

BY-LAWS**MANAGEMENT OF TOWN CONSERVATION PROPERTY & EASEMENTS:****SECTION I: PURPOSE**

In order to promote the passive recreational use of, to manage for conservation and recreational purposes, to protect natural resources therein and, in the cases of Deer Leap and Moeckel Pond to do so according to the intent and purpose of the Land Conservation Investment Program (RSA 162-C:6) and/or the Land and Water Conservation Fund Act, the Windham Town Meeting adopts the following use regulations for all properties acquired in the name of the Town, either in fee or by use easement which were acquired by the Town (i) under the provisions of RSA 36-A:4; (ii) by designation by the Donor or grantors as land subject to Conservation Commission jurisdiction; (iii) land/easements acquired in connection with open space; (iv) lands designated for management by the Conservation Commission by Town Meeting designation, or (v) by any other fashion or action under which the Conservation Commission holds jurisdiction to manage or regulate. These regulations are adopted pursuant to authority granted by RSA 31:39.

SECTION II: PERMITTED USES

- A) The following uses are permitted from dawn until dusk, daily, within all Town Conservation lands and easements:
1. Passive recreational activities such as hiking, picnics, fishing, bird watching, and the like, that are consistent with the purpose of these By-laws.
 2. Access by law enforcement or emergency vehicles at any time.
- B) Additional permitted uses:
1. Clyde Pond (tax map 20D-1200 & 20E-300):
 - a) Swimming.
 2. Deer Leap Natural Area (tax map 25E-10):
 - a) Small, non-motorized boats may be launched onto Rock Pond from the right-of-way at the end of Abbott Road or the parking area on Bayleaf Road. *(Note: In 1963, Order No. 98 was issued by the NH Department of Safety, Division of Safety Services prohibiting the operation of motorboats and outboard motors on Rock Pond).*
 3. Route 28 Windham Town Forest (tax map 8B-3001, 4000, 4100, 4300, 5000 & 6150):
 - a) Hunting is permitted subject to compliance with all relevant local, State and Federal regulations.
- C) Additional uses allowed only upon receiving written approval from the Conservation Commission:
1. Motorized vehicles for any use as deemed necessary.
 2. Trail maintenance including, but not limited to, clearing and maintenance of natural or man-made structures.
- D) Additional uses allowed only upon receiving written approval from the Conservation Commission and Windham Fire Department:
1. Camping and building of fires in designated areas of the Route 28 Windham Town Forest.
 2. Camping and building of fires in designated areas of Clyde Pond.
 3. Camping and building of fires in designated areas of Foster's Pond.

SECTION III: PROHIBITED ACTIVITIES

A) Unless otherwise noted in Section II, the following are prohibited within all Town Conservation lands and easements:

1. Use of these lands after dusk and before dawn.
2. Hunting, trapping and/or the discharge of firearms. Areas will be posted against these activities pursuant to RSA 635:4.
3. Use of “motorized vehicles” as defined in #WIN 3:00:11:02 “Use of Motor Vehicles on Town Property”.
4. Parking anywhere other than in designated areas.
5. Littering: failure to carry out or properly dispose of garbage, trash; illegal dumping of motor vehicles, appliances, etc.
6. Cutting, digging up, or otherwise willfully damaging or defacing trees, shrubs, plants, or any other natural feature or man-made structure.
7. Building of fires.
8. Swimming from the banks or shorelines of brooks, ponds, or streams.
9. Camping.

B) Additional prohibitions:

1. Deer Leap Natural Area (tax map 25E-10):
 - a) Vehicles registered for highway use may only use Woodbury and Bayleaf roads, or the south section of Abbot Road, for access.
 - b) Swimming is prohibited from the right-of-way shoreline of Rock Pond at the end of Abbott Road.
 - c) Rock climbing, scaling, or climbing any vertical areas, or repelling, with or without the assistance of tools or equipment shall be prohibited except on the Deer Leap face area.
2. Moeckel Pond and Foster’s Pond (tax map 25C-255 & 1C-2500):
 - a) The use of outboard motors including but not limited to jet ski, electric, or battery powered, is prohibited.
3. Campbell Farm (tax map 1C-100):
 - a) Access to the homestead and/or its curtilage is prohibited.

