

The Habitat

A newsletter of the Connecticut Association of Conservation & Inland Wetlands Commissions, Inc.

Spring 2016 volume 28 number 2



Editor's Note: CT Department of Energy and Environmental Protection (DEEP) is seeking comments on the draft 2016-2020 Green Plan from members of Connecticut's conservation and inland wetlands commissions. DEEP asked that this request be published in this issue of The Habitat. Please respond to their request for comments on the Draft Green Plan by June 1, 2016.

The Green Plan:

The State's 2016-2020 Comprehensive Open Space Acquisition Strategy

by Jamie Sydoriak, Property Agent, Land Acquisition and Management Unit, CT DEEP

Connecticut's natural environments provide a seemingly endless list of ecosystem services to people, adding immeasurably to the quality of life of its residents. For example, large blocks of shady forest provide not only critical habitat for species like the wood thrush and brook trout, but also places for people to hike, bird watch, or otherwise explore. Intact coastal and inland wetlands are some of the most biodiverse habitats, while also trapping sediments and filtering surface runoff pollutants from entering nearby waterways and drinking water sources.

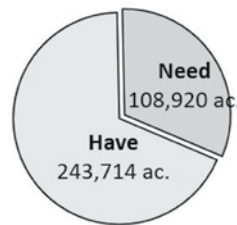
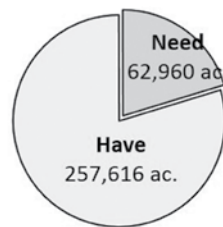
However, not all undeveloped land is protected open space; some of it may eventually be developed. A study by the Center for Land Use Education and Research found that from 1985 to 2010, the state lost over 115,000 acres of forested land and nearly 40,000 acres of agricultural fields to development and related land covers associated with commercial, industrial, and residential uses. Within only 25 years, the state forever lost lands that once contributed to environmental quality and invaluable services for residents.

There is an urgent need to develop a state-wide plan to assist all of Connecticut's conservation partners on protecting high-value conservation lands. Moreover, climate change continues to threaten the integrity of many natural resources. Key lands and waters must be protected now if we wish to leave our future generations with the diverse habitats, clean air and water, and outdoor recreation opportunities we benefit from today.

The Connecticut Comprehensive Open Space Acquisition Strategy (Green Plan) is a planning document that intends to

be a guide for land acquisition that will meet the state's open space protection goal. State Statute sets a goal of conserving 21%, or 673,210 acres, of Connecticut's land base as open space by year 2023. Ten percent of this open space is to be held by the State, while the remaining 11% is to be held by the State's conservation Partners: municipalities, land trusts, and water companies.

Estimated Open Space Ownership by DEEP



Estimated Open Space Ownership by Partners

The Department of Energy and Environmental Protection (DEEP) is updating the Green Plan and prioritizing actions for DEEP and its Partners through 2020 to best achieve the State's open space acquisition goals. Among other plan components, an action strategy with priorities and targeted acreages is proposed for acquiring specific lands identified as capable of providing certain services, for example safe and clean waters, buffers to climate change, and recreational trails.

In order to develop a planning document that will be the highest value for the State of Connecticut, municipalities, land conservation organizations and planning commissions, and the public, DEEP needs to hear from all stakeholders. DEEP is seeking comments on the draft 2016-2020 Green Plan from members of Connecticut's conservation and inland wetlands commissions.

Help DEEP improve your open space plan. The complete draft Green Plan, a summary brochure, and additional information can be found at DEEP's open space webpage: www.ct.gov/deep/openspace. A public comment period is currently open until June 1, 2016. Questions/comments can be sent to Jamie Sydoriak, DEEP Property Agent, at jamie.sydoriak@ct.gov or (860)424-3143.

Statewide Land Acquisition Priorities

- Natural Waters and Drinking Water Resources
- Areas Significant to the Coast
- Natural Heritage Resources
- Natural Resource-based Outdoor Recreation

Draft Green Plan Land Acquisition Priorities for Open Space

Help DEEP improve your open space plan. The complete draft Green Plan, a summary brochure, and additional information can be found at DEEP's open space webpage: www.ct.gov/deep/openspace. A public comment period is currently open until June 1, 2016. Questions/comments can be sent to Jamie Sydoriak, DEEP Property Agent, at jamie.sydoriak@ct.gov or (860)424-3143.

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www.caciwc.org

CACIWC News

Previous columns and articles in *The Habitat* have discussed the value of using indicator species in the assessment of the ecological health of important habitats. As emphasized by Dr. Michael W. Klemens in his keynote address to our 2015 Annual Meeting and Environmental Conference, amphibians and reptiles can be useful indicators of habitat degradation due to their dependency on a narrow range of environmental conditions through critical phases of their lives. As our members are aware, most amphibians, and a large percentage of reptiles, are associated with wetlands and watercourse habitats for at least part of their lifecycles. Thus, these species are often uniquely suited to serve as sentinel populations to help us assess subtle changes in these important habitats.

In his well-received address, entitled “Herpetology in Connecticut: A 25-Year Retrospective,” Dr. Klemens shared some of his data which documented the significant changes among some reptile and amphibian populations, which have occurred in Connecticut during the last several decades. During his presentation and in subsequent discussions, Dr. Klemens also promoted better use of scientific data and discussed ways for commissions and their staff to increase collection of local information, while improving the resiliency of their communities to climate change.

