

Chapter 7.20 of the Municipal Code
CONSERVATION LANDS

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7.20.010: Declaration of Purpose

Over the years, the Town of Milford has acquired rights to various tracts of land to be held for public use, such as hiking, skiing, nature study and other similar uses. Such lands, called Conservation Lands, are listed at the end of this Ordinance. A tract of land shall be added to or removed from the Conservation Lands List, after its conveyance and recording in the Hillsborough County Registry of Deeds, and acceptance by the Board of Selectmen. In order to protect and preserve Conservation Lands and control their use, under the authority of New Hampshire RSA 36-A:4, the following Conservation Land Ordinance is hereby adopted.

7.20.011: Authority of the Milford Conservation Commission

In order to provide for the controlled and equitable use of Conservation Lands, to protect the safety and enjoyment of users and to preserve the natural environment, the Milford Conservation Commission, under authority of NH RSA 36-A:4, subject to the approval of the local governing body, may issue rules and regulations that:

1. Fix Times when Conservation Lands shall be open to public use;
2. Restrict the use of Conservation Lands, or parts thereof, from any use which may be determined by the Commission to be detrimental to forest or open space management or the purpose for which the land is conserved;
3. Layout proper Conservation Lands uses in accordance with the Conservation Plan, property specific management plan and/or other management studies.

7.20.012: Definitions

"Commission": shall mean the Milford Conservation Commission.

"Conservation Lands": for the purpose of this ordinance, shall mean properties with public access under the jurisdiction of the Milford Conservation Commission by means of deed or vote of the Board of Selectmen, including Town Forest, and other land owned by or under easement with the Town of Milford.

"Designated": shall mean identified on an official Commission map and/or by signage on the trail or property as allowing a specific use otherwise not allowed.

"Off Highway Recreational Vehicles (OHRV)": means any mechanically propelled vehicle used for pleasure or recreational purposes running on rubber tires, belts, cleats, tracks, skis or cushion of air and dependent on the ground or surface for travel, or other unimproved terrain whether covered by ice or snow or not, where the operator sits in or on the vehicle. All legally registered motorized vehicles when used for off highway recreational purposes shall fall within the meaning of this definition; provided that, when said motor vehicle is being used for transportation purposes only, it shall be deemed that said motor vehicle is not being used for recreational purposes. For purposes of this chapter "off highway recreational vehicle" shall be abbreviated as OHRV.

"OHRV Club": means an organized, dues-paying group of OHRV users with bylaws, registered with the Secretary of State as a nonprofit organization.

"Permission in Writing": shall mean a Special Permit Form or letter signed by the Chairman or Vice-Chairman of the Milford Conservation Commission, and others as required.

7.20.013: Conduct on Conservation Lands

A. Non-motorized Recreation:

1. Hiking is allowed on all trails, use caution on trails designated for motorized vehicle use, bushwhacking is discouraged, do not disturb wetlands and streams.
2. Camping is allowed on Conservation Land only with permission in writing;
3. Campfires are allowed on Conservation Land only with permission in writing from the Commission and Fire Chief.
4. Horse riding is permitted on designated trails.
5. Bicycles are permitted on designated trails.

B. OHRV:

1. Snowmobiles are permitted only on designated trails.
2. ATVs and motorized bikes are allowed only on designated trails.
3. No vehicles primarily used for transportation on public roadways are allowed on conservation lands or trails except for designated parking areas or for maintenance purposes hired or authorized by the Commission. The Commission reserves the right to exclude any vehicle.

C. Hunting and Fishing:

1. Hunting, consistent with state law, is allowed on Conservation Lands unless otherwise posted. Permanent tree stands and blinds are prohibited.
2. Fishing, consistent with state law, is allowed on Conservation Lands.

D. Dogs:

Dogs, and other pets, are allowed on Conservation Lands, unless otherwise posted, with the following restrictions:

1. Pets must be under the control of the owner or handler at all times.
2. Pet waste shall be picked up and packed out. Waste from carnivores, be they wild or domesticated, affect the resident wildlife.

E. Plant, Wildlife, Mineral, and Historical/Cultural Resource Collection:

1. Except as allowed in C above (Hunting & Fishing), collection, by the public, of any mineral, plant, animal or a part thereof, is not allowed. Take nothing but pictures and fond memories.
2. Collection for academic research is allowed with permission in writing.

