

Town of Sheffield, Massachusetts
Conservation Commission

**Scenic Mountain Act - Form D
Order of Conditions**

Massachusetts Scenic Mountain Act (MGL C.131, §39A)
Sheffield Scenic Mountain Act Regulations

SMA File No. _____

Date of Issuance: _____

A. General Information

1. This issuance is for a. ___ Order of Conditions b. ___ Amended Order of Conditions
c. ___ Enforcement Order of Conditions

1. Owner / Applicant

Name: _____

Mailing Address: _____

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

Phone: _____ E-mail: _____

2. Representative (if any)

Name: _____

Mailing Address: _____

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

Phone: _____ E-mail: _____

3. Project Location

Street Address/Zip Code: _____

Assessors Map, Block & Lot Number: _____

5. Property recorded at the Southern Berkshire Registry of Deeds (attach additional pages if more than one parcel):

Certificate Number: _____; Book: _____; Page: _____

Other: _____

6. Dates: Date Notice of Intent filed: _____ Public Hearing date: _____

7. Final Approved Plans and Other Documents (attach additional pages as needed):

- _____ a. Plan Title:
- _____ b. Prepared By:
- _____ c. Signed and Stamped By:
- _____ d. Final Revision Date:
- _____ e. Plan Scale
- _____ f. Additional Plan(s) or Documents Titles, as attached (if any)

B. Findings

1. Findings pursuant to Sheffield Scenic Mountain Act Regulations based on Notice of Intent, Conservation Commission site review(s), public hearing, and Conservation Commission review of all documentation and testimony received from Applicant:

Check all that apply:

All or a portion of the Project / Activity area is:

- _____ a. subject to the Wetlands Protection Act
- _____ b. subject to Natural Heritage and Endangered Species Program (NHESP)
- _____ c. delineated as an Area of Critical Environmental Concern (ACEC)
- _____ d. delineated as Priority Habitats of Rare Species
- _____ e. designated as a watershed

2. The Conservation Commission hereby finds the Project / Activity as presented is:

_____ **APPROVED** subject to:

- _____ a. the performance standards set forth in the Sheffield Scenic Mountain Act Regulations;
- _____ b. the General Conditions and any other special conditions attached to this Order of Conditions, as documented below. **To the extent that the attached conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.**

_____ **DENIED** due to:

- _____ a. the proposed work, as presented, cannot be conditioned to meet the performance standards set forth in the Regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and an approved Order of Conditions is issued. A description of the performance standards which the proposed work cannot meet is attached.

_____ b. the information submitted by the Owner / Applicant is not sufficient to describe the site, the proposed Activity, or the impacts of the Activity on the interests identified in the Regulations. A description of the specific information that is lacking and why it is necessary is attached.

_____ c. Other: _____

C. General Conditions

The following conditions are only applicable to Approved projects.

1. All work on the Project / Activity shall conform to the plans and General Conditions and Special Conditions referenced in this Order of Conditions. 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 of Conditions.
2. This Order of Conditions does not grant any property rights or any exclusive privileges.
3. This Order of Conditions does not relieve the Owner / Applicant 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 one year from the date of this Order of Conditions unless the time for completion has been extended by the Commission to a specified date more than one year, but less than two years, from the date of issuance. If this Order of Conditions is intended to be valid for more than one year, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order of Conditions.
5. If this Order of Conditions constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on unless extended in writing by the Conservation Commission.
6. Any fill used in connection with this Project / Activity shall be Clean Fill.
7. This Order of Conditions 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 this Order of Conditions has become final and has been recorded in the Southern Berkshire 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 / Applicant. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the Owner / Applicant. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Southern Berkshire Registry of Deeds, prior to the commencement of any work.