During 2016, CACIWC will assist our member commissions and staff in gathering scientific indicator species data on amphibian and reptile populations within their communities. We are organizing several conference workshops and planning a series of articles in *The Habitat*, which will describe projects that will help you assess your own habitats, while contributing to important statewide databases.

Information on several statewide projects are being promoted by CACIWC as part of this initiative. The first, known as FrogWatch USA, was described in the Winter 2016 issue of *The Habitat*. This is a citizen science project of the Association of Zoos and Aquariums (AZA). CACIWC will be working with the local Peabody-Beardsley Chapter of FrogWatch USA, organized by the Yale University Peabody Museum of Natural History and Connecticut’s Beardsley Zoo in Bridgeport. The Connecticut project has already begun to work with volunteer commission members, staff and residents in the

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Journey to the Legal Horizon

by Attorney Janet Brooks

The Official Municipal Inland Wetlands and Watercourses Map: Excellent Resource If Kept Updated

I am grateful for the focus that DEEP brought this past winter to the official wetlands and watercourses maps maintained by municipal wetlands commissions – even if it did so by proposing legislation that sought to gut the essential provisions of mapkeeping. Fortunately, DEEP withdrew Raised Bill 141 from the Environment Committee. We needn't take up the issues raised in the now-defunct bill.¹ Instead we can examine the legal requirements for maps and current municipal practices, to determine what still remains to be done.

The wetlands statute requires commissions to adopt regulations for “the manner in which boundaries of inland wetland and watercourse areas in their respective municipalities shall be established and amended or changed,” General Statutes § 22a-42a (a) (1), in addition to the statutory requirements of a public hearing, public inspection of the notice and proposed boundary amendment prior to such hearing and the agency's stating of the reasons for the change(s). General Statutes § 22a-42a (b). So, a map and the process for amending it must be established.

DEEP fleshed out the skeletal statutory requirements for maintaining maps in Section 3 of the Fourth Edition of the *Inland Wetlands and Watercourses Model Municipal Regulations* (May 1, 2006), entitled “Inventory of Inland Wetlands and Watercourses.” The official municipal wetlands and watercourses map “delineates the general location and boundaries” of those resources, Model Regulations, 4th Ed., § 3.1, and further clarifies that the “precise location...shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses.” The model regulations acknowledge anyone can petition for a change to the map, while noting the person requesting the change bears the burden in proving the need for the change and listing the kinds of information that can be considered.

In some towns the map amendment process works hand in glove with the official map being improved and upgraded with every application for a permit. This is the ideal: use current, on-the-ground specific soil mapping by a soil scientist to refine and improve the accuracy of the municipal wetlands map. However, I've heard from some town agents who don't follow that process because, they say, it is cumbersome to hold a hearing on the map change and expensive for the town

to produce the large scale maps. Those towns just receive accurate updated soil maps in the process of an application for regulated activities. Maybe that informal process works for a while, but then it breaks down.

Real world example: neighbors observe a clearcutting project underway on adjacent property and call me for assistance. They have a copy of the official wetlands maps for the property in question. The map designates the area being clear cut as wetlands. I talk to the town wetlands agency staff who points me to a soils map prepared in the 1980s for the property in question. The map was submitted in conjunction with a residential subdivision that was ultimately denied. The official wetlands map was never amended and despite the denial of the subdivision, the soils map lived on. But it doesn't stop there. Decades later, in the months leading up to the more recent clearcutting, the next property owner has a new soil scientist walk the property with the town agent, also a certified soil scientist. The two of them agree that an area designated as wetland soil in the 1980s (never adopted) map isn't a wetlands soil. The town agent asks the hired soil scientist to write a letter to him confirming their agreement made out in the field. Are you following along? The “map” for this property is a letter revising a map filed in the 1980s that was never officially adopted. And this letter confirming the meeting of the minds of these two soil scientists is never brought before the wetlands commission for review. Is this the transparency that the legislature envisioned when it required towns to adopt regulations providing for the manner in which wetlands boundaries would be amended? Hardly.

To those who deem a hearing on the map amendment cumbersome – why not process the map amendment at the same time as the permit application? Even if the application is not being scheduled for a public hearing, it can't be acted upon the first evening. Thus, the application and the public hearing can both go forward the month after receipt of the application.

The second complaint – the cost of producing the amended maps – seems a dated issue. Can't we find a way to maintain these maps digitally at town hall? It would drastically reduce the cost, if not eliminate it, while affording easier

legal, continued on page 14

Editor's Note: In the article below Atty. Heins provides references to enabling regulations in General Statutes of Connecticut. To review the regulations google CT General Statutes and click on Title 14; scroll down to Chapter 255. Also see Westbrook CT's ordinance, "Motorized Vehicle Regulations for Open Space and Conservation Restrictions", page 10.

