

CITY OF WORCESTER CONSERVATION COMMISSION



c/o Division of Planning & Regulatory Services  
City Hall, 455 Main Street, Room 404, Worcester, MA 01608

Office 508-799-1400 Ext. 31440 – Fax 508-799-1406

## **Abutter Notification Guidance**

The following Conservation Commission filing types require abutter notification to be completed by the applicant:

- **Notice of Intent** – under Wetlands Protection Act and/or Wetlands Protection Ordinance
- **Abbreviated Notice of Intent**
- **Abbreviated Notice of Resource Area Delineation**
- **Request to Amend an Order of Conditions**

### **Notification Process:**

1. **Obtain a Certified List of Abutters** from the City of Worcester Assessing Department (City Hall, 455 Main Street, Second Floor, Room 209). Submit a copy of this list to the Office of the Commission at the time of filing. *Note: An abutters list is current if it is less than three (3) months old at the time notice is provided.*
2. **Prepare a written notification.** *Note: A copy of the notice must be submitted to the Office of the Conservation Commission prior to or at the first hearing.* It is recommended that the following information is included in the notice to abutters:
  - 1) The applicant's name;
  - 2) The project's address;
  - 3) Type of the City of Worcester Conservation Commission filing (NOI, ANRAD, etc.) and the reason for Commission's review;
  - 4) Description of the proposal;
  - 5) Date, time and place of the public hearing (can be obtained from the Division of Planning & Regulatory Services at the time of filing; however, the notice can be sent prior to a set hearing date);
  - 6) Please add the following statements:
    - *This application may be viewed 8:30am-2:00pm at the Division of Planning & Regulatory Services, City Hall, 455 Main Street, Room 404, Worcester, MA. Contact phone number - 508-799-1400 x31440.*
    - *Notice of the public hearing, including its date, time and place, will be published at least 7 calendar days prior to the hearing in the Worcester Telegram & Gazette.*
    - *Agenda for the public hearing, including its date, time, and place, will be posted on the City website (<http://www.worcesterma.gov/city-clerk/agendas-minutes/boards-commissions>) not less than 48 hours prior to the hearing.*
3. Provide **notification to abutters.** Notification shall be provided by the applicant, concurrent with the filing of an application with the Office of the Commission, but **must be postmarked a minimum of seven (7) business days (excluding legal holidays) prior to the public hearing**, via one of the following methods:
  - A. Hand Delivery.** The applicant shall provide a notarized affidavit, certifying the dates on which deliveries were conducted and that notification was completed in compliance with the current certified abutters list.
  - B. Certified Mail,** return receipt requested. The original Certified Mail receipts and return receipts must be submitted to the Office of the Conservation Commission prior to or at the first hearing.
  - C. Certificate of Mailing.** The original certificate of mailing(s) must be submitted to the Office of the Conservation Commission prior to or at the first hearing.

**Legal Advertising:** Please note that the Office of the Conservation Commission will submit a legal ad for the project to the Worcester Telegram & Gazette which will be published 5 business days prior to the hearing.

**Source of the Notification Requirements:**

1) City of Worcester Wetlands Protection Ordinance – Section 5(a) :

“Section 5: Notice and Hearings

(a) Any person filing a Notice of Intent or a Request for Determination of Applicability with the Commission at the same time shall provide notice thereof in accordance with the Wetlands Protection Act, G. L. Ch. 131, Sec. 40.”

2) 310 CMR 10.05 (4) (Code of Massachusetts Regulations, last amended October, 2014):

“...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. An applicant submitting a Notice of Intent for a project that is also subject to 310 CMR 9.00: Waterways and/or 314 CMR 9.00: 401 Water Quality Certification for Discharge of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters of the United States Within the Commonwealth may provide joint public notice by appending to the public notice required by 310 CMR 9.13: Public Notice and Participation Requirements and/or 314 CMR 9.05: Submission of an Application, as applicable, notification that a Notice of Intent is pending before the issuing authority, provided the notification complies with 310 CMR 10.05(4). An applicant may provide a joint public notice, even if the Notice of Intent is not a Combined Application.

3) 310 CMR 10.05 (1) (Code of Massachusetts Regulations, last amended October 2014): “Time Periods. All time periods of ten days or less specified in M.G.L. c.131, § 40 and 310 CMR 10.00 shall be computed using business days only.”