

USAGE RULES FOR THE WILLARD E. DOW (HAYES HART) RIGHT OF WAY ACCESS

SECTION I: PURPOSE

The purpose of this regulation is to govern the use of the Willard E. Dow Right of Way (aka Hayes Hart ROW) and its usage as an access to Canobie Lake by Windham Residents/Residential Taxpayers.

SECTION II: AUTHORITY

These regulations are adopted pursuant to authority granted to the Board of Selectmen by RSA 41:11 and 41-11a.

SECTION III: RULES GOVERNING USAGE OF THE RIGHT OF WAY

1. For Windham Residents and Windham Residential Taxpayers only to access Canobie Lake.
2. Boats/Vessels, including canoes and kayaks, which are launched or recovered via the Willard E. Dow ROW must be under the care, custody, or control of a Windham resident or Windham residential taxpayer, or by an authorized boat company per #11.
3. No swimming is allowed as Canobie Lake is a drinking water supply for the Town of Salem (per New Hampshire Code of Administrative Rules; Protection of Water Sources; Env-DW 902-33).
4. Hours of Allowed Access – Sunrise to Sunset. Note – Residents or residential taxpayers using the right of way as pedestrians to watch fireworks over the lake are exempt from this provision.
5. Keys to the access gate are numbered and are not transferable or to be copied.
6. New keys will be available for issuance on or after April 1st each year. If the Town uses a card or fob system for an electronic gate these will only be issued at the time a person initially files an application for access use.
7. One (1) decal will be issued to each key recipient. Decals shall be displayed on the upper left side of the vehicle's inside windshield.
8. Do not tamper with Fire Department's lock.
9. Lock gate upon entering and exiting – do not allow others in unless they have a valid decal.
10. No refunds will be provided for a lost key. Any lost key shall be reported to the Town.
11. Approved boat companies as shown and incorporated as "Attachment A" shall be allowed a key so they can launch or retrieve boats for customers with a Windham address only.
12. Parking is limited and available on a first come/first served basis. No parking is allowed between sunset and sunrise.
13. The Police Department has the authority to enforce the rules established in this ordinance and, in so doing, to take action in accordance with the Enforcement Provisions.
14. No littering or leaving of trash is allowed. Users shall "Carry in Carry Out" their trash. Violators shall be subject to action in accordance with the Enforcement provisions.

SECTION IV: ISSUANCE OF KEYS

1. The Town Clerk's Office will issue keys and decals, the cost of which is \$20. Residents/residential taxpayers will need to show proof of residency or residential property ownership for a key and a car registration for a decal.

2. Access keys will be given to the following departments – Police (6 keys); Fire (2 keys), Recreation (1 key); and General Services (2 keys). Keys will also be provided to the NH Fish and Game and Town of Salem Fire.

SECTION V: ENFORCEMENT

These Usage Rules shall be enforced by the Windham Police Department. Any person who may violate these rules shall be subject to imposition of a civil penalty per the following schedule:

- a. First Offense – Written Warning
- b. Second Offense – \$100 fine payable to the Town of Windham
- c. Third Offense – \$500 fine payable to the Town of Windham and loss of use privileges for a period of one year

Failure to pay the fines established under the Second Offense and Third Offense may subject the violator to being issued a must appear summons for Circuit Court.

SECTION VI: SEVERABILITY

If any section, provision, or phrase of these Rules 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 VII: WAIVERS

By majority vote, the Windham Board of Selectmen 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 VIII: 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 Rules.

SECTION IX: AMENDMENTS

This Regulation 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 X: EFFECTIVE DATE

These Regulations shall take effect immediately upon adoption by the Board of Selectmen, and shall supersede any and all such Regulations previously enacted.

Adopted by the Board of Selectmen: May 17, 2021

Amended by the Board of Selectmen: June 20, 2022

**Heath Partington, Chairman
Jennifer Simmons, Vice-Chairman
Bruce Breton
Roger Hohenberger
Ross McLeod**

Amended by the Board of Selectmen: April 17, 2023

**Ross McLeod, Chairman
Heath Partington, Vice-Chairman
Bruce Breton
Roger Hohenberger
Mark Samsel**

ATTACHMENT A

The following boat companies are approved vendors for the purposes of Section III, Line #11. Additional companies may be added by vote of the Board of Selectmen.

1. Rockingham Boat Company
2. Granite State Dock and Marine
3. Dockside Marina
4. Windham Marine