Regulating ATVs, Snowmobiles, and Dirt-Bikes on Conserved Lands

by Elizabeth L. Heins, Esq., Branse & Willis, LLC

The General Statutes allow towns, by ordinance, to regulate the use of ATVs, snowmobiles, and dirt-bikes. The regulation of dirt-bikes is different than that for ATVs and snowmobiles, and will be addressed at the end of this article. The majority of the article will deal with regulations surrounding ATVs and snowmobiles. The General Statutes define an ATV—all-terrain vehicle—as a self-propelled vehicle designed to travel over unimproved terrain that has been determined by the Commissioner of Motor Vehicles to be unsuitable for operation on the public highways and is not eligible for registration with the Department of Motor Vehicles.¹ A snowmobile is any self-propelled vehicle designed for travel on snow or ice, except vehicles propelled by sail.²

Before we talk about drafting municipal ordinances regulating the hours and zones of operation for ATVs and snowmobiles, let's look at what is allowed and prohibited by the General Statutes themselves. The General Statutes prohibit operating a snowmobile or ATV:

- At an unreasonable or imprudent rate of speed for existing conditions³;
- In a negligent manner so as to endanger any person or property⁴;
- While under the influence of intoxicating liquor or any drug⁵.

The General Statutes also regulate the selling and renting of ATVs and snowmobiles.⁶ All these regulations may be enforced by any law enforcement officer of the Department of Energy and Environmental Protection, motor vehicle inspector, state police officer, uniformed municipal police officer, constable, state park policeman, state forest policeman or forest ranger.⁷

The operator of a snowmobile or ATV must stop if requested to do so by the owner or agent of the owner of the property upon which the snowmobile or ATV is being operated.⁸ Additionally, the owner of any land that where trees, shrubs, crops, fences or other property are damaged by ATVs or snowmobiles may bring a private civil suit against the owner or operator of the ATV or snowmobile under the General Statutes.⁹

In addition to these statutory prohibitions, enforcement, and penalties, the General Statutes empower municipalities to adopt ordinances further regulating the use of ATVs and snowmobiles. Particularly, municipalities may regulate the hours and zones of use for snowmobiles and ATVs. In this case, "zone" does not mean zoning district as defined by the town's zoning regulations, but rather the more general meaning of areas. For example, the ordinance could specify certain parks, or all trails, or all open space owned by the town in fee simple or all conservation easements in favor of the town are subject to the restrictions in the ordinance. Additionally, the ability to regulate the hours does allow the ordinance to limit the use of ATVs and snowmobiles entirely: effectively no allowed hours of operation.

"... municipalities may regulate the hours and zones of use for snowmobiles and ATVs."

The municipal ordinance must designate the municipal officer or employees who may enforce the ordinance by issuing citations.¹⁰ Unlike other ordinances under this section of the General Statutes, a written warning is not required to enforce the ATV or snowmobile violations; a citation may be issued as a first step.

The amount of the citation is limited by the General Statutes. For the first violation the penalty may be no more than \$1000.¹¹ For the second, it may be no more than \$1500.¹² For the third or subsequent violation, the penalty may be no more than \$2000.¹³ Again, these citations should be issued by the municipal officer or employee designated

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ATVs, continued from page 4

by the ordinance. Additionally, recall that police officers, state forest rangers, and the like may enforce all of the ATV and snowmobile laws, including municipal ordinances adopted under this section.¹⁴

Finally, a reminder that this entire conversation has been about *ordinances*, not regulations. The ordinance must be adopted by the legislative body of the municipality, and the Board of Selectmen would be the operative body to amend the rules or bring suit against a violator, in addition to any penalties that may be issued by the designated officer or employee.

Wetlands and Conservation Commissions could certainly draft proposed language on a municipal ordinance for open space land owned by the town in fee simple, or land subject to conservation easements in favor of the town. The ordinance itself must be adopted by the legislative body of the municipality. Wetlands and Conservation Commissions may also be the owner or the agent of the owner of open space property, and may request that ATV and snowmobile operators cease operating on said property, under the General Statutes themselves, as discussed above.¹⁵



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As promised, a word on dirt-bikes. Dirt-bikes are defined as a two-wheeled motorized recreational vehicle designed to travel over unimproved terrain and not designed for travel on a highway.¹⁶ Dirt-bikes expressly exclude ATVs. Dirt-bikes are not subject to the myriad statutes described above for ATVs. However, municipalities are empowered to enact ordinances regarding the operation and use of dirt-bikes on *public property*.¹⁷ The fee schedule is the same: \$1000, \$1500, \$2500; the requirement that the ordinance

designate the municipal employee or officer to enforce the ordinance is the same. An ordinance concerning dirt-bikes should be careful to define the public property that is being regulated.

In conclusion, there are protections for property owners, including land owned by the town in fee simple or land in a conservation easement in favor of the town, both in the General

Statutes themselves, and in the ability for a town to adopt a municipal ordinance regulating the hours and areas of operation for ATVs and snowmobiles. A land owner or agent of a land owner may request that ATV and snowmobile operators stop operating on the land, and the operators must do so. Police officers and forest rangers, et al. can enforce both the General Statutes and ordinances regarding ATVs and snowmobiles. There are also explicit causes of action to be brought by property owners for damage to property done by ATVs and snowmobiles under the General Statutes. An ordinance that is adopted by the town must designate a municipal employee or officer to enforce the ordinance; a fee schedule of a maximum of \$1000 for the first violation, \$1500 for the second violation, and \$2500 for a third or subsequent violation is set by the General Statutes. For dirt-bikes, there is a similar ability for towns to enact a municipal ordinance regulating their use on public property.

