

# Town of Lee Conservation Commission Scenic Mountain ACT

FORM E

## ORDER OF CONDITIONS BERKSHIRE SCENIC MOUNTAINS ACT G.L. c. 131, s.39A

From Lee Conservation Commission

To \_\_\_\_\_  
(Name of Applicant) (Name of Property Owner)

Address \_\_\_\_\_

This Order is issued and delivered as follows:

\_\_\_\_\_ by hand delivery to applicant or representative on  
\_\_\_\_\_ (date)

\_\_\_\_\_ by certified mail, return receipt requested on  
\_\_\_\_\_ (date)

The Notice of Intent for this project was filed on  
\_\_\_\_\_ (date)

The public hearing was closed on \_\_\_\_\_ (date)

Findings:

The Lee Conservation Commission has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the Conservation Commission at this time, the Conservation Commission has determined that the area in which the proposed activity is to be done is significant to one or more of the purposes described in the regulations.

Therefore, the Conservation Commission hereby finds that the following conditions are necessary, to protect those purposes. The Conservation Commission orders that all work shall be performed in accordance with said conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

General Conditions:

1. Failure to comply with all conditions slated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.

2. This 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, by-laws or regulations.
4. The work authorized hereunder shall be commenced within one year following the date of issuance of this order and shall thereafter prosecute diligently such activity to completion. Failure to commence said activity within one year of issuance shall constitute an abandonment of the project and the Conservation Commission, after reasonable notice to the applicant, may revoke the Order.
5. This Order shall expire two years after the date of issuance and may be extended by the issuing authority for two periods of up to one year 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, containing no trash, refuse, rubbish, branches, tree limbs, brush, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, appliances, motor vehicles or parts of any of the foregoing.
7. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final Order has been recorded in the Berkshire Middle District 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 Grant or Index under the name of the owner of the land upon which the proposed work is to be done. In the case of 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 to be done. The recording information shall be submitted to the Conservation Commission on the form at the end of this order prior to commencement of work.

9. Where the Department of Environmental Management is requested to make a determination and to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
10. Upon completion of the work described herein, the applicant shall forthwith request in writing that a Certificate of Compliance be issued stating that the work has been satisfactorily completed.
11. The work shall conform to the following plans:  
\_\_\_\_\_  
\_\_\_\_\_
12. The work shall conform to the following special conditions:  
SPECIAL CONDITIONS: (See attached)

Issued by the Lee Conservation Commission

Signature(s) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This order must be signed by a majority of the Conservation Commission.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My commission expires

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the

proposed work is to be done or any ten residents of the town in which such land is located are hereby notified of their right to request the Department of Environmental Management to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department within ten 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 the applicant.

Detach on dotted line and submit to the Lee Conservation Commission prior to the commencement of work.

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To Lee Conservation Commission issuing Authority

Please be advised that the Order of Conditions for the project at

File Number \_\_\_\_\_ has been recorded at the Berkshire Middle District Registry of Deeds and has been noted in the chain of title of the affected property in accordance with General Condition 8 on \_\_\_\_\_ 20\_\_\_\_\_  
if recorded land, the instrument number which identifies this transaction is \_\_\_\_\_  
if registered land, the document number which identifies this transaction is \_\_\_\_\_.

Signature \_\_\_\_\_  
Applicant

Date: \_\_\_\_\_