

CHAPTER 217

CONSERVATION COMMISSION

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Chapter 217

CONSERVATION COMMISSION

ARTICLE 1: Purpose and Authority

§217-1. Purpose

The Great Barrington Conservation Commission (hereinafter the “Commission”) fulfills two basic roles: planning for and protecting conservation lands and waters, and regulating those lands and waters subject to certain state environmental laws. The Commission hereby adopts these Rules and Regulations to implement, and at times supplement, the requirements of Massachusetts General Law (MGL) and Code of Massachusetts Regulations (CMR) and the Great Barrington Wetlands Protection Bylaw (Chapter 168 of the Great Barrington Code), and to allow the Commission to carry out the responsibilities assigned to it by MGL and the Great Barrington Town Meeting.

§217-2. Authority

On April 30, 1962 the Town Meeting adopted the provisions of the 1957 Conservation Commission Act (MGL c.40, §8C) and established a Conservation Commission to plan for natural resource protection, acquire important land and water areas, and manage these properties for conservation and passive recreation.

In 1972, the Massachusetts Wetlands Protection Act (MGL c.131, §40) gave the Commission responsibility for administering the Act and adopting non-zoning wetlands bylaws and ordinances.

On May 5, 1997 the Berkshire Scenic Mountains Act (MGL c.131, §39A) was accepted by the Town Meeting. The Commission enforces the rules and regulations implementing the act locally, and which were adopted by the Commission in November 2006 and approved by the Massachusetts Department of Conservation and Recreation on May 11, 2007.

§217-3. Amendments

In accordance with MGL c.40, §8C, these regulations may be amended from time to time by the Commission.

ARTICLE II: Administration

§217-4. Meeting Times

The Commission meets on the fourth Wednesday of each month at 7:00PM in the Board of Selectmen's Meeting Room in Town Hall, with special meetings as needed. Meetings shall be posted in accordance with the Open Meeting Law.

§217-5. Filing Deadline

The filing deadline for application submittal is the Friday two and a half weeks prior to the meeting at 12:00 PM (noon).

§217-6. Fees; Presentation of Bill

For the fee to file a Notice of Intent with the Commission, see the filing fee calculation worksheet for appropriate filing fee or contact the Commission. Of the total fee, the first \$25.00 plus one-half of the remaining amount, is payable to the Town of Great Barrington. The other one-half of the remaining amount is payable to the Commonwealth of Massachusetts.

The fee for Requests for Determination shall be \$75.00, payable in full to the Town of Great Barrington, which will include notification to abutters and legal advertising in newspaper of general circulation. All filing fees are to be paid at the time of application. Application fees shall be waived if applicant is the Town of Great Barrington.

§217-7. Fees Payable to the Town

All filing fees are payable to the Town of Great Barrington. (See §217-6 regarding Notice of Intent fees.)

§217-8. Forms to be Sent to the Commission

All forms, including Notices of Intent and Requests for Determination, should be sent to the Commission, which determines whether the material presented is sufficiently complete to be accepted.

§217-9. Quorum

Four members of the Commission shall be present at any meeting to conduct business and to hold a public meeting. A Commission member is not required to attend all the public hearing meetings on a Request for Determination or a Notice of Intent. Before a Commission member can vote to deny or approve a project and vote on an Order of Conditions for these applications, the Commission member shall be required to read the minutes of the meetings he missed and read and acquaint himself with all material presented to the Commission at the meetings the member missed.

ARTICLE III: Wetlands Protection Regulations

(Adopted 6/25/90)

(Amended 2/5/2009)

§217-10. Preface

These Wetlands Protection Administration Bylaw Regulations (hereinafter referred to as the “Wetlands Regulations”) are promulgated by the Commission pursuant to the authority granted to it under Chapter 168 of the Code of the Town of Great Barrington (hereinafter the “Wetlands Bylaw”) as it may be from time to time amended. The Wetlands Bylaw was adopted by a vote at the Annual Town Meeting held in May, 1987, under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, independent of the Wetlands Protection Act, MGL c.131, §40 and the regulations thereunder.

§217-11. Purpose

The Wetlands Regulations will be used to implement and enforce the Wetlands Bylaw and are intended to be read together with the Wetlands Bylaw, which has many provisions that are not repeated in these Wetlands Regulations.

§217-12. Incorporation

All of the definitions, resource area descriptions, procedures and requirements set forth in the Massachusetts Wetlands Protection Regulations at 310 CMR 10.00 et seq. are hereby incorporated and made a part of these Wetlands Regulations, except where they differ from or depart from these Wetlands Regulations. Where these Wetlands Regulations differ from the State regulations, these Wetlands Regulations will be applied in addition to the State regulations. In most instances, the applicant should first address the State regulations at 310 CMR 10.00 et seq. and then supplement them with these Wetlands Regulations.

§217-13. Purpose and Protected Interests

The purpose of these Wetlands Regulations is to aid in the consistent and effective implementation of the Wetlands Bylaw by way of further definition. The Wetlands Bylaw protects the wetlands, related water resources, and certain adjoining land areas in the Town by providing for prior review and regulation of activities deemed to have significant or cumulative adverse effect upon wetlands values, including but not limited to the following interests:

1. protection of public and private water supplies and quality
2. protection of ground water supply and quality
3. flood control
4. storm damage prevention
5. erosion and sedimentation control
6. prevention of water and soil pollution
7. protection of fisheries
8. protection and preservation of wildlife habitat
9. recreation values, deemed important to the community
10. agriculture and aquaculture values

§217-14. Areas Subject to Protection and Regulation (Jurisdiction)**§217-14.1. Resource Areas**

The following areas, which are referred to as resource areas, are subject to protection under the Wetlands Bylaw:

- A. Freshwater wetland, lake, pond, marsh, wet marsh, wet meadow, intermittent stream, or any bog, beach, dune or flat;
- B. River or perennial stream, of any land under said waters, of any land within two-hundred-foot distance of said river and perennial stream;
- C. Land subject to flooding, defined as “floodplain” by the Great Barrington Flood Boundary Map;
- D. Lake, river, pond or stream that is a public or private water supply, and land area within five-hundred-foot distance of said lake, river, pond or stream. See §217-14.5.
- E. Land area within a five-hundred-foot distance of the Green River upstream of the water supply gallery. See §217-14.5.

§217-14.2. Buffer Zones

Any land within 100 feet horizontally outward from resource areas A and B protected by the Wetlands Bylaw shall be referred to as the “buffer zone”. (Riverfront Areas and Land Subject to Flooding do not have a buffer zone).

The purposes of protecting buffer zones include maintaining a continuous cover of locally indigenous vegetation that:

- 1. Reduces water pollution by providing a natural filter to absorb nutrients and chemicals contained in road runoff, fertilizers, pesticides and other contaminants.
- 2. Slows surface water runoff to reduce soil erosion and siltation of surface waters.
- 3. Maintains ambient shade conditions to preserve natural water temperature regimes, to protect indigenous aquatic amphibian and reptilian life.
- 4. Provides wildlife habitat and corridors for wildlife movement.
- 5. Acts as a filter zone to protect water supplies and prevent pollution.

§217-14.3. Streams (Intermittent)

Intermittent streams are important for storm damage prevention, flood control, ground water protection, wildlife habitat, and recreation values. During spring, summer, and fall these streams disperse snow melt and storm runoff across the landscape thereby preventing dangerous volumes and flows from spilling over roadways and property. This broad dispersal also allows for larger volumes of water to infiltrate into the ground, recharging groundwater supplies.

Intermittent streams are an essential source of food and water for wildlife, and are often the only source of water in higher elevation areas of town. The moist soils that border intermittent streams are significantly richer in herbs and flowering/fruiting plants, the base trophic level of food, that surround upland areas.

During all seasons, but especially in winter and spring, intermittent streams act as essential corridors for animal movement when food is scarce. Some animals, such as pickerel frogs and eastern spotted newts, rely heavily on intermittent streams for movement.

For these reasons, the upland areas surrounding intermittent streams are heavily utilized by wildlife for living space, breeding, feeding, migrating, dispersal, and security.

Accordingly, these Wetlands Regulations protect intermittent streams of all forms and the adjacent buffer zone within 100 feet of those streams.

§217-14.4. Rivers (Perennial Streams)

For the purposes of the Wetlands Bylaw, the protections afforded to Riverfront Areas under the 1996 amendment to the Massachusetts Wetlands Protection Act shall extend the reach of jurisdiction 200 feet from the Mean Annual High Water Line (MAHWL) of a stream or river as specified by the Act. Additional regulations apply to the Green River and its upstream tributaries; see §217-14.5.

Under these Regulations all flowing watercourses shall be considered to be perennial streams as described and defined in 310 CMR 10.58 (2).

§217-14.5. Great Barrington Drinking Water Supply and Upstream Tributaries

The Town of Great Barrington recognizes that protection of its public and private water supplies is imperative to the quality of drinking water. This town policy is expressed through Section 9.2, “Water Quality Protection Overlay District,” of the Great Barrington Zoning Bylaws. The Commission will administer the Wetlands Bylaw and these Wetlands Regulations in concert with the requirements of the Stream and Lake Protection Zone of the Water Quality Protection Overlay District as defined in the Zoning Bylaw.

Section 9.2 of the Zoning Bylaws regulates work within a five-hundred-foot distance of the Green River and its upstream tributaries of the water supply gallery through a Special Permit process. The Commission is a recommending board to the Special Permit Granting Authority. Applicants should contact the Zoning Officer (Building Official) for more information regarding the Special Permit process. Accordingly, these Regulations protect the Great Barrington Drinking Water Supply and its upstream tributaries.

§217-15. Definitions

Abutter is any landowner, as determined by the most recent Assessor’s records, whose land abuts the property that is the subject of the Request for Determination or the Notice of Intent or whose land lies directly opposite on any public or private street or way and owners of land within three hundred (300) feet of the property line.

Agent or Administrator is anyone appointed or assigned by the Commission to serve as its representative.

Alter includes, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by these Wetlands Regulations:

1. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind.
2. Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics.

3. Drainage or other disturbance of water level or water table.
4. Dumping, discharging, or filling with any material which may degrade water quality
5. Placing of fill or removal of material which would alter elevation.
6. Driving of piles or erection or repair of buildings or structures of any kind.
7. Dredging or filling of land under water bodies.
8. Placing of obstructions or fixed objects in water.
9. Destruction of plant life, including cutting of trees.
10. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters.
11. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or ground water including, without limitation, any activity that may cause surface water runoff contaminated with sediments, chemicals, or animal wastes.
12. Application of pesticides or herbicides.
13. Storage of flood waters and storm water runoff waters.