(Endnotes)

- ¹ General Statutes § 14-379(4).
- ² General Statutes § 14-379(2).
- ³ General Statutes § 14-368a(1).
- ⁴ General Statutes § 14-368a(2).
- ⁵ General Statutes § 14-368a(3).
- ⁶ General Statutes §§ 14-380, 14-385.
- ⁷ General Statutes § 14-386.
- ⁸ General Statutes § 14-386(b).
- ⁹ General Statutes § 14-386a.
- ¹⁰ General Statutes § 7-148(c)(10)(A)
- ¹¹ General Statutes § 14-390.
- ¹² Id.
- ¹³ Id.
- ¹⁴ General Statutes § 14-386.
- ¹⁵ General Statutes § 14-386(b).
- ¹⁶ General Statutes § 14-390m.
- ¹⁷ General Statutes § 14-390m. ↩

What Does This Mean?

A Written Warning Is No Longer Required For A First Offense By An ATV Or Dirt Bike That Violated A Municipal Ordinance

by Tom ODell, Chairman, Westbrook Conservation Commission

Editor's Note: A Commissioner, referring to Public Act 15-100 and the significance of the legislation noted in *The Habitat* (Summer 2015; *Environmental Legislation Review*, page 11), asked in an email, "So what does that mean?" Followed by, "I'm sure many of your (The Habitat) readers, like us, are dealing with illegal ATV or dirt bike use on our trails. Can you clarify the steps that need to be taken? What should the land owner (the Town in our case) be doing? How do you get police involved? What happens when they do get involved?"

The experience of the Westbrook Conservation Commission in establishing and implementing the ordinance, "Motorized Vehicle Regulations for Open Space and Conservation Restrictions" can provide some help in answering these questions. (see Ordinance page 10).

Background

The Westbrook Conservation Commission (Commission) has the responsibility for managing over 500 acres of primarily forest land acquired in seven transactions by the

town over the last 15 years to protect surface and ground water resources, wildlife habitat and to provide opportunities for passive outdoor recreation. We knew that unapproved use of ATVs was already occurring on several of these formally private lands and that the town had no legal basis for regulating ATVs or dirt bike activity on town land. It took three years of research and development to establish a comprehensive, legally based ordinance, to protect designated Open Space and Conservation Restrictions.

The Questions

So what does that mean?

Prior to Public Act 15-100, *An Act Concerning the Penalty for Violation of a Municipal Ordinance Regulating the Operation or Use of a Dirt Bike or All-terrain Vehicle*, a written warning had to be issued for a first offense by an ATV or dirt bike that violated a municipal ordinance: A warning lets the violator get away till next time, if there is one. With the passage of Public Act 15-100, a written warning is no longer

motorized, continued on page 7

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motorized, continued from page 6

required for a first offense, a citation may be issued for the first offense which can mean penalties allowed by the ordinance. Potentially it has greater deterrent value.

Can you clarify the steps that need to be taken? What should the land owner (the Town in our case) be doing?

This is what we did: Acting for the town as land-owner, the Commission took the following steps and actions to regulate ATVs and other motorized vehicles on town owned land designated as Open Space or a Conservation Restriction. State statutes allows ordinances regulating ATVs to be site specific.

- Determined who has the responsibility for maintaining or managing the land we wanted to protect. In Westbrook land designated as Open Space or a Conservation Restriction in favor of the town are the responsibility of the Commission. If another commission like Parks & Recreation has the responsibility see if they would be like to partner with you on an ordinance.
- Determined if the Town has a legal basis for regulating ATVs and dirt bikes (motorized vehicles) on municipal land. In most cases that would be in the form of a town ordinance. If there are no regulations research State Statutes and seek guidance from your local police force for developing an ordinance; Atty. Heins' article Atty. (see page 4) is a good start, but read the articles referenced statutes.
- Determine your town's protocol for establishing a municipal ordinance. In Westbrook, the Board of Selectmen must approve an ordinance before it goes to a Town Meeting for a final vote.
- Determine if there is support for the ordinance. The Commission discussed establishing an ordinance for regulating use of Motorized Vehicles on town owned conservation land with Selectmen, receiving their encouragement and recommendations.
- Develop a DRAFT Ordinance that you feel will assist in protecting the land; use the Westbrook ordinance or others as models.
- Identify and engage legal assistance for developing ordinance language; identify source of funding for attorney fees. Westbrook's Town Attorney outsourced the draft ordinance to a land use attorney, who worked directly with the Commission.
- The final ordinance was approved by the Board of Selectmen and the Town Meeting, respectively.

How do you get police involved? What happens when they do get involved?"

- The ordinance should provide Police with the legal protocols (see Westbrook Ordinance Sec. 9-210. Violations, enforcement and penalties, page 11). Westbrook Police recommended land subject to this ordinance be posted with "No Trespass of Motorized Vehicles" to: 1) dissuade trespassers, and 2) provide enforcement officers with assurance they are on the right land. The Commission has put up signs at entrances and other strategic locations.
- Local law enforcement is difficult because ATVs and most motorized dirt bikes are not registered and do not have identifying plates. In addition, motorized trespassers that plague open space lands are frequently children/adolescents acting without parental supervision; police will often be reluctant to chase them primarily for safety reasons.
- Ask Town Police what they need to assist you in protecting land covered by the ordinance. In Westbrook the Police need an ATV, a Constable trained to operate it, and the time to chase offenders. Since ATV trespass calls on town or public property are superseded by most other infraction and emergency calls it is unlikely they will be able to assist. The exception is when there is significant damage requiring Civil Enforcement.
- DOCUMENT, DOCUMENT! For effective Civil Enforcement of property damage you will need: 1) photographs of damage; 2) if possible date and time of violation; 3) a map showing location; 4) a description including environmental impact; 5) obtaining an approximate cost of repair will also be required. These documents should be submitted to the town CEO for action. In Westbrook that would be the Board of Selectman. (Westbrook Ordinance Sec. 9-210d Civil Enforcement)