F. Prohibited Conduct:

The following enumerated actions or conduct are prohibited on any Conservation Lands. Upon well founded information indicating that any person(s) committed any of the acts listed below, the Commission will report the same to the appropriate law enforcement officials for prosecution. The Commission will fully cooperate with law enforcement. This will include formally pursuing criminal prosecution for any illegal act(s) committed, or an arrangement for compensation, restoration and community service, as recommended by the Milford Police Department or appropriate law enforcement officials. The Prohibited Conduct shall include, but not be limited to, the following:

1. defacing, destroying or removing any sign, bench, fence, stone wall, or other structure(s);
2. defacing, destroying or removing any mineral, plant, animal or a part thereof, except as allowed in C and E above (hunting and fishing, academic research);
3. modifying the trails without permission in writing;
4. contaminating water;
5. littering, this includes paint ball and other activity that leaves materials on the property when the activity is completed;
6. removal, filling, or other disturbances of soil surface, or any changes in topography, surface or subsurface water systems, wetlands, or natural habitat.
7. the possession, consumption or use of controlled substances or alcoholic beverages.
8. offensive language.

The foregoing list is instructional only and not intended to be exhaustive and shall not be deemed to preclude the Commission, Law Enforcement Personnel or Town Officials from taking any other action available to them under applicable law as they deem necessary.

7.20.014: Withholding Use Privileges for Violators

Irrespective of whether a court of competent jurisdiction has penalized an offender for any of the above infractions, the Commission reserves the right to withhold privileges of using the Conservation Lands from any person, when in the reasoned judgment of the Commission that person has demonstrated that their use of and presence on Conservation Lands represents an unreasonable risk of harm to said lands.

7.20.015: Appeal from Milford Conservation Commission Decision

Any person aggrieved by a decision made by the Commission, relative to the use or otherwise of Conservation Lands, may file a written appeal with the Board of Selectmen, setting forth the reasons why the appellant is aggrieved. All appeals must be made within twenty (20) working days of receipt of the decision of the Commission.

7.20.016: OHRV Operation & Trails

A. Operation on ATV and Motorized Bike Trails

1. Unless a stricter regulation is found in this ordinance, the operation of all OHRVs shall be consistent with all State of NH statutes found in RSA Chapter 215-A.
2. No ATV or motorized bike trail shall be established unless the following conditions are met:
 - a. The trail or potential trail location has been evaluated by the Commission using the coarse and fine filter criteria found in 7.20.016 B below and has passed such criteria as determined by the Commission.
 - b. A written agreement is in effect between the Town of Milford, acting through its Conservation Commission and a locally-organized ATV or motorized bike club recognized by the state that details the club's ongoing responsibilities, including but not limited to, monitoring the use and condition of the trail, erecting signage, educating operators, performing maintenance, and monitoring compliance with laws and regulations. Should the club fail to fulfill some or all of its responsibilities, the town or its agent may assume such responsibilities provided sufficient resources are available and committed.
 - c. A management plan exists for the property that specifically allows ATV or motorized bike use on the property, and the ATV or motorized bike trail does not otherwise conflict with the management plan. If the Commission proposes to establish or change a management plan that affects ATV or motorized bike use on conservation land, the Commission shall publicize such plan and provide the public with the opportunity to comment on the plan before enactment.
3. An ATV or motorized bike trail on conservation land may be closed to ATV or motorized bike use by the Commission, if the Commission finds that:
 - a. ATV or motorized bike use on the property is not in conformance with the management plan and other regulations governing their use,
 - b. Responsibilities assumed by the locally-organized ATV or motorized bike club pursuant to 7.20.016.A:2(b) are not being met.
 - c. A trail may remain open if the town or its agent choose to assume such responsibilities and provided sufficient resources are available and committed.

B. Trail Layout Evaluation Process. - Any new ATV or motorized bike trail proposal on conservation land shall be evaluated by the Conservation Commission using a 2-step process.