Applicant. The individual or entity filing an application.

Bank. The land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the Mean Annual High Water Line, whichever is higher.

Bordering means touching.

Boundary means the boundary of area subject to protection under the Bylaw.

Buffer Zone. Any land within 100 feet horizontally outward from the edge of resource areas A and B described in §217-14.1 of these Wetlands Regulations.

Commission. The Great Barrington Conservation Commission.

Conditions. Those requirements set forth in a written Permit issued by the Commission for the purpose of permitting, regulating, or prohibiting any activity that removes, fills, dredges, builds upon, or alters an area subject to protection under the Wetlands Bylaw.

Direct Discharge includes, without limitation, any outfall of water that empties into the resource area or adjacent upland resource, including infiltration.

Dredge. To deepen, widen, or excavate either, temporarily or permanently.

Erosion Control. The prevention or reduction of the detachment or movement of soil or rock fragments by water, wind, ice and/or gravity.

Existing shall mean existing in full on or after the effective date of these Wetlands Regulations, unless specified otherwise in the Wetlands Bylaw.

Fill. To deposit any material so as to raise an elevation, either temporarily or permanently.

Flood Control. The prevention or reduction of flooding and flood damage.

Freshwater Wetland. Include bog, swamp, marsh, wet meadow, pond, or lake as defined in MGL, c.131, §40.

Ground Water Supply. Water below the earth's surface in the zone of saturation.

Land Subject to Flooding. As defined in MGL, c. 131, §40.

Land Under Water Bodies. The bottom of, or land under the surface of any lake, river, pond, stream, or watercourse.

Majority. More than half of the members of the Commission then in office.

Mean Annual High Water Line. The mean annual high water line (MAHWL) shall be the line represented by bankfull conditions when they occur above the first observable break in slope. If no break in slope exists, the MAHWL will be represented by other bankfull indicators as specified in 310 CMR 10.58.

Person. Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof of the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

Plans. Such data, maps, engineering drawings, calculations, specifications, schedules or other materials, if any, deemed necessary by the Commission to describe the site and the activity; to determine the applicability of the Wetlands Bylaw; or to determine the impact of the proposal upon the interests in the Wetlands Bylaw.

Pond. Any open body of fresh water with a surface area observed or recorded within the last ten years of at least 5,000 square feet. Ponds shall contain standing water except for periods of extended drought.

Private Water Supply. Any source of volume of surface or ground water demonstrated to be in any private use or demonstrated to have a potential for private use.

Protected Resource Area shall mean any bank, freshwater wetland, marsh, bog, wet meadow, or swamp bordering on any creek, river, stream, pond, or lake or any land under said waters, or any bordering thereon, or any land subject to flooding or inundation.

Public Water Supply. Any source or volume of surface or ground water demonstrated to be in public use or approved for public water supply in accordance with the Massachusetts Drinking Water Regulations under 310 CMR 22.02 and the Federal Safe Drinking Water Act.

Remove. To take away any type of material, thereby; changing an elevation, either temporarily or permanently.

River shall refer to perennial stream as defined in §217-14.4.

Sedimentation Control. The prevention or reduction of the collection or concentration of sand, soil, or rock fragments by the action of water, wind, ice, or gravity.

Significant. Plays a role. A resource area is significant to an interest identified in the Wetlands Bylaw when it plays a role in the provision or protection, as appropriate, of that interest.

Stream refers to a body of running water, including brooks and creeks, which move in a definite channel in the ground due to hydraulic gradient. An "intermittent stream" is a defined channel with a hydraulic

gradient through which water flows during part of the year and which either flows out of, into, or within a wetland resource under the Wetlands Bylaw. A portion may flow through a culvert or under a bridge.

Upstream Tributaries to the Water Supply Gallery of the Green River. Include Alford Brook, Seekonk Brook, and Long Pond Brook.

Wildlife Habitat refers to areas having plant community composition and structure, hydrologic regime, or other characteristics sufficient to provide shelter, nutrient sourcing, growing conditions, nesting or breeding sites conducive to the propagation and preservation of wildlife.

Work. Means the same as activity, as defined at 310 CMR 10.04.

§217-16. Applications for Permits (Procedures)

Within 100 feet horizontally outward from the edge of a resource area, 200 feet horizontally outward from the mean annual high water line (MAHWL) of a river or perennial stream, and within 500 feet of the town water supply galleries at the Green River, Long Pond, and any other bodies of water utilized as Town Drinking Water, any activity proposed or undertaken, which, in the judgment of the Commission, alters an area subject to protection under the Wetlands Bylaw, is subject to regulation under the Wetlands Bylaw and requires the filing of a Notice of Intent (NOI). If the applicant is in any doubt as to whether an activity is subject to regulation, a Request for a Determination of Applicability (RDA) should be filed.

§217-17. Timeframes for Submission of Documentation

All documentation including plans, maps, tables, charts, reports, etc. to be considered as part of a permit filing by the applicant must be submitted to the Commission in accordance with §217-18.1 of these Wetlands Regulations.

§217-18. Request for Determination of Applicability (RDA or WPA Form 1)

The purpose of the Request for Determination of Applicability (RDA) is to allow the Commission to determine whether the proposed project will alter a resource area such that the filing of a Notice of Intent will be required.

§217-18.1. Submission Requirements

It is the applicant's responsibility to provide all of the information required for this review. All forms used in the application and permit process under the Wetlands Bylaw may, at the discretion of the Commission, be the same as those forms used under the Massachusetts Wetlands Protection Act, MGL, c.131, §40 and 310 CMR 10.00. The form used for a Request for Determination of Applicability is WPA Form 1. Nine (9) copies of the RDA shall be hand delivered to the Town Clerk's Office or mailed to the Commission. The RDA shall be accompanied by a filing fee in the amount of \$75.00, payable to the Town of Great Barrington.

The applicant must complete all information on the RDA and:

Return the original plus 8 copies to:
Great Barrington Conservation Commission
Town Hall, 334 Main Street
Great Barrington, MA 01230

Include a plan that shows (at a minimum):

1. Structures on the lot
2. North arrow on lot plan, with locus map and street name
3. Location of proposed work, and distance to wetlands or other resource to be protected
4. General vegetation types
5. Drainage directions
6. Spot elevations or contours (if available)

§217-18.2. Determination by Commission

Within twenty-one (21) days of the filing of the RDA, the site will be visited by the Commissioners and Agent, and the Commission will conduct a public hearing. This hearing will be advertised, by legal notice in a newspaper of general circulation in Great Barrington at least five (5) business days prior to the public hearing. That applicant shall give written notice by certified mail or via certificate of mailing, at least five (5) business days prior to the public hearing to all abutters, from a list certified as accurate by the Assessors according to their most recent records. The notice shall give the time, date, and location of the public hearing, briefly describe the Request, and shall state where copies of the Request may be examined. Notice of the public hearing may be given concurrently under both the Wetlands Protection Act and the Wetlands Bylaw.

Before the public hearing is opened, the applicant shall furnish to the Commission a copy of the Assessors' certified list of abutters and proof of mailing. If these items are not furnished to the Commission, the public hearing will not be opened and a new public hearing will be rescheduled within the next 21 days.

The hearing must be attended by the applicant or a representative of the applicant who has sufficient knowledge of the proposed activity and can therefore, answer any questions raised by the Commission. The applicant shall have the boundaries of the wetland area flagged prior to the site inspection with the Commission. The Commission may request that the boundary of a resource area be flagged by a biologist, botanist, or other qualified person who has demonstrated sufficient expertise in the identification of wetland vegetation. The vegetated limits of a bordering vegetated wetland or of an isolated land subject to flooding, and the parameters used in delineating wetlands, shall be those described in MGL, c.131, §40, and regulations thereunder.

The Commission may, at its discretion, combine its public hearing under the Wetlands Bylaw with the hearing conducted under the Wetland Protection Act, MGL, c.131, §40. The public hearing shall not be closed until all material has been submitted to the Commission necessary for the Commission to make its determination.

The Commission shall, within twenty-one (21) days from the close of the public hearing, issue its Determination of Applicability. A Negative Determination means the proposed project will have a minimal impact on an area subject to protection, and the project is approved as presented or approved with written conditions. A Negative Determination is valid for three (3) years. A Positive Determination means the project may have more than minimal impact on a resource area or that the project area is determined to be in a resource area, in which case the submission of a Notice of Intent is required.

§217-18.3. Quorum

Four members of the Commission shall be present at any meeting to conduct business and to hold a public meeting, constituting a quorum, as defined in §217-9.

§217-19. Notice of Intent (WPA Form 3)

Any person who proposes to do work that will remove, fill, dredge, build upon, or alter any area subject to protection under the Wetlands Bylaw shall submit a Notice of Intent consisting of application materials required for a Notice of Intent under MGL c. 131, §40 and 310 CMR 10.00.

§217-19.1. Notice of Intent Submission Requirements

The applicant will submit nine (9) complete copies of the Notice of Intent with Site Plans, supporting documentation, along with a check to the Town Clerk's Office. The filing fee for a Notice of Intent under the Wetlands Bylaw shall be as set forth in §217-6. The application fee shall be waived when the applicant is the Town of Great Barrington.

Return the original plus 8 copies to:

Great Barrington Conservation Commission
Town Hall, 334 Main Street
Great Barrington, MA 01230

Include plans that show (at a minimum):

1. Plans signed, dated and stamped by a Professional Engineer, land Surveyor or Landscape Architect.
2. Existing Conditions; including a north arrow, a scale, property boundaries, two foot topographic contours, borders of any wetland resource areas on or within 100 feet of applicant's property including buffer zones, Natural Heritage data (if applicable), high water mark for all water bodies.
3. Proposed Conditions; including work limits and location of erosion controls, areas where vegetation will be altered, proposed contours and amount of fill required to be added or removed if needed, construction details and sequence, equipment access routes and storage/parking areas during proposed work if needed, all above-ground structures and all physical alterations proposed, existing natural drainage patterns and proposed alterations if needed, all below-ground alterations and structures, location, capacity and design details of on-site septic system, distance of proposed on-site leaching facility to wetlands, watercourses or other resource areas, location of all existing and proposed wells on property.

§217-19.2. Determination by Commission for Review of Notice of Intent

Within twenty-one (21) days of the filing of the NOI, the site will be visited by the Commissioners and the Agent. The following markings and flagging must be in place before the field inspection, where applicable:

1. Edges of wetlands must be flagged with numbered flags, as reflected on submitted maps. The boundary of a wetland area shall be flagged by a biologist, botanist, or other qualified person who has demonstrated sufficient expertise in the identification of wetland vegetation. The limits of a vegetated wetland or of an isolated land subject to flooding, and the parameters used in delineating wetlands, shall be those described in MGL, c.131, §40, and regulations thereunder. (310CMR 10.55)
2. All proposed structures or additions, including decks, must be staked for identification purposes at all corners; stakes must be numbered and labeled.
3. Septic tank, leaching field, and well locations must be staked with labeled stakes.