Next Steps

In 2013 the State legislature increased the penalties municipalities may prescribe for violation of an ordinance regulating use of ATVs, dirt bikes and snow mobiles to an amount not to exceed \$1,000 for first violation, \$1,500 for second violation and \$2,000 for third or subsequent violations. The Commission is updating the town ordinance with these penalties to discourage trespass in the first place and impact either the rider or the parent of an unsupervised adolescent. Once new penalties have been approved by the Board of Selectmen and Town Meeting they will be widely "advertised" and posted at the entrance to Town Open Space and Conservation Restriction Lands as a warning and deterrent.

For more information contact Tom ODell at todell@snet.net.

Citizen Scientists Needed to Track Turtles throughout Connecticut

by Tim Walsh, Manager of Natural History Collections and Citizen Science
The Bruce Museum in Greenwich

The Bruce Museum in Greenwich, Connecticut is looking for Citizen Scientists to help track turtles throughout the State. Approximately 58% of all turtles worldwide are threatened with extinction. A long list of diverse threats impact both common and highly endangered tortoise and freshwater turtle species on several continents. Perhaps the greatest are habitat loss; collection for the food, pet, and medicinal trade; road mortality; and predation. Working in negative synergy, these threats are creating a perfect storm for this most endangered vertebrate group in the world. Certainly, these threats present broad and immediate conservation challenges. Despite the urgency of the situation, opportunities for conservation are abundant and the charismatic attraction of turtles makes them an excellent group for education and outreach efforts to enhance ecological, conservation, and environmental awareness.



Eastern Box Turtle, photo credit: Bruce Museum

Twelve species are native to Connecticut; some, such as the wood, bog, spotted, and box turtles are in decline. With this Bruce Museum Citizen Science initiative, the

Connecticut Turtle Atlas invites the public to assist in conserving the State's rich turtle diversity. Last year, 32 participants recorded 136 observations of nine species throughout the State. Citizen Scientists will collect data on specific locations and abundance of all turtle species found throughout the State. These volunteers will record data via website or smartphone app using the iNaturalist.org platform. The information gathered will be used to map distributions, identify important habitats, locate areas of nesting

abundance, and detect roadways with high traffic-related mortality. The data will be shared with other interested researchers and governmental entities. This is a great project for families to participate in while enjoying the outdoors. There may also be opportunities to assist with various aspects of turtle research and participate in fieldtrips.

For more information on how to join the project, please contact Tim Walsh, Manager of Natural History Collections and Citizen Science, at twalsh@brucemuseum.org or call (203) 413-6767. 🐢

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My extensive experience reviewing site plans allows me to identify deficiencies and propose creative solutions.



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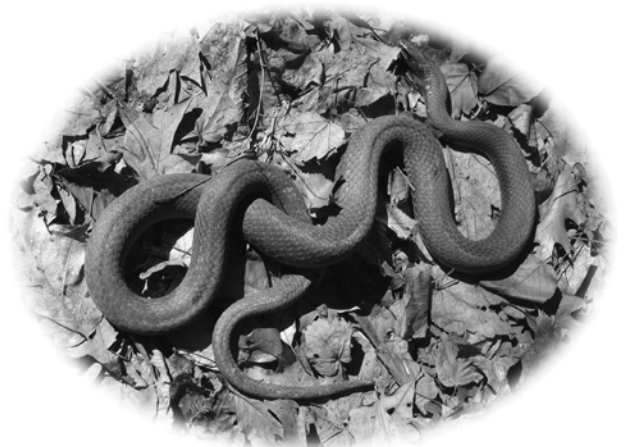
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A Westbrook, CT Ordinance

Article XII Motorized Vehicle Regulations for Open Space and Conservation Restrictions

Sec. 9-204. Restrictions on Open Space and Conservation Restrictions; Definitions. The following restrictions apply to all Open Spaces and Conservation Restriction Lands owned in fee simple by the Town of Westbrook, except where such restrictions are limited by the express terms of the subject conservation restriction, per Section 9-208 of this Article XII. For purposes of this Article XII, the term “Open Spaces” shall be defined as all land owned or hereafter acquired in fee simple by the Town of Westbrook which is maintained essentially in its natural, undisturbed condition, and which has been designated as “open space” by the Board of Selectmen, upon the recommendation of the Conservation Commission. For the purposes of this Article XII, the term “Conservation Restriction lands” shall be defined as all easements, declarations, or other property interests or restrictions, either existing or which may hereafter be acquired, which run in favor of the Town of Westbrook which provide for the preservation of land not owned in fee simple by the Town of Westbrook, and which provide for public access in some form, including, but not limited to, trails, scenic, overlooks, bridal paths, bikeways, and similar routes of passage for recreation, nature study, contemplation, or other similar uses. For the purposes of this Article XII, the term “Motor Vehicle” shall include, but not be limited to, automobiles, trucks, farm or agricultural vehicles, motorcycles, motorbikes, motor scooters, go-carts, snowmobiles, motorized bicycles, mopeds or all-terrain vehicles.