1. Coarse Filter - the new ATV or motorized bike trail proposal shall be

considered to have passed the initial screening process if the following coarse filter criteria are met:

- a. There are no deed restrictions, laws, or purchase funding source restrictions that prohibit the use of ATVs or motorized bikes on the property.
 - b. Less than 90 percent of the property is composed of the following types of areas in combination:
 - i. Exemplary natural communities as identified in the natural heritage inventory program as defined in RSA 217-A:3, XVI;
 - ii. Habitat necessary for the successful breeding or survival of federal or state listed endangered or threatened species; and
 - iii. Forested wetlands consisting of group IIB forest soils as defined and mapped by the Natural Resources Conservation Service or non-forested wetlands as defined by the department of environmental services.
 - c. If it is to be a self-contained trail network, at least 400 contiguous acres are available within which the trail network can be situated, in either single, town ownership or as a combination of abutting properties.
 - d. If it is to be a trail corridor link, the trails which are being connected exist or will exist when the trail corridor link is established, or shortly thereafter.
 - e. The use of ATVs or motorized bikes on the property does not conflict with the purpose for which the property was acquired by the town as provided by law, or as attested to by letters from grantors, department memoranda, historic records, or other credible documents, or, if such conflict exists, it has been set aside by some legal means that includes a formal review process by the custodial agency.
 - f. The use of ATVs or motorized bikes on the property is not prohibited by an existing management plan for the property.
2. Fine Filter - A new ATV or motorized bike trail proposal that has passed the initial screening process of the coarse filter criteria under paragraph I shall proceed into a planning and layout phase and shall be considered to have passed such phase if the following fine filter criteria are met:
- a. The new trail is supported by an organized ATV or motorized bike club recognized by the Commission.
 - b. ATVs or motorized bikes operated on the trail will comply with maximum decibel limit established by law.
 - c. Adequate parking exists or will be developed for the type of trail being proposed and the number of expected riders.
 - d. The Commission has given due consideration to local planning and zoning ordinances.

- e. The proposed trail does not pass through a parcel with deed restrictions.
- f. The Commission has given due consideration to local noise and obnoxious use ordinances.
- g. The proposal is reasonably compatible with existing uses.
- h. The proposal does not violate federal, state, or local laws.
- i. The proposal includes a monitoring and response system designed to detect and correct adverse environmental impacts.
- j. The proposed trail layout incorporates existing motorized travel corridors whenever possible.
- k. The proposed trail layout minimizes further fragmentation of blocks of forestland by locating trails on areas with existing development whenever possible.
- l. The proposed trail does not pass through a wellhead protection area as determined by the department of environmental services under RSA 485:48, II.
- m. The proposed trail is not located on earthen dams, dikes, and spillways.
- n. The proposed trail avoids areas having soil types classified as important forest soil group IIA or IIB as defined and mapped by the Natural Resources Conservation Service, unless there is an existing soil condition or surface roadway that can be used to reduce adverse environmental impacts.
- o. The proposed trail is not within 100 feet of the ordinary high water mark of first and second order streams, 330 feet of third order streams, and 600 feet of fourth order and higher streams, except for purposes of stream crossing.
- p. All stream crossing structures meet 5-year flood design criteria.
- q. The proposed trail is not within 200 feet of any water body, forested or non-forested wetland, or vernal pool.
- r. The proposed trail avoids important wildlife habitat features for species of concern.
- s. The proposed trail avoids known locations of federally and state listed endangered or threatened species, or their habitat, as specified on a site-specific basis by the fish and game department.
- t. The proposed trail avoids known locations of rare plants and exemplary natural communities, as specified on a site-specific basis by the natural heritage inventory.
- u. The proposed trail avoids alteration or disturbance of unique geologic features and formations, as specified on a site-specific basis by the Commission.
- v. The proposed trail avoids alteration, disturbance, and adverse impacts to cultural and historic resources.
- w. The proposed trail is not within 330 feet of known raptor nest trees, or within 650 feet of trees with eagle or osprey nests.

- x. The proposed trail is more than 650 feet from eagle winter roosting areas and 330 feet from the edge of wetlands containing heron rookeries.
 - y. The proposed trail layout has a safe and appropriate trail design.
 - z. Safety standards for highway crossings are met.
 - aa. Any planned use of the proposed trail with other uses is safely accommodated.
 - bb. Local enforcement officers have been contacted to review and provide input regarding enforcement issues.
3. The Commission shall hold at least one meeting to inform the public and other town agencies of the plan and layout for a proposed ATV or motorized bike trail, consistent with the fine filter criteria in paragraph II, and to provide an opportunity for the public to comment. Information on the plan and layout shall be made available to the public in the Milford Town Hall and on a publicly accessible Internet site maintained by the Commission. The meeting and the places to obtain the information on the plan and layout shall be advertised at least 14 days prior to the meeting in a locally circulated newspaper.
 4. No person shall operate an OHRV wider than 50 inches or over 1000 pounds on any Commission managed trails.

7.20.017: Severability

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.