The Commission shall open a public hearing within twenty-one (21) days of acceptance of a complete Notice of Intent. The hearing will be advertised, at the applicant's expense, by legal notice in a newspaper of general circulation in Great Barrington at least five (5) business days prior to the public hearing. The applicant shall give written notice by certified mail or via certificate of mailing, at least five (5) business days prior to the public hearing to all abutters, from a list certified as accurate by the Assessors according to their most recent records. The notice shall give the time, date, and location of the public hearing, briefly describe the Notice, and shall state where copies of the Notice may be examined.

Before the public hearing is opened, the applicant shall furnish to the Commission a copy of the Assessors' certified list of abutters and proof of mailing. If these items are not furnished to the Commission, the public hearing will not be opened and a new public hearing will be rescheduled within the next 21 days.

The hearing must be attended by the applicant or a representative of the applicant who has sufficient knowledge of the proposed activity and can therefore, answer any questions raised by the Commission. Any public hearing held under the Wetlands Bylaw, may be continued to a date, time, and place announced at the hearing, or may be continued to a specific date and time at the applicant's request, so as to allow the applicant sufficient time to produce supplemental information which the Commission deems necessary to make a decision. If the applicant does not consent to a continuance of the public hearing, the Commission may close the public hearing and consider only that material in the Notice of Intent obtained at the time of the close of the public hearing. Failure or refusal of the applicant to produce additional information as requested by the Commission may be cause for denial of a Permit.

§217-20. Permit

Within twenty-one (21) days of the close of a public hearing, the Commission shall issue a Permit approving the project, or deny approval of the project. The written decision shall be signed by a majority of the Commission. If the project is approved, the Commission shall impose such conditions as are necessary for the protection of the interests identified in the Wetlands Bylaw.

No work shall be undertaken until the Order has been signed by the Commission and then has been recorded by the Applicant in the Registry of Deeds or the land registration office of the Land Court for Southern Berkshire County, within the chain of title of the affected property. A copy of such filing shall be sent to the Commission, including the Book and Page or document reference numbers.

If work commences before the Permit is recorded, the Commission may issue an Enforcement Order.

The Commission must be notified when all erosion controls are in place to conduct a site visit. Under no circumstances shall work begin until the erosion controls are inspected and approved by a Commissioner or Agent.

Any change made or intended to be made in the plans shall require the applicant to file an Amended Notice of Intent or to inquire in writing of the Commission whether the change is so substantial as to require a new filing. The applicant shall not precede with any change until the Commission issues its written approval.

Under the Wetlands Bylaw, a permit shall prohibit any work or portion thereof that cannot be conditioned to protect said interests. If the permit is denied, it shall be for one or more of the following reasons:

- a. For failure to meet the requirements of the Wetlands Bylaw.

- b. For failure to submit necessary information or plans requested by the Commission.
- c. For failure to avoid or prevent unacceptable or cumulative effects upon the wetland interests protected by the Wetlands Bylaw.
- d. Where no conditions are adequate to safeguard the wetland interests protected by the Wetlands Bylaw.

A Permit shall be valid for three (3) years.

§217-21. Extensions

The Commission may extend a permit twice for an additional one-year period. Requests for extensions shall be made to the Commission in writing at least thirty (30) days prior to the expiration of the permit.

The Extension Permit shall be signed by the Commission and recorded by the Applicant in the Southern Berkshire Registry of Deeds or land registration office of the Land Court. A copy of the recording shall be sent to the Commission, including the Book and Page or document number reference of the recording. If work is undertaken without the applicant so recording the Extension Permit, the Commission may issue an Enforcement Order.

If the applicant does not request an Extension for his project at the end of the three year period of the Order of Conditions, any work on the project must stop until after a new Notice of Intent has been filed with the Commission, and a new Order of Conditions duly issued and recorded.

§217-22. Certificate of Compliance

Upon completion of the work described herein, the applicant shall submit a written Request for a Certificate of Compliance; WPA Form 8A. The Commission shall act upon the request within 21 days. For projects completed according to plans stamped by an engineer or other registered professional, the request must include written indication (usually a letter) from such a professional that the work was completed substantially in compliance with the Permit, and explain any deviations, if any. Prior to the issuance of a Certificate of Compliance, a site inspection shall be made by a Commissioner or Agent, in the presence of the applicant or a representative of the applicant.

If the Commission finds that all general and special conditions have been met, and the project has proceeded according to the approved plans, a Certificate of Compliance is issued.

If the Commission determines, after review and inspection that the work has not been done in compliance with the Permit, it may refuse to issue a Certificate of Compliance. A partial Certificate of Compliance may be issued for a portion of a project, as long as all work and mitigation for that portion have been completed.

If the Permit contains conditions which continue past the completion of the work, such as maintenance or monitoring, the Certificate of Compliance shall certify which, if any, of such conditions shall continue. The Certificate shall also specify to what portions of the work it applies, if it does not apply to all the work regulated by the Permit.

The Certificate of Compliance (including any continuing conditions) will be recorded by the applicant in the Southern Berkshire Registry of Deeds or land registration office of the Land Court. Certification of recording shall be sent to the Commission.

§217-23. Enforcement

The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under these regulations and may make or cause to be made such examinations, surveys, or sampling, as the Commission deems necessary.

The Commission shall have authority to enforce this chapter, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

Upon request of the Commission, the Board of Selectmen and the Town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of these regulations or permits issued thereunder shall, upon conviction, be punished by a fine of not more than three hundred dollars (\$300.00). Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the chapter, regulations or permit violated shall constitute a separate offense.

In the alternative to criminal prosecution, the Commission may elect to utilize the noncriminal disposition procedure set forth in MGL, c.40, §21D.

§217-24. Exceptions

Exemptions clearly stated in the Wetlands Protection Act and regulations thereunder are not extinguished by these Wetlands Regulations.

§217-25. Security

As part of a permit issued under these Wetlands Regulations, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed hereunder be secured by a performance guarantee, as follows:

1. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission; or
2. By a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the town of Great Barrington whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

§217-26. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by the Wetlands Bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny the application for permit, along with any work or activity proposed herein.

The invalidity of any section or provision of the rules and regulations to the Wetlands Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

§217-27. Revisions and Effective Date of Wetlands Regulations

The effective date of these Wetlands Regulations will be the date on which these Wetlands Regulations are approved by vote of the Commission. These Wetlands Regulations will apply to all business of the Commission conducted after that date. These Wetlands Regulations were adopted in June 25, 1990 and amended in February 5, 2009.

ARTICLE IV: McAllister Wildlife Refuge

(Adopted 2/27/1997)

(Amended 6/7/2007)

§217-28. McAllister Wildlife Refuge

The McAllister Wildlife Refuge is comprised of 94 acres of open fields and wooded areas adjacent to Haley Road and extending southwesterly to the Green River. The property is identified on the 2010 Assessors Map as Map 31, Lot 34 and was deeded to the Town in 1974 under the management of the Commission.

§217-28.1. Approved Uses

The property is for the use and enjoyment of the public. Passive recreational activities are encouraged while maintaining these areas in a natural condition now and for future generations.

§217-28.2 Collection of Plant Material

Collection of berries and mushrooms for personal consumption is allowed.

§217-28.3. Horse Riding

Horse riding is allowed on designated trails. Groups of more than five riders or organized activities require a permit from the Commission.

§217-28.4. Dog Walking

Dogs shall be kept under their owner's control at all times. It shall be the duty of each person who owns, possesses, or controls a dog to remove and dispose of any feces left by his or her dog at the McAllister Wildlife Refuge.

§217-28.5. Overnight Camping

Overnight camping is allowed with written permission of the Commission.

§217-28.6. Fires

Fires are allowed with written permission from the Commission.

§217-28.7. Hunting

Hunting is prohibited.

§217-28.8. Alteration of Natural Growth and Building of Structures

No wood cutting. Cutting and planting are prohibited, except with written permission of the Commission. Trails shall not be marked or cut, and not structures such as dams, lean-tos, cabins, towers shall be constructed without written permission from the Commission.

§217-28.9. Vehicle Restrictions

No motor vehicles (including but not limited to motorcycles, mini bikes, snowmobiles, and all-terrain vehicles are prohibited), except as specifically authorized.

§217-28.10. Littering and Vandalism

No person shall cut, break, remove, deface, defile, or ill-use any building, structure, fence or sign. Depositing or leaving rubbish, litter, demolition or yard debris, garbage, excavated fill or any hazardous waste is prohibited.

§217-28.11. Alcoholic Beverages

Possessing or consuming any alcoholic beverage is prohibited.

§217-28.12. Violations and Penalties

Unless a higher fine has been established for a specific offense by the Town of Great Barrington or the State of Massachusetts, violation of these regulations is punishable by a fine of not more than \$300 for each offense. Each day the violation occurs shall constitute a separate offense.

ARTICLE V: Use of Lake Mansfield Recreation Area (Adopted 1/26/11)

§217-29. Description

The Lake Mansfield Recreation Area is comprised of Lake Mansfield (also known as Mansfield Pond), a public boat launch at the southeast shore, a public beach and picnic area at the northeast shore, and a conservation forest across the road from the beach extending to Christian Hill Road. The remaining lands around the lake and conservation land are privately owned. The recreation area is overseen by the Conservation Commission. All wetland areas within the Recreation Area are protected by The Wetlands Protection Act.

§217-30. Approved Uses

The property is for the use and enjoyment of the public. Passive recreational activities such as hiking, picnicking, fishing, swimming and boating are encouraged. Winter activities such as ice skating, snow shoeing, cross country skiing and ice fishing are also permitted. Such uses are expected to be reasonable without litter, damage or other activities that might infringe upon the rights or enjoyment of others.

§217-31. Beach and Picnic Area

§217-31.1. Permits

For special events in the beach and picnic area, permits may be obtained from the Great Barrington Parks and Recreation Commission by submitting a Parks Usage Request and associated documentation.

§217-31.2. Swimming

Lifeguards are provided at limited times during the summer months to help protect the safety of swimmers and enforce beach rules. Water safety is paramount. Swimming at any time is at your own risk and adult supervision for children 12 years of age and younger is required. Appropriate attire is required in the swimming area. Diving (head-first entries) is prohibited. Underwater weed control fabric is used in the swimming area and it shall not be disturbed or removed except by authorized personnel. Swimming outside the buoys is not controlled by the lifeguards and is at your own risk.