Sec. 9-205. Motorized Vehicles Restricted. On Town Open Space and Conservation Restriction Lands, Motorized Vehicles are restricted to parking areas, vehicular access driveways and other areas specifically posted for Motor Vehicle use by the public. No Motorized Vehicles

- will be allowed on any Town Open Space or Conservation Restriction Lands at anytime. The following Motor Vehicles and uses are exempted from this prohibition:
- (a) Town maintenance vehicles, ambulance, law enforcement, fire or other emergency vehicles will be allowed to enter onto Town Open Space and Conservation Restriction Lands in the course of carrying out their normal duties.
 - (b) Snowmobiles may be allowed onto Town Open Space and Conservation Restriction Lands with prior permission of the Board of Selectmen to set cross-country ski tracks or to otherwise install or maintain Nordic trails.
 - (c) Construction or maintenance vehicles owned and operated by private contractors may enter onto Town Open Space and Conservation Restriction Lands subject to specific written permission from the First Selectman.
 - (d) Agricultural, farm or personal vehicles belonging to specific owners, their employees or assigns, may enter onto Conservation Restriction Lands subject to the terms of the conservation restrictions or agreements between the Town and the individual landowners for the subject property.

Sec. 9-206. Allowed Uses. Anything in this Article to the contrary notwithstanding, wheelchairs or similar non-motorized vehicles necessary for access by those suffering physical handicaps shall be permitted onto Town Open Space and Conservation Restriction Lands. Similarly, bicycles, pedestrians, skates, skateboards, non-motorized scooters, and baby strollers are allowed on all Town Open Space and Conservation Restriction Lands, but such vehicles shall be at all times restricted to designated trails unless such vehicles are specifically prohibited from such trails and is so posted. All trail users will travel at safe speeds at all times.

ordinance, continued on page 11



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ordinance, continued from page 10

Sec. 9-207. Right of Way. In areas of mixed non-vehicular use, i.e., horses, bicycles and pedestrians, equestrians shall have the right of way in all circumstances. Bicycle or other wheeled traffic shall yield to pedestrians.

Sec. 9-208. Easements and agreements. To the extent of any conflict between this Article and the terms of any particular conservation restrictions for a specific area of Conservation Restriction Land, the terms of such restrictions will control.

Sec. 9-209. Amendment of rules and regulations. The Board of Selectmen may promulgate rules and regulations to implement the provisions of this Article. Such rules and regulations may be amended from time to time by the Board of Selectmen.

Sec. 9-210. Violations, enforcement and penalties.
(a) **Unlawful Activity.** It is unlawful to engage in any activity that is in violation of this Article.

(b) **Penalty.** Violation of this chapter is punishable by a fine of one hundred dollars (\$100.00) for each offense.

(c) **Criminal Enforcement.** Any law enforcement officer authorized by law to enforce ordinances of the Town of Westbrook may enforce the provisions of this Article in the manner prescribed by law.

(d) **Civil Enforcement.** In the event of any activity in violation of this Article the Board of Selectmen, in addition to other remedies provided by law or specified herein, may institute an action for injunction or other appropriate action or proceeding to prevent, enjoin or abate any unlawful activity, or to remove any improvements on construction resulting from such unlawful activity. In the event that such unlawful activity has damaged any Town property, the violator shall be liable for any damage to Town property resulting from any such unlawful activity, including, but not limited to, compensation for staff time and for use of Town equipment to repair such damage. Any civil action or proceeding can include a claim to recover all such money damages.

Sec. 9-211. Posting. This Article, or a summary thereof, may be posted at visible locations on Town Open Space and Conservation Restriction Lands, as deemed necessary and proper by the First Selectman. The full text of this Article shall be available for public inspection at the offices of the Town Clerk, and such other locations as the First Selectman may designate.



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Editor's Note: As we go to press CEQ has been swept from the State's Budget. Contact your legislators; ask for their help in restoring CEQ's funds.

CEQ'S Annual Report on Connecticut's Environment Shows Strong Patterns: Regulation Works; Public Investment Lags

The Council on Environmental Quality's (CEQ) 2015 Annual Report, *Environmental Quality in Connecticut*, explores the condition of Connecticut's environment through 2015.

The four summary pages present an overview of recent trends and important conclusions. The 20 pages of environmental indicators display a comprehensive set of environmental data for the 10 years ending in 2015. For complete CEQ report go to www.ct.gov/ceq/site/default.asp and click on report.

Three factors can explain the many positive trends in Connecticut as well as the notable deficiencies:

1. Decades of successful regulation have reduced levels of many toxic substances in the environment, stimulated public and private investment in pollution control (see #2), prevented catastrophes and protected some types of habitat. The results include:

- Booming populations of Bald Eagles, Ospreys and other birds of prey.
- Generally improving levels of air pollution, though not in 2015 (see #3).
- The superior quality of Connecticut's public drinking water.