SECTION IV: WILDLIFE MANAGEMENT

A) All wildlife management shall be in accordance with the “NHDES Best Management Practices Manual” (NH DES 2019) and Chapter 5 of the “NH Wildlife Action Plan” (NH Fish and Game 2015).

1. Beaver management shall be in accordance with NH RSA 210:9.
2. In addition to the requirements of RSA 210:9, II, the following protocols must be adhered to:
 - a) With the exception of an emergency situation as deemed by Police, Fire, or General Services, prior to any action being taken, written notification must be provided to the Conservation Commission of the issue and plan of action two (2) days prior to the next scheduled Conservation Commission meeting. Documentation should include pictures or video, a description of the issue, and procedure(s) to repair the issue.

- b) To avoid flooding or erosion to other properties downstream, any water release must be done with minimal flow disruption. Consideration of flow volumes and management of all downstream culverts must be taken to avoid excessive pooling or backups with additional flow volume.
 - c) Prior to any trapping or removal of beavers, it must be discussed at the next scheduled public meeting and voted and approved by the Conservation Commission.
 - d) All documentation shall be reviewed at the next scheduled Conservation Meeting and entered into public meeting minutes.
- C) Endangered, protected, and special interest species management shall be in accordance with the NH “Endangered Species Conservation Act” (RSA 212-A).
- D) Native plant management shall be in accordance with the NH “Native Plant Protection Act” (RSA 217-A).

SECTION V: VIOLATIONS

Violations of these By-laws shall be punishable by assessment of the following fines and, in some cases, may also be subject to additional penalties imposed per State statute by law enforcement or the judicial system in response to criminal mischief, trespass or similar offenses:

- Hunting, trapping, discharge of firearms. \$500.00
- Unauthorized use of motor vehicles. \$500.00
- Camping, building of fires, or swimming; each offense. \$500.00
- Interference with the Campbell Homestead; each offense. \$500.00
- Littering as described in Section III, A, 3. \$1,000.00
- Unauthorized cutting, digging up or otherwise willfully damaging or defacing kiosks, benches, bridges, dams, or any natural structures including but not limited to trees, shrubs, plants, rock faces, etc. \$1,000.00
- Disturbance of wetlands, or intentional damage to the Wetland and Watershed Protection District (WWPD) including but not limited to shoreline excavation, tree removal, dumping of brush or any invasive plantings, breaching of beaver dams, culverts, or changing the natural water flow, without prior, written consent and approval from Conservation Commission. \$1,000.00

SECTION VI: PENALTIES

Penalties collected shall be turned over to the Finance Department for deposit into the Conservation Land Trust Fund.

SECTION VII: ENFORCEMENT

These By-laws shall be enforced by the Windham Police Department and/or Windham Fire Department.

SECTION VIII: SEVERABILITY

If any section, provision, or phrase of these By-laws shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, provision, or phrase hereof.

SECTION IX: WAIVERS

By majority vote, the Windham Conservation Commission is authorized to make exceptions or grant waivers, in writing, of these By-Laws for limited (in time) specific events or activities, or for good cause shown provided such activities are not inconsistent with the purposes for which such land was acquired as set forth in RSA 36-A:2.

SECTION X: LIABILITY

The Town specifically reserves the rights of immunity from liability under the provisions of RSA 212:34 and RSA 508:14 with respect to any damages or injuries occurring on any Town property covered by these By-laws.

SECTION XI: AMENDMENTS

Upon recommendation of the Conservation Commission, these By-laws may from time to time be amended by vote of the Board of Selectmen at a regularly scheduled meeting. Notice of proposed changes shall be posted in at least two (2) public places, one of which must be the Town Hall, at least fourteen (14) calendar days prior to the date of the meeting.

SECTION XII: EFFECTIVE DATE

These By-laws shall take effect immediately upon adoption by the Annual Town Meeting, or amendment thereafter by the Board of Selectmen, and shall supersede any and all such By-laws previously enacted.

Adopted at Town Meeting: March 9, 2021

Amended by the Board of Selectmen: July 11, 2022

**Heath Partington, Chair
Jennifer Simmons
Roger Hohenberger
Bruce Breton
Ross McLeod**