§217-31.3. Boating

Boating is allowed at your own risk. No motors (except electric boat motors) are allowed. Boating is prohibited in the swimming area defined by the buoys during the summer swimming season. Care must be taken by boaters to avoid the introduction of invasive species such as zebra mussels into the lake. State boat surveys must be filled out and placed in the dashboard of your vehicle affirming that your boat is free from invasive species. Massachusetts state boating laws must be followed at all time.

§217-31.4. Fishing

Fishing is prohibited at the beach area throughout the year in order to minimize fishing hook hazards to bathers and disturbance of the weed control material.

§217-31.5. Dogs

Dogs are prohibited in the beach and picnic areas to prevent disease from dog waste.

§217-31.6. Overnight Camping

Overnight camping at the beach and the parking lot is prohibited.

§217-31.7. Fires

Open fires are not allowed except in grills.

§217-31.8. Smoking

Smoking is prohibited.

§217-31.9. Alcohol/Illegal Substances

Illegal substances are prohibited. Alcohol is prohibited unless an alcohol use permit is obtained from the Great Barrington Board of Selectmen for a specific function and duly authorized by the Parks and Recreation Commission.

§217-31.10. Glass Containers

Glass containers are prohibited.

§217-31.11. Alteration of Natural Growth

Cutting of trees or other significant alteration of natural growth on the property is prohibited except by written permission of the Conservation Commission.

§217-31.12. Violations and Penalties

Unless a higher fine has been established for a specific offense by the Town of Great Barrington or the State of Massachusetts, violation of these regulations is punishable by a fine of not more than \$300 for each offense. Each day the violation occurs shall constitute a separate offense.

§217-32. Conservation Forest**§217-32.1. Vehicle Restrictions**

All motorized vehicles, including but not limited to motorcycles, minibikes, snowmobiles and all-terrain vehicles, are prohibited on the property without written permission of the Conservation Commission.

§217-32.2. Dogs

Dogs are welcome but must be restrained on leashes in accordance with Great Barrington leash laws. All dog solid waste shall be immediately removed.

§217-32.3. Overnight Camping

Overnight camping is allowed only with written permission from the Conservation Commission.

§217-32.4. Fires

Fires are prohibited.

§217-32.5. Smoking

Smoking is prohibited.

§217-32.6. Alcohol/Illegal Substances

Alcohol and illegal substances are prohibited.

§217-32.7. Glass Containers

Glass containers are prohibited.

§217-32.8. Alteration of Natural Growth

Cutting of trees or other significant alteration of natural growth on the property is prohibited except by written permission of the Conservation Commission. The picking of berries and mushrooms for personal consumption is allowed.

§217-32.9. Hunting/Trapping

Hunting and trapping are prohibited.

§217-32.10. Structures

Structures may not be constructed or modified without permission from the Conservation Commission.

§217-32.11. Violations and Penalties

Unless a higher fine has been established for a specific offense by the Town of Great Barrington or the State of Massachusetts, violation of these regulations is punishable by a fine of not more than \$300 for each offense. Each day the violation occurs shall constitute a separate offense.

§217-33. Lake Mansfield**§217-33.1. Boating**

Boating is allowed at your own risk. No motors (except electric boat motors) are allowed. Boating is prohibited in the swimming area defined by the buoys during the summer swimming season. Care must be taken by boaters to avoid the introduction of invasive species such as zebra mussels into the lake. State boat surveys must be filled out and placed in the dashboard of your vehicle affirming that your boat is free from invasive species. Massachusetts state boating laws must be followed at all time.

§217-33.2. Vehicle Restrictions

All motorized vehicles, including but not limited to motorized boats (except electric motors), snowmobiles and all-terrain vehicles, are prohibited on the lake. The use of small snow-blowers to clean the ice for skating is permitted at the owner's own risk.

§217-33.3. Swimming

Swimming outside the controlled beach area is not encouraged and is at your own risk. There are many hazards in the lake including underwater structures, sunken logs, and heavy water vegetation and weeds. Personal safety is paramount.

§217-33.4. Fishing

Fishing is allowed in accordance with Massachusetts fishing regulations. There is no fishing at the beach area.

§217-33.5. Ice Skating/Winter Activities

Use of the lake for winter activities such as snowshoeing, skating, skiing or ice fishing is at your own risk. Extreme caution is required as the condition of ice on the lake can be unpredictable and treacherous.

§217-33.6. Dogs

Dogs are welcome but must be controlled at all times. All dog solid waste shall be immediately removed.

§217-33.7. Fires

Winter fires on the ice are permitted in fire pans/containers. Any remaining debris as well as all litter shall be removed from the ice to prevent its introduction to the lake when the ice melts. There is no cutting of firewood along the shore of the lake.

§217-33.8. Smoking

Smoking is prohibited.

§217-33.9. Alcohol/Illegal Substances

Alcohol and illegal substances are prohibited.

§217-33.10. Glass Containers

Glass containers are prohibited at all times.

§217-33.11. Hunting/Trapping

Hunting and trapping are prohibited except as may be expressly permitted by the Conservation Commission.

§217-33.12. Structures

Construction of any structures that extend into the water, such as docks, are prohibited.

§217-33.13. Removal of Lake Water

Water may not be removed from the lake at any time as provided by The Wetlands Protection Act.

§217-33.14. Introduction of Foreign Species

Plants, wildlife, fish, or foreign species of any kind may not be introduced into the lake except for authorized fish stocking by the state of Massachusetts. It is especially important not to empty aquariums or release pets of any kind into the lake to avoid the introduction of invasive species.

§217-33.15. Violations and Penalties

Unless a higher fine has been established for a specific offense by the Town of Great Barrington or the State of Massachusetts, violation of these regulations is punishable by a fine of not more than \$300 for each offense. Each day the violation occurs shall constitute a separate offense.

ARTICLE VI: Conservation Land Use Regulations

(Adopted 6/27/2007)

(Amended 3/23/2011)

§217-34. Regulations

The following regulations have been established to encourage passive recreational use while maintaining these areas in a natural condition now and for future generations. Specific regulations apply to the Lake Mansfield Conservation Forest and the McAllister Wildlife Refuge; see §217-32 and §217-28.

§217-34.1. Hunting

Hunting is prohibited.

§217-34.2. Wood Cutting

Cutting and planting are prohibited, except with written permission of the Commission. Collection of berries and mushrooms for personal consumption is allowed.

§217-34.3. Vehicle Restrictions

Motor vehicles including but not limited to motorcycles, mini bikes, snowmobiles, and all-terrain vehicles are prohibited, except as specifically authorized.

§217-34.4. Trails

Trails shall not be marked or cut.

§217-34.5. Structures

No structures such as dams, lean-tos, cabins, towers shall be constructed without written permission from the Conservation Commission. No person shall cut, break, remove, deface, defile, or ill-use any building, structure, fence or sign.

§217-34.6. Horses

Horse riding is allowed on designated trails, except at Lake Mansfield Conservation Forest, where horse riding is prohibited. Groups of more than five riders or organized activities require a permit from the Commission.

§217-34.7. Dogs

Dogs on Lake Mansfield Conservation Forest land shall be restrained on leashes. Dogs on other Conservation Lands shall be kept under their owner's control at all times. It shall be the duty of each person who owns, possesses, or controls a dog to remove and dispose of any feces left by his or her dog on any Town Conservation Land.

§217-34.8. Overnight Camping

Overnight camping is allowed only with written permission of the Conservation Commission.

§217-34.9. Fires

Fires are allowed with written permission from the Conservation Commission, except at Lake Mansfield Conservation Forest, where fires are prohibited.

§217-34.10. Alcohol/Illegal Substances

Possessing or consuming any alcoholic beverage or illegal substances is prohibited.

§217-34.11. Littering

Depositing or leaving rubbish, litter, demolition or yard debris, garbage, excavated fill or any hazardous waste is prohibited.

§217-34.12. Violations and Penalties

A fine of not more than \$300 per day shall be imposed for violation of these regulations. These fines may be imposed by the police or by Commission members or staff. Each day shall constitute a new offense.

ARTICLE VIII: Berkshire Scenic Mountains Act
MGL c. 131 §39A
(Adopted 11/20/2006)

Preamble

We live surrounded by scenic mountains. If a mountain or a related erodible watershed is to be altered, the regulations that follow provide protection for the Town's watershed resources, scenic areas in question and due process for those who propose changes.

§217-35. General Provisions

§217-35.1. Authority

The Conservation Commission of the Town of Great Barrington, having been designated as hearing authority under MGL c.131, §39A, The Berkshire Scenic Mountains Act, hereinafter "the Act", in a vote at the annual town meeting on May 5, 1997, promulgates these regulations pursuant to the authority granted to it under said Act.

§217-35.2. Purpose of the Law

The purpose of the law is to regulate removal, filling, excavation, clearing of vegetation or other alteration of land within mountain regions designated by the town. This shall apply to alterations which are likely to have a significant adverse effect on watershed resources or natural scenic qualities because of the pollution or diminution of ground or surface water supply, public or private; erosion; flooding; substantial changes in topographic features; or substantial destruction of vegetation.

§217-35.3. Purpose of the Regulations

The purpose of the regulations is to protect scenic highlands and slopes, thereby preventing erosion and safeguarding water resources. To this end, the regulations aim to create a consistent process and clarify the provisions of the Act by establishing standard definitions and procedures.

§217-35.4. Implementation of the Regulations

The Act and these regulations shall take effect when the following events have occurred:

- The map and text delineating the proposed boundaries have been approved by a two-thirds vote of the Board of Selectmen;
- The regulations have been approved by the Commissioner of the Department of Conservation and Recreation;
- The map and text delineating the boundaries of the mountain regions subject to regulation have been recorded in the Southern Berkshire District Registry of Deeds, as specified in the Act.

§217-36. Definitions

§217-36.1. Abutter is any landowner, as determined by the most recent Assessors' records, whose land is within three hundred (300) feet of the property that is the subject of the Request for Determination or the Notice of Intent or whose land lies directly across any street, road, or waterway from the said property.

§217-36.2. Act is the Berkshire County; Watershed Resources; Natural Scenic Qualities Act, MGL c. 131, §39A, as amended.

§217-36.3. Activity is any removal, filling, excavation or other alteration of any land situated within the mapped mountain region which is not specifically exempt from the provisions of this Act.