9. Upon the completion of the Project / Activity, the Owner / Applicant shall submit a Request for Certificate of Compliance (SMA FORM E-1) to the Conservation Commission.
10. Any modifications to any plans and/or any conditions upon which this Order of Conditions was issued shall require advance written approval by the Conservation Commission prior to the commencement of any such related work.
11. Members of the Conservation Commission and any expert and/or agent in the service of the Conservation Commission shall have the right to enter and inspect the area subject to this Order of Conditions 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.
12. This Order of Conditions 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.
13. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or by other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or their designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant or their designee 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, as it may deem necessary. Sedimentation barriers shall serve as the limit of the work line unless another limit of work line has been approved by this Order.
14. The work associated with this Project / Activity under this Order of Conditions:
 - (i) is subject to the Massachusetts Stormwater Standards
 - (ii) is NOT subject to the Massachusetts Stormwater Standards
15. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:
 - a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices ("BMPs") shall remain in place until the site is fully stabilized.
 - b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;

- ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The Owner / Applicant is responsible for BMP maintenance until the Conservation Commission is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to Conservation Commission an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i. the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii. the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.

g) The responsible party shall:

1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the

stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);

2. Make the maintenance log available to MassDEP and the Conservation Commission upon request; and
3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

D. Special Conditions

1. Site work on all projects should be designed to:
 - a. minimize the amount of land disturbance;
 - b. retain natural vegetation where possible;
 - c. use non-invasive existing and newly planted trees and shrubs as a vegetative buffer to minimize visual impact of new buildings when viewed from off-site roads;
 - d. avoid cutting or substantial thinning of trees along Ridgelines or creating a “notch” in the tree line along a mountain top;
 - e. minimize the amount of impervious surfaces and maximize the use of permeable materials such as porous pavement for access to and from the proposed project and in parking areas;
 - f. disperse site drainage as much as possible;
 - g. avoid concentrating storm water runoff and discharging it at one point;
 - h. prevent discharging drainage onto Steep slopes;
 - i. employ open vegetated or rock-lined drainage swales wherever possible;
 - j. minimize the use of piped drainage systems; and

k. provide for stabilized drainage outlets, aprons, stilling basins, or similar scour protection measures where drainage discharges onto the ground.

2. Any culverts such as driveway cross culverts, shall be at least 12" diameter and have a slope of at least 1% with a preferred slope of 2%.

3. Additional Special Conditions:

____ Attached document with Additional Special Conditions

E. Sheffield Conservation Commission Authorizing Signatures

____ Signature Printed Name

____ Signature Printed Name

____ Signature Printed Name

____ Signature Printed Name

____ Signature Printed Name

Date signed: _____

Appeal period end: _____

F. Mailing/Delivery

This Enforcement Order was mailed by certified mail (return receipt requested) or hand delivered to the Owner / Applicant as follows:

____ By Hand Delivery

____ By Certified Mail, Return Receipt Requested

Date

Date

G. Recording Information

E. Recording Confirmation:

The Applicant / Owner is responsible for ensuring that this Certificate of Compliance is recorded in the Southern Berkshire Registry of Deeds and for providing evidence of the recording to the Conservation Commission BEFORE any commencement of Activity.

Evidence of Recording at Southern Berkshire Registry of Deeds is on page 9 of this document and must be stamped by the Southern Berkshire Registry of Deeds and returned to the Conservation Commission.

Evidence of Recording at Southern Berkshire Registry of Deeds

Return to: Sheffield Conservation Commission
Town Hall, 2nd Floor
21 Depot Square
Sheffield, MA 01257

Please be advised that the Certificate of Compliance for SMA File No. _____, for Activity located at:

Street Address: _____

Assessors Map, Block & Lot Number: _____

Has been recorded at the Southern Berkshire Registry of Deeds for:

Owner/Applicant Name:

Mailing Address: _____

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

And has been noted in the chain of title of the subject property.

If recorded land, the instrument number identifying this recording transaction is _____.
If registered land, the document number identifying this recording transaction is _____

Applicant/Owner signature(s)

Printed Names(s)

Date: _____

Stamped by the Southern Berkshire Registry of Deeds:

Date: _____