or by certificates of mailing confirmed by the United States Postal Service, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors. The notice to abutters shall enclose a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request. [Amended 4-28-2010 ATM, Art. 38]*

*The Commission shall conduct a public hearing on any permit application or request for determination, with written notice given at the expense of the applicant, not less than five business days prior to the hearing, in a newspaper of general circulation in the Town of Andover.”*