§217-36.4. Alteration includes, but is not limited to, one or more of the following actions taken within the mapped mountain regions:

- a. removal, filling, excavation, or dredging of soil, sand, gravel, or aggregate material of any kind;
- b. changing of pre-existing drainage characteristics, sedimentation patterns and flow patterns;
- c. disturbance of existing drainage, water courses or water table;
- d. substantial change in topographic or scenic features;
- e. erection of any building or structures with a footprint in excess of five hundred (500) square feet, or a height in excess of 20 feet above maximum existing ground elevation;
- f. dumping or discharging of any material;
- g. removal or destruction of plant life, including clear cutting of trees in a total ground area of more than five hundred (500) square feet;
- h. construction and/or paving of any new road or parking lot larger than five hundred (500) square feet total

§217-36.5. Applicant is the person giving notice of intention to conduct any regulated or non-regulated activity

§217-36.6. Bona fide purchaser for value without notice is a buyer for value who has not been informed verbally or in writing, or had actual knowledge, that activities have been done on the purchased property in violation of the Act.

§217-36.7. Certificate of Compliance a recordable form issued by Commission that establishes conditions set forth in the Order of Conditions have been met. It shall be made on Form E of these regulations.

§217-36.8. Clearing is cutting or otherwise removing fifty per cent (50%) or more of canopy coverage of vegetation.

§217-36.9. Commencement of activity is commencement of physical work on the premises, not merely surveying or site testing.

§217-36.10. Commission is the Great Barrington Conservation Commission.

§217-36.11. Commissioner is the Commissioner of the Massachusetts Department of Conservation and Recreation.

§217-36.12. Compliance with the Forest Cutting Practices Act shall be demonstrated by submission to the Commission a copy of the permit issued under that Act.

§217-36.13. Department is the Massachusetts Department of Conservation and Recreation in the Executive Office of Environmental Affairs.

§217-36.14. Determination of Applicability is a written finding by the Commission as to whether the land or proposed activity shall or shall not require the filing of a Notice of Intent under the Act. It shall be made on Form B of these regulations.

§217-36.15. Environmental Impact Statement is a full scale statement issued under the National Environmental Policy Act or a full scale Environmental Impact Report issued under the Massachusetts Environmental Policy Act.

§217-36.16. Erosion is the wearing away of soil or other earth material, caused by the action of wind or water.

§217-36.17. Excavation is the removal of any material to lower the surface or create a cavity of any kind, either temporarily or permanently, in any area subject to the Act.

§217-36.18. Filling is the placing of any material that raises, either temporarily or permanently, the elevation of any area subject to the Act.

§217-36.19. Flooding is a local, temporary inundation, or a rise in the surface of a body of water, however caused, such that it covers land not usually under water.

§217-36.20. Form Definitions;

Form A - Preliminary Request for Determination of Applicability/Exemption Determination

Form B - Determination of Applicability

Form C - Notice of Intent

Form D - Order of Conditions

Form E - Certificate of Compliance

Form F - Extension Permit

§217-36.21. Hearing Authority shall mean the Commission.

§217-36.22. Mountain Regions are those areas within the town which are subject to the provisions of the Act and are designated on the map referred to in these regulations.

§217-36.23. Notice of Intent is written description of any proposed regulated activity to be performed in the mapped mountain regions. It shall be submitted to the Commission on Form C of these regulations.

§217-36.24. Order of Conditions is a document issued by the Commission, or on appeal by the Commissioner, stating ways in which the activity shall be performed, modified, regulated, forbidden or otherwise controlled to protect the interests in the Act. It shall be made on Form D of these regulations.

§217-36.25. Owner of Land is the person appearing as the owner of record in the most recent records of the Southern Berkshire Registry of Deeds.

§217-36.26. Permits, variances and approvals required by bylaw are the requirement under the Act to obtain or apply for all obtainable permits, variances and approvals required by local bylaw, with respect to the proposed activity and shall mean only those which are feasible to obtain at the time the Notice of Intent is filed. Permits, variances and approvals required by local bylaw may include, among others, zoning variances, permits from boards of appeals, permits required under flood plain or wetland zoning bylaws and gravel removal permits.

They do not include, among others, building permits under the State Building Code, MGL, c. 23B, §16, or subdivision control approvals under the State Subdivision Control Law, MGL, c. 41, §81 K-81 GG, which are issued by local authorities. When an applicant for a comprehensive permit (under MGL c. 40B, §20-23) from a board of appeals has received a determination from the board granting or denying the permit and, in the case of a denial, has appealed to the Housing Appeals Committee (established under MGL c. 23B, §5A), said applicant shall be deemed to have applied for all permits obtainable at the time of filing.

§217-36.27. Person includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or any political subdivision thereof, administrative agency, public or quasi public corporation or body, authority, or any other legal entity or its legal representative, agents or assigns.

§217-36.28. Person aggrieved is a person who has been negatively affected by the Commission's or Department's Order or failure to act.

§217-36.29. Preliminary Determination of Applicability is a written finding by the Commission as to whether the land or proposed activity shall or shall not require the filing of a Notice of Intent under the Act. It shall be issued on Form B of these regulations.

§217-36.30. Preservation of natural scenic qualities is the protection of existing aesthetic and / or historic features of the environment, as determined by the Commission.

§217-36.31. Regulated Activities shall mean the alteration of land within mapped mountain regions, as defined in §217- 46.3, which is likely to have a significant adverse effect on watershed resources or natural scenic qualities because of the pollution or diminution of ground or surface water supply, public or private; erosion; flooding; changes in topographic or scenic features or destruction of vegetation.

§217-36.32. Removal is the act or process of taking away any type of material that changes the elevation, either temporarily or permanently, of any area subject to regulation under the Act.

§217-36.33. Request for Exemption Determination is a written request which shall be made by any person who believes that the land in question is not within the boundaries of a mountain region, or that any of the proposed work is subject to an exemption specifically provided for in MGL c. 131, §39A. It shall be submitted on Form A.

§217-36.34. Request for Preliminary Determination of Applicability is a written request which shall be made by any person to the Commission or the Department for a determination as to whether proposed work is not a regulated activity subject to MGL c. 131, §39A. It shall be submitted on Form A.

§217-36.35. Slope is the measurement in percent of the natural change in elevation as expressed in a ratio of the change in elevation over a measured horizontal distance

§217-36.36. Substantial means that which is considerable and important with regard to the essential elements being considered, as determined by the hearing authority.

§217-36.37. Topographic features comprise the configuration of the land's surface, including its relief and relative elevation.

§217-36.38. Tree Canopy coverage is the horizontal area covered by the foliage of a tree in full vegetation.

§217-36.39. Vegetation is the plant life or total plant cover of a given area, including but not limited to grass, ground cover, shrubs and trees.

§217-36.40. Vista Pruning is the selective thinning of tree branches or understory shrubs, to establish a specific “window” to improve visibility. Vista Pruning does not include the cutting of trees, and does not include the mowing or removal of understory brush.

§217-36.41. Watershed is an area within which water drains to a particular watercourse or body of water.

§217-37. Performance Standards

§217-37.1. Applicants seeking approval under these regulations must meet all applicable state standards intended to augment the provisions of MGL c. 131, §39A and promulgated in the Code of Massachusetts Regulations, 310 CMR 10.25 through 10.35 and 10.37, and 310 CMR 10.54 through 10.60. Said standards are herein incorporated by reference.

§217-37.2. In considering any application for work within the mapped and designated mountain regions, the Commission shall make the following presumptions:

- a. Non-natural or artificial protuberances above ridgelines damage natural scenic qualities;
- b. Clearing of contiguous ‘mountain region’ lands totaling one-half (½) acre or more, damages natural scenic qualities and/or causes erosion;
- c. Alteration of slopes steeper than fifteen percent (15%) causes erosion and promotes flooding and damage to water quality.

§217-38. Preliminary Determination of Applicability

§217-38.1. Any person who proposes to remove, fill, excavate, or alter any land within a mountain region and who believes such proposed work is not a regulated activity may request a preliminary determination by filing, by certified mail, four copies of a written notice thereof with the Commission together with such information or plans as may be necessary to describe in general terms the nature and scope of the proposed activity and its effect upon the watershed and scenic resources intended to be protected by this section; provided, however, that any plans need not be detailed engineering or architectural plans so long as the nature and scope of the proposed activity is reasonably described. No such notice shall be sent before all permits, variances, and approvals required by by-law or ordinance with respect to the proposed activity have been applied for.

§217-38.2. Any person who believes that any land is not within the boundaries of a mountain region or that any proposed work is subject to an exemption specifically provided for hereinafter in this section may file with the Commission by certified mail a request for an exemption determination.

§217-38.3. Either request shall be made on Form A of these regulations.

§217-38.4. Upon receipt of such notice the hearing authority shall designate a file number for such notice and within twenty-one (21) days, shall make a preliminary determination whether the proposed work is a regulated activity, or is exempt.

§217-38.5. The Commission shall issue and send to the applicant a written Preliminary Determination of Applicability signed by a majority of the Commission, within twenty-one (21) days following receipt of the request. Copies shall be sent to the owner of the land, if not the applicant, and all persons so requesting. Notice of the determination shall be posted in the customary place of general public notice within one day of the finding. The Determination shall be made on Form B of these regulations.

§217-38.6. If the Commission finds that the proposed work is a regulated activity, it shall require the filing of a Notice of Intent and will hold a public hearing as provided in §217-51 of these regulations.

§217-38.7. The Commission may rescind an Order issued after a preliminary determination and hold a public hearing as provided in §217-51 of these regulations, if any abutter, or any ten residents of the town where the land is located, file an appeal by certified mail, requesting a hearing within ten (10) days of the issuance of the Determination.

§217-38.8. If the Applicant is not notified within fourteen (14) days after an order issues that the hearing authority has rescinded the order, then the applicant may perform the proposed activity.

§217-38.9. Any activity shall be limited to what is described in the submittal.

§217-39. Notice of Intent

§217-39.1. Any person(s) proposing a regulated activity subject to the Act as specified in §217-45.2 of these regulations, shall send to the Commission, by certified mail or hand delivery, 4 copies of a completed Notice of Intent and a filing fee of \$25.00, payable to the Town of Great Barrington. The Notice must contain such information as may be reasonably required by regulation to describe the nature and scope of the proposed activities and their effect on the watershed or scenic resources protected under the provisions of the Act. Any Environmental Impact Statements filed with any state or federal agency shall be sufficient information with respect to such activity, for purposes of complying with this section. The date of filing of said notice shall be the date of receipt of a completed filing by the Commission, and all time periods set forth in the Act shall commence from this date. The Notice shall be filled out on Form C of these regulations.

§217-39.2. No such Notice of Intent shall be sent before all permits, variances, and approvals required by law or bylaw with respect to the activity have been applied for.

