

Town of Dalton Conservation Commission
SMA Form B Determination of Applicability
Massachusetts Scenic Mountain Act MGL c. 131, § 39a

SMA File Number: _____

Filing Date: _____

To be used only for projects with activities that take place in areas above 457.2 meters (1,500 feet) in elevation, as delineated on the map and text as adopted by the Town of Dalton, and as may be amended.

A. General Information

To: Applicant:

Name: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

Phone Number: _____ Email: _____

Property Owner (if different from applicant):

Name: _____

Mailing Address: _____

City/Town: _____ State: _____ Zip Code: _____

Phone Number: _____ Email: _____

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

_____ Title _____ Date

_____ Title _____ Date

_____ Title _____ Date

2. Date Request Filed: _____

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 39A, the Conservation Commission considered the Request for Determination of Applicability and made the following Determination.

Project Description (if applicable):

Project Location:

Street Address: _____

Assessors Map #: _____

Assessors Lot #: _____

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Scenic Mountains Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Scenic Mountains Act may proceed until a final Order of Conditions has been received from the Conservation Commission.

1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Scenic Mountains Act and its regulations regarding such boundaries for as long as this Determination is valid.

2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, excavate, or otherwise alter that area. Therefore, said work requires the filing of a Notice of Intent.

Negative Determination

Note: No further action under the Scenic Mountains Act is required by the applicant. However, work may not proceed on this project until all administrative appeal periods from this have elapsed, or if such an appeal has been taken, until all proceedings have been completed. Work may then proceed at the owner's risk only upon notice to the Conservation Commission.

- 1. The area described in the Request is not an area subject to protection under the Act.
- 2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, excavate, or otherwise alter that area. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).

- 4. The work described in the Request is not within an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.
- 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

C. Authorization

This Determination is issued to the applicant and delivered as follows:

- by hand delivery on _____
- by certified mail, return receipt requested on _____

_____ Date

_____ Date

This Determination is valid for **three years** from the date of issuance. This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

The Determination must be signed by a majority of the Conservation Commission and 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 property owner (if different from applicant).

Signatures

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

D. 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 Department of Conservation and Recreation (Department) to determine if other reasonable conditions should be imposed, or if such conditions should be modified in order to protect against a significant adverse effect on watershed resources or natural scenic qualities, or if conditions can be modified or eliminated without any loss of protection against any significant adverse effect on watershed resources or scenic qualities. The request must be made by certified mail or hand delivery to the Department 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. 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 Scenic Mountains Act, (M.G.L. c. 131, § 39A). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Scenic Mountains Act, the Department has no appellate jurisdiction.