

Town of Dalton Conservation Commission
SMA Form D Order of Conditions
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: _____

B. Project Location

Street Address: _____

Assessors Map #: _____ Assessors Lot #: _____

C. Property Recorded at the Registry of Deeds for:

Berkshire Middle District Registry of Deeds Book

Page

Certificate (if registered land)

D. Dates:

Date Application Filed

Date Public Hearing

Closed Date of Issuance

E. Final Approved Plans and Other Documents (attach additional plan references as needed):

Plan Title: _____

Prepared By: _____

Signed and Stamped By: _____

Final Revision Date: _____ Scale: _____

Additional Plan or: _____ Date: _____

Document Title

F. Findings:

This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- the following conditions. This Commission orders that all work shall be performed in accordance with the Land Disturbance Permit Application referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Land Disturbance Permit Application, these conditions shall control.

Denied because:

- the proposed work cannot be conditioned to meet the intent of the Scenic Mountains Act, (M.G.L. c. 131, § 39A). Therefore, work on this project may not go forward unless and until a new Land Disturbance Permit Application is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued.
- the information submitted by the applicant is not sufficient to describe the site, the work, or its ability to meet the objectives of the Scenic Mountains Act, (M.G.L. c. 131, § 39A). Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to describe how the objectives of the Scenic Mountains Act, (M.G.L. c. 131, § 39A) are met and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order.

G. General Conditions: (only applicable to approved projects)

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings have been completed.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to commencement of work.
9. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance to the Conservation Commission.
10. The work shall conform to the plans and special conditions referenced in this order.
11. Any change to the plans identified in Condition #11 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
12. The Agent or members of the Conservation Commission shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission for that evaluation.
13. This Order shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
14. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
15. All work associated with this Oder is required to comply with the Massachusetts Stormwater Policy Standards.

I. Issuance:

Date of Issuance: _____ Number of Signers: _____

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

This Order 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).

J. Signatures:

K. Notary Acknowledgement:

Commonwealth of Massachusetts County of Berkshire

On this _____ of _____
Day Month Year

Before me, the undersigned Notary Public, _____ personally appeared
Name of Document Signer

proved to me through satisfactory evidence of identification, which was/were

Description of evidence of identification

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as a member of the Town of Dalton Conservation Commission.

Signature of Notary Public

Printed Name of Notary Public

Place notary seal and/or any stamp above

My Commission Expires (Date)

This Order is issued to the applicant as follows:

by hand delivery on

by certified mail on

Date

Date

L. 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.

M. Recording Information:

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information shall be submitted to the Town of Dalton Conservation Commission.

Detach on dotted line, have stamped by the Berkshire Middle District Registry of Deeds and submit to the Conservation Commission.

To: _____
Conservation Commission

Please be advised that the Order of Conditions for the Project at:

_____ Project Location _____ File Number

Has been recorded at the Berkshire Middle District Registry of Deeds

_____ Book _____ Page

for: _____
Property Owner

and has been noted in the chain of title of the affected property in:

_____ Book _____ Page

In accordance with the Order of Conditions issued on: _____
Date

If recorded land, the instrument number identifying this transaction is:

_____ Instrument Number

If registered land, the document number identifying this transaction is:

_____ Document Number

Signature of Applicant