§217-39.3. Upon receipt of a Notice of Intent, the Commission shall designate a file number and hold a public hearing as provided in §217-51 of these regulations.

§217-39.4. The applicant must submit any additional information reasonable and relevant to the project and the purposes of the statute, if later requested by the Commission. If such information is not submitted, the Commission may, after a public hearing, issue an Order prohibiting the activity.

§217-40. Plans

§217-40.1. Plans sent with a Notice of Intent shall include the following:

- a. Two locus maps indicating property's location. One shall be an enlarged section of a United States Geological Survey map, and the other shall be a copy of the current Great Barrington Zoning Map. Each shall have an arrow indicating True North;
- b. Names of all bordering streets, roads, and highways;
- c. Outline of all watershed areas related to the proposed activity;

- d. Water quality classifications under MGL c. 21;
- e. Environmental data form;
- f. An “alternatives analysis” demonstrating that no other location on the subject property is suitable for the intended use and will cause less environmental damage;
- g. Engineering drawings described below.

§217-40.2. Engineering drawings should be drawn to a scale in which one inch (1") equals no more than fifty feet (50'), with the title designating the name of the project location and the name(s) of the person(s) preparing the drawings and the date prepared, including all the latest revision dates. The drawings shall be stamped and signed by a registered professional engineer, architect, landscape architect, or registered land surveyor of the Commonwealth, unless the Commission otherwise allows.

§217-40.3. Engineering drawings and accompanying documents shall include some or all of the following, as may be applicable to the proposed property and work:

- a. Present and proposed contours of the entire site and affected adjacent areas showing contours at elevation intervals of no more than two (2) feet;
- b. All brooks, creeks, rivers, streams, ponds, lakes, wetlands, and buffer zones, whether continuous or intermittent, natural or man-made, Regulated by the Wetlands Bylaw and Massachusetts Wetland Protection Act MGL c. 131, §40;
- c. Location, extent and area of all present and proposed paved areas, roads, driveways, and parking areas;
- d. Location of proposed water retention areas;
- e. Location of areas to be removed, dredged, filled or otherwise altered in any way;
- f. Location of underground utilities, rights of way or easements of any kind;
- g. Soil characteristics in representative portions of the site, including the type of soil found in the building, septic and well sites if applicable. Sampling sites shall be specified;
- h. Location, extent and area of all existing and proposed structures, including their height and lowest floor elevations thereof;
- i. All calculations necessary to show the effect of the proposed activity on soil and water;
- j. Cross sections showing slope, bank and bottom treatment of each watercourse to be altered; locations of cross sections shall be specified;
- k. Location of any spoil areas;
- l. Existing and proposed water supplies for proposed activities;
- m. Existing and proposed locations and elevations of cellars or floors, and bottoms of sewage disposal systems and leaching fields together with alternative sites for leaching fields, specifically showing the type to be used;

- n. Erosion and sedimentation prevention plans for, during and after construction;
- o. Maximum ground water elevation at the time of year when the ground water table is at its highest, including dates of measurements, sampling and tests, if any;
- p. Description of the potential impact on natural scenic qualities of the mapped mountain region and specific measures for mitigating those impacts;
- q. Tree canopy coverage and height relative to proposed structures;
- r. Areas subject to the 100 year flood, as indicated on maps provided under the National Flood Insurance Program, or other competent authority;
- s. Proposed alteration to waterways, including present and proposed location, elevation and invert of all drains, ditches, culverts and other conductors immediately up and downstream of the site.

§217-40.4. Engineering drawings shall also include a profile map showing location of principal features of the site, such as existing stone walls, fences, large trees, and rock outcroppings; a profile drawing of site vegetation and proposed alterations. These profile maps should be drawn from multiple radians from various angles.

§217-40.5. The applicant may submit, or the Commission may require, further information that will assist in the review if deemed necessary by the Commission to determine the effect of the proposed activity on the mapped mountain regions.

§217-40.6. Performance standards and engineering practices acceptable for work to be performed under this Act are contained in the most recent versions of the following:

1. U.S. Dept. of Agriculture, Soil Conservation Service. Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts, 1975 and subsequent revisions (Available in limited quantities from the Great Barrington Conservation Commission.).
2. U.S. Dept. of Agriculture, Soil Conservation Service. Erosion and Sediment Control in Site Development: Massachusetts Conservation Guide Volume I, September, 1983. (Available from Berkshire Conservation District)
3. U.S. Dept. of Agriculture, Soil Conservation Service. Vegetative Practices in site Development: Massachusetts Conservation Guide Volume II, (Available from Berkshire Conservation District)
4. U.S. Dept. of Agriculture, Soil Conservation Service. Soil Survey of Berkshire County, Massachusetts, February 1988. (Available from Berkshire Conservation District)

§217-41. Hearings

§217-41.1. The Commission shall hold a public hearing on the proposed activity within twenty-one (21) days after receipt of the Notice of Intent.

§217-41.2. Notification of the time and place of the hearing shall be given by the Commission, at the expense of the applicant, not less than five (5) days prior to such hearing, by publication in a newspaper of general circulation in the Town of Great Barrington. Applicant shall notify abutters of

the hearing by certified mail, return receipt requested, not less than five (5) days prior to such hearing and provide proof of said mailing to the Commission.

§217-41.3. The Commission shall deliver by hand, or certified mail, a copy of the published notice to the applicant and to the Board of Health and Planning Board of Great Barrington.

§217-41.4. A hearing may be continued by the Commission for good cause provided that notice of continuance to a specific date, time and place is given at the public hearing and does not impose a hardship on the applicant.

§217-42. Order of Conditions

§217-42.1. Within twenty-one (21) days after the close of the hearing, the Commission shall issue a written Order which may impose on the proposed activity such reasonable conditions as may be necessary to protect watershed resources or natural scenic qualities against any significant adverse effect because of the pollution or diminution of ground or surface water supply, public or private; erosion; flooding; substantial changes in topographic features or destruction of vegetation. The Order shall be made on Form D of these regulations.

§217-42.2. The Order shall be signed by a majority of the Commission, and a copy thereof shall be sent by certified mail to the applicant, the owner of the land if other than the applicant, and the Department. The Order shall also be posted within one day of its issuance in the Commission's customary place of general public notice.

§217-42.3. Any applicant undertaking an activity regulated by this Section shall record the Order in The Southern Berkshire District Registry of Deeds. No activity shall commence until the Order is recorded and a receipt for this recording from the Registry of Deeds is sent by the applicant by certified mail or hand delivered to the Commission.

§217-42.4. The applicant may request an extension of an Order before it expires. The Commission may grant two extensions of the Order, for a total of no longer than one year. (Note: The Commission will consider an extension of an Order only under circumstances which, in its opinion, are extraordinary). Extensions shall be made on Form F of these regulations.

§217-42.5. If an applicant fails to commence the proposed activity within one year following the date of issuance of an Order, and thereafter prosecute diligently such activity to completion, such inaction shall constitute an abandonment of the project and the Commission, after reasonable notice to the applicant, may revoke said Order.

§217-43. Appeals

§217-43.1. A request for appeal may be made to the Department in accordance with MGL c. 131, §39A, within ten days after the Commission has acted, or failed to act, as follows:

- a. If the Commission has issued an Order;
- b. If the Commission fails to hold a hearing within twenty-one (21) days after receipt of the Notice of Intent;
- c. If the Commission holds a hearing but fails to issue an Order within twenty-one (21) days after the hearing.

§217-43.2. Appeals may be initiated by any of the following:

- a. The applicant;
- b. Any person aggrieved by the Order;
- c. Any abutter of land upon which the proposed activity would be carried out; or
- d. Any ten (10) residents of the town where such land is located.

§217-43.3. The person(s) appealing may request the Department to determine:

- a. If such conditions could be modified or eliminated without any loss of protection; or
- b. If such conditions should be modified or other reasonable conditions imposed on the proposed activity, in order to protect against any significant adverse effect on watershed resources or natural scenic qualities.

§217-43.4. The request shall be sent by certified mail to the Department within ten days after the Commission has acted or failed to act. At the same time, the person(s) making the request shall send copies thereof to the Commission by certified mail and, if the person(s) appealing be other than the owner and applicant, to the owner and applicant. Upon receiving a copy of the request, the Commission shall within seven days forward the file on the matter to the Department.

§217-43.5. If the applicant is not notified of a request of the Department within fourteen (14) days after the issuance of an order by the Commission said applicant may conduct any regulated activities in accordance with the terms of the order.

§217-43.6. Any Order issued by the Department shall supersede the prior Order of the Commission and all work shall be done in accordance therewith.

§217-43.7. A copy of the Superseding Order shall be sent by certified mail to the applicant, to the owner, the Commission, and to the party requesting the order (if not the applicant).

§217-43.8. Any action by the Department under this section shall not be considered subject to the provisions of MGL c. 30, §61 and 62.

§217-43.9. Any person aggrieved by an Order of the Department issued under the provisions of this section may appeal under the provisions of MGL c. 30A. Such rights of appeal shall be exclusive.

§217-44. Certificate of Compliance

§217-44.1. Upon completion of an activity in compliance with an Order, the applicant may request in writing, a Certificate of Compliance from the agency which issued the Order.

§217-44.2. Where a project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor, a written statement by the aforesaid professional, certifying compliance with the plans, shall accompany the request for a Certificate.

§217-44.3. After receipt of the request for a Certificate of Compliance, the Commission may request an on site inspection with the applicant and the Commission.

§217-44.4. If any of the work is not in compliance with the Order, the Commission may refuse to issue a Certificate.

§217-44.5. Upon completion of a portion of work under an Order of Conditions, the Commission may issue a Certificate of Compliance as to that portion, if the applicant so requests.

§217-44.6. The applicant shall record the Certificate of Compliance in the Southern Berkshire District Registry of Deeds and submit a stamped copy to the Commission which shows the date, book and page of record.

§217-45. Violations and Enforcement

§217-45.1. Any person, except a bona fide purchaser for value without notice, who purchases or otherwise acquires land upon which an activity has been done in violation of this Act, shall forthwith comply with the Order of Conditions or restore the land to its condition prior to the violation. Failure to do so is in itself a violation of the Act.

§217-45.2. The Commission, its agents, officers, and employees, may enter upon privately owned land for the purpose of carrying out the provisions of the Act, and may issue a cease and desist order to anyone found in violation of the Act.

§217-45.3. The Commission may revoke an Order if it finds that the applicant has exceeded the scope of the activity as set forth in the Application, or has not complied with the conditions set forth in the Order.