2. Levels of public and private investment in conservation and pollution control, which have yielded:

- Improving levels of oxygen in Long Island Sound, a product of steady and substantial investment in sewage treatment and pollution control.
- Failure to get on track toward the state's own land conservation goals, the result of underinvestment.
- Declines in numerous species of wildlife that depend on specific habitats, especially unbroken forests, as investment in habitat conservation did not respond adequately to sprawling patterns of development.
- The long-term improvement in air quality, the result of many technological innovations and investments that were driven by regulation (#1, above).

3. Global trends, especially climate change and greater intercontinental trade and travel, which make Connecticut's job of protecting the environment more challenging:

- The decline in air quality in 2015 can be attributed to a very hot summer.

- A global fungal disease, apparently imported from Europe, has destroyed Connecticut's cave-dwelling bats.
- Rising seas are squeezing wildlife that inhabit Connecticut's coastal marshes.
- Lobsters seem to be gone; whatever the cause, warmer waters are not helping.
- Invasive species are on the verge of altering Connecticut's forests and waterways forever. Comprehensive data are not available and are not found in this report; nonetheless, the changes underway are titanic. Connecticut does little to address these changes.

These three factors govern the condition of Connecticut's air, water, land and wildlife, and knowledge of their effects should guide the state's environmental policies of the future. 🍁

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CACIWC news, continued from page 2

collection and reporting of frog and toad vocalization data during evenings from February through August. Additional promotion of these projects through local media outlets will have the added benefit of helping to emphasize the value of our important wetlands habitats to the residents of your towns.

The second project focuses on Reptilia order Testudines (turtles and tortoises), the world's most endangered group of vertebrate animals. The project, known as the Connecticut Turtle Atlas, is a citizen science project of the Bruce Museum in Greenwich, Connecticut. CACIWC will work with Bruce Museum staff to promote this project, which also utilizes volunteer observers to collect turtle observation data from around the state. The resulting data will contribute to distribution maps, help identify important habitats and nesting areas, as well as high traffic-mortality roadways. We are hopeful that many of our commission members and staff will participate in these and other reptile and amphibian study projects during 2016, which will be described in *The Habitat* and on our www.caciwc.org website.

In other news:

1. The Board of Directors is reviewing the many valuable comments and suggestions submitted on our 2015 annual meeting survey. If you did not have an opportunity to complete the 2015 meeting survey you can still contact us with your comments at AnnualMtg@caciwc.org. We welcome any suggestions for workshop topics and speakers that you would like us to recruit for our upcoming 39th Annual Meeting and Environmental Conference, scheduled for Saturday, November 12, 2016; please save the date! Watch for additional conference news in upcoming issues of *The Habitat* and on our www.caciwc.org website.

2. One new goal of our revised strategic plan is improved membership communication, including ex-

panding ways to quickly send you important messages on emerging topics of interest, including grant and funding, legislative issues, and education and training opportunities. These improved communications will include an expanded listserv and website-based systems. Our Membership Coordinator & Database Manager Janice Fournier extends her thanks to all of you who provided us with your email address during our annual meeting to expand our existing ListServ. Janice will be in touch with others to confirm contact information.

3. Another important goal of our strategic plan is the development and promotion of our next generation of Connecticut conservationists. To help CACIWC achieve this goal, the CACIWC Board of Directors has returned for a fourth year to assess environmental and conservation projects entered in the Connecticut Science & Engineering Fair (CSEF) by middle and high school students throughout Connecticut. As I write this column, CACIWC Board Treasurer Charles Dimmick and I have begun a week-long service as coordinating judges for the environmental science awards in this year's CSEF. The CACIWC Board will be continue to pursue efforts to increase interest in careers and volunteer activities that support conservation and wetlands protection among Connecticut students. Watch this column and our website for more information on these activities.

We always welcome comments and suggests on ways to improve our education and outreach efforts. Please do not hesitate to contact us via email at board@caciwc.org if you have questions or comments on any of the above items or if you have other questions of your board of directors. We thank you for your ongoing efforts to protect wetlands and other important natural resources within your town!

Alan J. Siniscalchi, President 

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legal, continued from page 3

public access to the maps. Imagine walking out of town hall with the wetlands map for your town on a flash drive.

DEEP's proposed bill curtailed the open process and procedure in map amendments, by eliminating the public hearing and right to public inspection. In response to questions from the General Assembly's Environment Committee, a DEEP representative said the definition of "regulated activity" drove what activities require a permit and thus the map wasn't necessary. From a state agency's perspective, it may not be necessary. DEEP processes wetlands application for all state agency activities. The legislature intentionally left up to DEEP how inventory or index wetlands and watercourses "in such form, including pictorial representations, as the commissioner deems best suited to effectuate" the wetlands act. State agencies have professional staff who prepare wetlands applications.

In contrast, the people and entities who own land and wish to conduct activities run the gamut from individual landowners, homeowners, farmers, small businesses, large out-of-state businesses, family trusts, land trusts, just to name a few. The wetlands map in town hall has the salutary effect of putting everyone on the same page, literally and figuratively. Imperfect as it might be, it is notice to both a pro-

spective and a current owner of property of what is generally considered to be the geographical extent of the resources. It is simply unreasonable to think that all of those folks and entities should manage without the collective benefit of an official map. Think of the map as a border collie herding sheep. Think of individuals reviewing the definition of "regulated activity" as a means of herding cats.