§217-45.4. No revocation shall be made without notice to the applicant of the facts or conduct which warrants the intended revocation, and a hearing at which the applicant is given an opportunity to show compliance with the conditions of the Order.

§217-45.5. Any court having equity jurisdiction may restrain a violation of this section and enter such Orders as it deems necessary to remedy such violations, upon the petition of the Attorney General, Commissioner, the town, an owner or occupant of property which may be affected by such violation, or any ten (10) residents of the Commonwealth under MGL c. 214, §7A.

§217-45.6. Whoever violates any provisions of this Act shall be punished by a fine of one thousand dollars or by imprisonment for not more than six months, or both, as provided in MGL c. 131, §39A. Each day or portion thereof, of continuing violation shall constitute a separate offense.

§217-45.7. The Act shall be enforced by officers of the Executive Office of Environmental Affairs.

§217-46. Exemptions

§217-46.1. The Act does not apply to owners of land who propose to cut forest products on land devoted to forest purposes and who have complied with the provisions of the Forest Cutting Practices Act, MGL c. 132, §40-46, inclusive, by obtaining a permit thereunder and which has been submitted to the Commission prior to cutting for review.

§217-46.2. The Act does not apply to any activity which is subject to the provisions of the Town of Great Barrington Wetland Bylaw or the Wetlands Protection Act, MGL c. 131, §40, as demonstrated by a valid Order of Conditions or positive Determination of Applicability issued under either or both of these.

§217-46.3. The Act does not apply to:

- a. Any activity conducted in connection with the construction or maintenance of any facility as defined in MGL c. 164, §69G (Energy Facility Siting Council); or
- b. Any activity conducted in connection with construction or maintenance of any electrical, transmission distribution facilities or facilities used in transmission of intelligence by electricity or by telephone or otherwise for which locations in the public ways have been approved by the Selectmen or under MGL c. 166, §22; or
- c. Construction or maintenance of any electrical distribution facilities required to serve a building or structure whose construction has been approved under the Act.

§217-46.4. The act does not apply to maintenance, repair, reconstruction, replacement or enlargement which is not of a substantial nature, or change in use, of any lawfully located and constructed structure, provided however, that this work does not involve clearing one-quarter ($\frac{1}{4}$) acre or more of contiguous lands or alteration of the site as defined herein.

ADDEDNDUM TO THE MAP OF SCENIC MOUNTAIN REGIONS OF THE TOWN OF GREAT BARRINGTON

The Berkshire Scenic Mountain Act, MGL c. 131, §39A, hereinafter "the Act", directs the Conservation Commission to draft proposed boundaries of mountain regions. While the Act indicates that these regions will generally be areas above the town mean elevation (~ 412 meters), the Act also gives the Conservation Commission the additional latitude to include areas of lower elevation if the Commission determines that doing so is necessary to accomplish the purposes of the Act. The Act also provides the latitude for the Commission to exempt areas above the mean elevation if it determines that regulation of these areas would not serve the purposes of the Act.

Keeping in mind the purposes of the Act, which may be summarized as:

Protecting watershed resources, from pollution or diminution of ground or surface water, from erosion and from flooding, and ...

Preserving natural scenic qualities from substantial changes to topography or substantial destruction of vegetation,

the Commission has examined and evaluated the slope, elevation and topographic structure, soil quality, surface water run-off, erosion and flood propensities, scenic viewsapes, and the full range of vegetative cover of the Town of Great Barrington.

The Commission has noted that there are at least twelve topographically elevated structures (hills or mountains) which comprise, often in combination with each other, the various scenic mountainous viewsapes within the Town. These have been numbered on the Scenic Mountain Region Map in roughly clockwise order from Vossburg Hill (#1) in the southwesterly corner of the Town, up and around to Monument Mountain (#7) and Beartown Mountain (#8) on the northern and northeastern edges of Town, and down and around to East Mountain (#10) and the two unnamed hills (#11 and #12) lying between East Mountain and the Housatonic River. All mapping work has been done on the current USGS topographic map of Great Barrington at 1: 25,000 Scale or on large topographic and other planning maps produced for the Town by the Berkshire Regional Planning Commission. The Scenic Mountain Region Map can be viewed and downloaded from the Conservation Commission's webpage on the Town's website (www.townofgb.org) and at Town Hall at the Town Clerk's office.

Substantial portions of all of these scenic hills or mountains extend well below the mean elevation of Great Barrington and, in most cases, much of the terrain below the mean elevation is as steep as the terrain above. Because of accumulated snow melt and storm run-off from above, areas of steep soils below mean elevation are often more susceptible to erosion and flooding than slopes at higher altitude. Most of the steeper slopes below the town mean elevation are well forested and are more readily accessible from Town roads and from existing woods management roads. It is reasonable to assume, the Commission believes, that it is precisely these areas below the mean elevation that will feel the pressure first for logging, new road or driveway construction and new residential development.

No two hills or mountains are alike. Each of the twelve mountain regions has differing conditions of existing development and future potential. For these reasons, and for all of the above reasons and purposes, the Commission has established boundary lines for each individual hill and mountain, in all cases extending below the mean Town elevation and in most cases to approximately the elevation where slope declines to below 15%. These boundary lines reflect the Commission's conviction that in order to adequately protect watershed resources (particularly from erosion on steep slopes) and in order to preserve the existing scenic qualities of these hills and mountains (topography and forest cover)

boundaries must be set as a function of existing site conditions, rather than according to a standardized elevation to be applied uniformly across the whole Town.

Where possible, boundary lines are defined in such a way that they can be located on the ground with minimal engineering or other technical assistance. Whereas a boundary line defined as an elevation can only be found on any given parcel of land by detailed topographic survey, a less costly, less time consuming and more "user friendly" approach is to define boundaries in terms of straight line distances. These distances are measured from or along clearly recognizable landmarks (such as roads, intersections, edge of power Right of Ways, center lines of streams, shorelines, etc.) much like local zoning maps are defined. This is the approach the Commission has taken in mapping Scenic Mountain Regions.

Finally, the Commission recognizes that, with experience, it may determine that there are reasons to review and possibly update or revise the Map of Scenic Mountain Regions. In such case, as it has in the past, the Commission would expect to hold public information meetings to receive various points of view and subsequently would submit any proposed changes to the Selectmen for hearing and possible adoption. For the present, the Commission believes that the Map of SCENIC MOUNTAIN REGIONS adequately defines the regions where reasonable regulation can accomplish the purposes of the Act.

**Text Delineating the Boundaries of
The SCENIC MOUNTAIN REGIONS of the
TOWN OF GREAT BARRINGTON**

**MGL c. 131, §39A
BERKSHIRE SCENIC MOUNTAINS ACT**

The SCENIC MOUNTAIN REGIONS of the TOWN OF GREAT BARRINGTON consist of twelve hills and mountains shown on the relevant portion of the current USGS Topographic Maps of the Great Barrington Area (1: 25,000 Scale) with boundaries and identification numbers as determined by the Great Barrington Conservation Commission, in approximate numerical and clockwise order, starting generally in the southwestern corner of the Town of Great Barrington, as follows:

(1) Vossburg Hill (apparent elevation 309 m)

Boundary is the lines connecting points ABCDA, where...

Point A is 1400 A. westerly of West Sheffield Road and lies in the southerly Town Line;

Point B is 1400 A. westerly of West Sheffield Road and 3200 ft. northerly of the southerly Town Line;

Point C is 200 ft. westerly of West Sheffield Road and 3200 ft. northerly of the southerly Town Line;

Point D is 200 ft. westerly of West Sheffield Road and lies in the southerly Town Line;

Line CD runs 200 ft. westerly of and parallel to West Sheffield Road.

(2) Berkshire Heights (apparent elevation 306 m)

Boundary is the lines connecting points ABCDEFGHA, where...

Point A is 400 ft. northerly of Routes 23 & 41 and 500 ft. easterly of the mean annual high water line at the east-side bank of the Green River;

Point B is 500 ft. northerly from the mean annual high water line at the northeast bank of the Green River in the centerline of the unnamed dirt road running through McAllister Wildlife Refuge from Haley Road to Hurlburt Road;

Point C is in the centerline of the unnamed dirt road running from Haley Road to Hurlburt Road and 400 ft. westerly of Highland Drive;

Line BC runs in the centerline of the unnamed dirt road from Haley Road to Hurlburt Road;

Point D is 400 ft. westerly and 400 ft. southerly of the intersection of Highland Drive and Pleasant View Drive;

Point E is 400 ft. southerly of Pleasant View Drive and 400 ft. westerly of Berkshire Heights Road.;

Point F is 400 ft. westerly of the southerly extension of Berkshire Heights Road and 400 ft. southerly of the present southerly end of Berkshire Heights Road;

Line CDEF runs 400 ft. distant from and parallel to Highland Drive, Pleasant View Drive and Berkshire Heights Road, in that order;

Point G is due east of Point F and 400 ft. westerly of West Avenue;

Point H is 400 ft. westerly of West Avenue and 400 ft. northwesterly of Routes 23 & 41;

Line HA runs 400 ft. northwesterly from and parallel to Routes 23 & 41.

(3) Christian Hill and Mansfield Pond (apparent elevation 291 m)

Boundary is the lines connecting points ABCDEFGH, where...

Point A is at the northerly end of Knob Lane Extension;
Point B is a point in Knob Lane 700 ft. southwesterly from Point A;
Point C is a point in the center line of Lake Mansfield Road where the counterclockwise arc BC scribed by a radius of 700 ft. intersects;
Point D is at the intersection of Lake Mansfield Road and Fox Run;
Line CD runs in the center line of Lake Mansfield Road;
Point E is in the centerline of Fox Run 800 ft. westerly of Lake Mansfield Road;
Point F is 200 ft. northeasterly from Castle Hill Avenue and 1400 ft. northwesterly from Lake Mansfield Road;
Point G is in the centerline of Lake Mansfield Road 200 ft. from the intersection with Castle Hill Avenue;
Point H is at the intersection of Knob Hill Road and Knob Lane.
Line GH runs in the centerline of Lake Mansfield Road to the intersection with Knob Hill Road and up the center line of Knob Hill Road.

(4) Unnamed Hill at the extreme south end of Tom Ball Mountain

(apparent elevation 300 m)

Boundary is the lines connecting points ABCD, where...

Point A is 800 ft. northwesterly of Division Street and 400 ft. northeasterly of Alford Road;
Point B is in the northerly Town Line 400 ft. northeasterly of Alford Road;
Line AB runs 400 ft. northeasterly of and parallel to Alford Road;
Point C is in the Northerly Town Line 400 ft. westerly of the long curved private road that presently leads to the American Institute for Economic Research.
Point D is 400 ft. southwesterly of the private road that presently leads to The American Institute for Economic Research and 800 ft. northwesterly from Division Street.
Line CD runs 400 ft. westerly of and parallel to the private road that presently leads to the American Institute for Economic Research.

(5) Tom Ball Mountain (apparent elevation 460 m)

Boundary is the lines connecting points ABCDEFGA, where...

Point A is in the center line of Long Pond Brook 400 ft. northwesterly of Division Street;
Point B is 400 ft. northerly of Division Street and 2000 ft. from Point A;
Line AB runs 400 ft. northerly of and parallel to Division Street;
Point C is a stone bound marking a corner in the Town Line adjacent to the private road presently leading to the American Institute for Economic Research.
Point D is a Stone Bound in the northwest corner of the Town Line;
Point E is a point in the Town Line 2600 ft. easterly of Point D;
Point F is in the mean annual high water line at the northernmost tip of Long Pond;
Point G is in the centerline of the outlet of Long Pond;
Line FG runs along the mean annual high water line on the westerly shore of Long Pond;
Line GA runs in the centerline of Long Pond Brook.

(6) Unnamed Hilly Ridge east of Long Pond Road (apparent elevation 366 m)

Boundary is the lines connecting points ABCDA, where...

Point A is 400 ft. northwesterly of Division Street and 200 ft. easterly of Long Pond Road;
Point B is in the center line of Buttondown Lane 200 ft. easterly of Long Pond Road;

Line AB runs 200 ft. easterly of and parallel to Long Pond Road;
Point C is in the center line of Buttondown Lane 800 ft. westerly of the mean annual high water line of the Williams River;
Line BC runs in the center line of Buttondown Lane;
Point D is 800 ft. westerly of the mean annual high water line of the Williams River and 400 ft. northerly of Division Street;
Line CD runs 800 ft. westerly of and parallel to the mean annual high water line of the Williams River;
Line DA runs 400 ft. northerly of and parallel to Division Street.

(7) Monument Mountain (apparent elevation 530 m)

Boundary is the lines connecting points ABCDEFGHA, where...

Point A is 400 ft. northeasterly of Route 183 in the center line of the path of the electrical transmission lines running north-south, easterly of Route 183;
Point B is the intersection of the path of the electrical transmission lines running north-south, easterly of Route 183, and the northerly Town Line;
Point C is the intersection of the northerly Town Line with the mean annual high water line on the westerly shore of Agawam Swamp;
Point D is the northeasterly corner of the Monument Mountain Reservation of The Trustees of Reservations (TTOR);
Point E is the northern-most corner of the Monument Mountain Reservation immediately adjacent to Route 7;
Line DE follows the TTOR property line southerly and easterly;
Point F is the southern-most corner of the Monument Mountain Reservation immediately adjacent to Route 7;
Line EF follows the TTOR property line along its entire frontage on Route 7;
Point G is along the Monument Mountain Reservation property line from Point F, 400 ft. northwesterly of the unnamed brook arising just westerly of Route 7 and running westerly to join with the Housatonic River westerly of Route 183 and southerly of Division Street;
Point H is 400 ft. northwesterly of the unnamed brook (see brook in Point G, above) and 400 ft. northeasterly of the private road leading from Route 183 to the eastern extension of Division Street;
Line GH runs 400 ft. northerly of and parallel to the unnamed brook running from the westerly side of Route 7 to the Housatonic River (see brook in Point G, above);
Line HA runs 400 ft. northeasterly of and parallel to both the private road leading from Route 183 to the eastern extension of Division Street and also Route 183 itself.

(8) Beartown Mountain (apparent elevation 621m)

Boundary is the lines connecting points ABCDEFGHA, where...

Point A is 400 ft. northwesterly of the Old Monterey Road and 1200 ft. easterly of Monument Valley Road;
Point B is 1200 ft. easterly of Monument Valley Road in the center line of Blue Hill Road;
Line AB runs 1200 ft. easterly of and parallel to Monument Valley Road;
Point C is 2200 ft. easterly of Monument Valley Road in the center line of Blue Hill Road;
Line BC runs in the center line of Blue Hill Road;
Point D is 2200 ft. easterly of Monument Valley Road in the center line of Alcott Road;
Line CD runs 2200 ft. easterly of and parallel to Monument Valley Road;

Point E is in the center line of Alcott Road at the point closest to the boundary of Beartown State Forest, approximately 2800 ft. easterly of Monument Valley Road;
Line DE runs in the center line of Alcott Road;
Point F is the intersection of Konkapot Brook, which is the boundary of Beartown State Forest, and the northern Town Line;
Line EF is the boundary of Beartown State Forest;
Point G is the northeastern corner of the Town boundary;
Point H is a point on the easterly Town Line 400 ft. northerly of Route 23;
Line GH follows the easterly Town Line;
Line HA runs 400 ft. northerly of and parallel to Route 23 and Old Monterey Road.

(9) Three Mile Hill (apparent elevation 381m)

Boundary is the lines connecting points ABCDEFGHIA, where...

Point A is 400 ft. northerly of Route 23 in the centerline of the woods road that runs from Lovers' Lane to Route 23;
Point B is in the center line of Blue Hill Road at a point 3200 ft. easterly of Route 7;
Point C is a point 2500 ft. northwesterly of Point B and 1800 ft. westerly of Route 7;
Point D is in the southerly side line of Great Barrington State Forest 1800 ft. easterly of Route 7;
Point E is in the northerly sideline of Great Barrington State Forest 400 ft. easterly from Route 7;
Line DE runs in the southerly, westerly and northerly boundary lines of Great Barrington State Forest;
Point F is 400 ft. easterly of Route 7 and 400 ft. southerly of Lovers' Lane;
Point G is 400 ft. westerly of the intersection of Monument Valley Road and Stony Brook Road;
Line FG runs 400 ft. southerly of and westerly of and parallel to Lovers' Lane and Monument Valley Road, respectively;
Point H is 300 ft. westerly of the intersection of Monument Valley Road and Stony Brook Road;
Point I is 300 ft. westerly of Monument Valley Road and 300 ft. northerly of Route 23;
Line HI runs 300 ft. westerly of and parallel to Monument Valley Road;
Line IA runs 300 ft northerly of and parallel to Route 23.

(10) East Rock, East Mountain and Warner Mountain (apparent elevation 543m)

Boundary is the lines connecting points ABCDEFGHIJLKMA, where...

Point A is in the southerly Town Line 600 ft. easterly of Brush Hill Road;
Point B is 600 ft. northeasterly of Brush Hill Road and 400 ft. southerly of the Jeep track extension of East Road;
Line AB runs 600 ft. easterly of and parallel to Brush Hill Road;
Point C is 400 ft. northeasterly of Quarry Street and 200 ft. easterly of the intersection of Park Street and Hillside Avenue;
Line BC runs 400 ft. easterly of and parallel to East Road and Quarry Street;
Point D is 200 ft. easterly of Hillside Avenue. and 200 ft. southerly of Routes 7 & 23;
Line CD runs 200 ft. easterly of and parallel to Hillside Avenue;
Point E is 200 ft. southerly of Route 23 and 200 ft. westerly of Giddings Street;
Line DE runs 200 ft. southerly of and parallel to Routes 7 & 23;
Point F is 800 ft. southerly of Route 23 and 200 ft. westerly of the southerly extension of the center line of Giddings Street;

Point G is 800 ft. southerly of Route 23 in the mean annual high water line on the southwesterly shore of the unnamed pond approximately 1200 ft. westerly of the driveway entrance to Butternut Ski Area;

Line FG runs 800 ft. southerly of and parallel to Route 23;

Point H is in the center line of the stream feeding the unnamed pond (see Point G) 1400 ft. southwesterly of the intersection of Route 23 and the Butternut Ski Area driveway;

Line GH runs along the mean annual high water line of the unnamed pond and southeasterly along the centerline of the stream feeding the unnamed pond (see Point G);

Point I is 200 ft. southerly of Route 23 and 1400 ft. easterly of the intersection of Route 23 and the Butternut Ski Area driveway

Line HI is an arc from Point H to Point I, scribed counterclockwise by a radius measuring 1400 ft. from the intersection of Route 23 and the Butternut Ski Area driveway;

Point J is 200 ft. southerly of Route 23 and 200 ft. westerly of Lake Buel Road;

Line IJ runs 200 ft. southerly of and parallel to Route 23;

Point K is in the center line of the Appalachian Trail 200 ft. southwesterly of Lake Buel Road;

Line JK runs 200 ft. southwesterly of and parallel to Lake Buel Road;

Point L is in the center line of the Appalachian Trail 800 ft. southwesterly of Lake Buel Road;

Line KL runs in the center line of the Appalachian Trail;

Point M is in the easterly Town Line 800 ft. southwesterly of Lake Buel Road;

Line LM runs 800 ft. southwesterly of and parallel to Lake Buel Road;

Line MA runs in the easterly and southerly Town Lines.

(11) Unnamed Hill east of the Fairgrounds (apparent elevation 333 m.)

Boundary is the lines connecting points ABCA, where...

Point A is 200 ft. easterly of Grove Street and 400 ft. southerly of Pine Street;

Point B is 400 ft. westerly of the unimproved road extension of East Road and 1900 ft. northeasterly of Brush Hill Road;

Line AB runs 400 ft. southwesterly of and parallel to Pine Street, East Road and the Jeep track extension of East Road;

Point C is the intersection of the southwesterly extension of a line running 200 ft. easterly of and parallel to Grove Street and the mean annual high water line of the Housatonic River;

Line BC is approximately 3400 ft. long;

Line CA runs 200 ft. southeasterly of and parallel to Grove Street.

(12) Unnamed Hill east of East Sheffield Road (apparent elevation 339 m)

Boundary is the lines connecting points ABCA, where...

Point A is in the southerly Town Line 200 ft. easterly of East Sheffield Road;

Point B is 200 ft. easterly of East Sheffield Road and 400 ft. southerly of Brush Hill Road;

Line AB runs 200 ft. easterly of and parallel to East Sheffield Road;

Point C is in the southerly Town Line 400 ft. westerly of Brush Hill Road;

Line BC runs 400 ft. southeasterly of and parallel to Brush Hill Road;

Line CA runs in the southerly Town Line.

NOTE: Unless otherwise noted, lines running in or along roads, unimproved roads, trails or streams run in the apparent centerline. Unless otherwise noted, the intersection of roads, trails or streams will be understood to be the intersection of the two apparent centerlines. Unless otherwise noted, measurements from a roadway or trail are taken from the apparent centerline of that roadway, and, unless otherwise noted, are taken perpendicular to the apparent centerline.