I open this topic up for general dialogue. I would like to know if any towns have received petitions to amend wetlands or watercourse boundaries from anyone other than the property owner. I am also curious to hear of the pros and cons that you perceive in maintaining the official wetlands map in digital format. I invite your response on my blog or in an email to habitat@caciwc.org and/or directly to me at: jb@attorneyjanetbrooks.com.

Janet P. Brooks practices law in East Berlin. You can read her blog at: www.ctwetlandslaw.com and access prior training materials and articles at: www.attorneyjanetbrooks.com.

(Endnotes)

¹ I wrote post 5 blog entries and presented oral and written testimony in opposition to the DEEP bill, SB 141, at the Environment Committee public hearing, which can be accessed online at https://www.cga.ct.gov/asp/menu/CommDocTmyBillAllComm.asp?bill=SB-00141&doc_year=2016. 🍀

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Membership 2015-2016 – We Appreciate Your Support

As of March 29, 2016, the following Town Commissions have supported CACIWC through membership for the 2015-2016 fiscal year (July 1, 2015 to June 30 2016). THANK YOU! If you do not see your name of this list, please encourage your commission to join. If we are in error we apologize. Let us know by emailing Tom ODell at todell@snet.net. Member commissions receive a copy of *the Habitat* for each commissioner and staff if dues are paid.

CC = Conservation Commission IW= Inland Wetland Commissions (SUS) = Sustaining level of Support
 CC/IWC = Combined Commission Z/IWL = Combined Zoning/IWL

Ansonia	(SUS)	Franklin	IW	Preston	CC
Ashford		Goshen	CC	Preston	IW
Ashford		Greenwich	IW (SUS)	Prospect	IW
Avon		Greenwich	CC (SUS)	Prospect	CC
Beacon Falls		Griswold	CC+IW (SUS)	Redding	CC+IW (SUS)
Beacon Falls		Groton City	CC+IW	Ridgefield	Z+IW
Bethany	(SUS)	Guilford	CC	Ridgefield	CC
Bethany	(SUS)	Guilford	IW	Roxbury	IW
Bethlehem		Haddam	IW	Roxbury	CC
Bolton		Haddam	CC	Sharon	IW (SUS)
Bolton		Hamden	CC	Shelton	CC
Branford		Hamden	IW	Sherman	CC
Branford		Hampton	IW	Sherman	IW
Bristol		Harwinton	IW	Simsbury	CC+IW
Brookfield		Hebron	CC (SUS)	Somers	CC
Brookfield		Kent	CC	South Windsor	CC+IW
Brooklyn		Kent	IW	Southbury	IW
Brooklyn		Killingworth	CC	Sprague	IW (SUS)
Burlington		Killingworth	IW	Suffield	CC
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Canterbury		Lebanon	IW	Thompson	CC
Canton		Ledyard	IW	Thompson	IW
Canton		Lisbon	CC	Tolland	CC
Chaplin		Litchfield	IW	Tolland	IW
Cheshire		Madison	IW	Torrington	IW
Cheshire		Mansfield	Z+IW	Trumbull	IW
Chester		Marlborough	CC	Trumbull	CC
Chester		Middlebury	CC	Vernon	CC
Clinton		Middlefield	IW	Vernon	IW
Clinton		Middletown	CC	Wallingford	CC
Colchester		Middletown	IW	Wallingford	IW
Columbia		Milford	IW	Warren	CC+IW
Columbia		Milford	CC	Washington	IW (SUS)
Coventry		Monroe	CC+IW	Washington	CC (SUS)
Coventry		Naugatuck	IW	Waterford	CC (SUS)
Cromwell		New Fairfield	CC+IW (SUS)	Watertown	IW
Cromwell		New Hartford	CC	Westbrook	IW
Darien	(SUS)	New Hartford	IW	Westbrook	CC (SUS)
Durham		New Milford	IW	Weston	CC+IW (SUS)
Durham		New Milford	CC	Westport	CC+IW
East Granby		Newington	CC+IW	Willington	CC
East Hampton		Norfolk	IW	Willington	IW
East Hampton		Norfolk	CC	Wilton	CC
East Hartford		North Branford	CC+IW	Wilton	IW
East Lyme		North Haven	IW	Winchester	IW
East Lyme		Norwalk	IW (SUS)	Windsor	CC
East Windsor		Old Lyme	IW	Windsor	IW
Eastford		Oxford	CC+IW (SUS)	Woodbridge	IW
Easton		Plainville	CC	Woodbridge	CC
Ellington		Plainville	IW	Woodbury	CC
Ellington		Plymouth	CC+IW	Woodbury	IW
Enfield		Pomfret	IW	Woodstock	CC
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The goal is to have this Constitutional Amendment on the ballot this November for everyone to vote on. For this to happen each chamber of the General Assembly, House and Senate, must pass the bill with greater than three-quarters vote in favor.

For more information go to ctwoodlands.org and search for CFP 2016 Conservation Agenda. Another good source, "Preserved But Maybe Not: The Impermanence of State Conservation Lands". Go to, [ct.gov/ceq/lib/ceq/Preserved But Maybe_Not.pdf](http://ct.gov/ceq/lib/ceq/Preserved%20But%20Maybe_Not.pdf). To contact your legislator Google, "Find Your Legislator" to link to your legislator's contact info. Use Contact button to submit email. Thank You!

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