

ORDINANCE #2002-13

An Ordinance Relative to the
Amend Municipal Code - Title III
Chapter III - Conservation
Areas

First Reading: 08/12/02
Second Reading: 08/26/02
Adopted: 08/26/02

WHEREAS the Londonderry Conservation Commission has determined that in order to better serve the public at its conservation areas and to protect against misuse of same, that is feasible to enact a fines schedule which has graduated monetary impacts for offenses; and,

WHEREAS the Londonderry Town Council is desirous of maintaining its policies and municipal code through periodic update as administrative conditions require;

WHEREAS the Londonderry Town Council wishes to amend the Zoning Ordinance to reflect said adoptions,

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the Municipal Code, Title III - Land Use Codes, Chapter III - Conservation Areas, Section V Penalties, is hereby amended as attached.

John Silvestro - Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:

08/26/02 Londonderry Municipal Code Title III - Land Use Codes August 26, 2002

Chapter III - Conservation Areas

SECTION I PURPOSE AND INTENT

- A. This ordinance applies to the Town of Londonderry's major conservation areas and all recreational facilities
- B. To encourage the physically handicapped through the use of off highway recreational vehicles to use and enjoy the conservation set aside.
- C. To protect the users of these areas from physical injury that might result from the unrestricted operation of wheeled motor driven vehicles at these facilities
- D. To limit the Town's potential financial liability for any injuries that might result from the unrestricted operation of wheeled motor driven vehicles.
- E. To prevent damage to the playing fields, trails, roads, parking areas, steep slopes, wetlands, campsites, activity areas and other improvements, and thereby reduce the cost to the taxpayers of Londonderry for operating and maintaining these facilities.
- F. To prevent soil erosion, damage to vegetation and turf, and other injury to the environment.
- G. To reduce the risk of fire
- H. To reduce the amount of unwanted noise.
- I. To encourage indigenous wildlife to inhabit Londonderry's major conservation areas (TM. 1989 - Article 21)

SECTION II DEFINITIONS (Rev. 5/20/02 - Ord. 2002-06)

- A. "Major Conservation Areas" is meant to include any lands acquired by the Conservation Commission pursuant to the provisions of RSA 36:A-4 or by any other means; including purchase, lease or easement.
- B. "Musquash Conservation Area" shall mean and include Londonderry Tax Map 8, parcels 14 and 24, and others lots or areas annexed thereto as purchased or gifted to the Town. ***Londonderry Municipal Code Title III - Land Use Codes August 26, 2002***

Chapter III - Conservation Areas (Cont'd)

SECTION II DEFINITIONS (Cont'd)

- C. "Kendall Pond (Laycock) Conservation Area" shall mean and include Londonderry Tax Map 5, Lot 56, and other lots or areas annexed thereto as purchased or gifted to the Town.
- D. "Wheeled Motor Driven Vehicle" shall mean any and all liquid petroleum, propane or electrically powered motor vehicles which travel on one or more wheels, including "trail bikes" as defined by RSA 215-A:1, XIV. Such vehicles shall *not* include:
 - 1. Common snowmobiles operated in accordance with the laws of the State of New Hampshire, provided they are propelled on snow by tracks or cleats and steered by skis;
 - 2. Wheeled devices operated by the handicapped;
 - 3. Lawnmowers, maintenance vehicles, construction and logging equipment operated by or on behalf of the Town of Londonderry;
 - 4. Any emergency vehicles operated by or under the direction of the Londonderry Police and/or Fire Departments.
- E. "Wetland Soils" are those soil types that have been classified as poorly drained or very poorly drained by the Soil Conservation Service or the U. S. Department of Agriculture.

SECTION III REGULATED ACTIVITIES

- A. No person under the age of sixteen years (16) shall, at any time, operate a wheeled motor driven vehicle within any of Londonderry's major conservation areas or recreation facilities
- B. No person of any age shall operate a wheeled motor driven vehicle on any playing field, tennis court, activity area, basketball court, or grassed area of any portion of Londonderry's major conservation areas or recreational facilities.
- C. No person of any age shall operate any wheeled motor driven vehicle within any portion of Londonderry's major conservation areas or recreational facilities.
- D. No person of any age shall operate a wheeled motor driven vehicle on any portion of any of Londonderry's major conservation areas or recreational facilities which has wetland soils or an average slope in excess of six percent (6%), provided it be posted.
- E. No person of any age shall operate a wheeled motor driven vehicle in any manner that will cause physical damage to the surface or vegetation of any portion of Londonderry's major conservation areas or recreational facilities. ***Londonderry Municipal Code Title III - Land Use Codes August 26, 2002***

Chapter III - Conservation Areas (Cont'd)

SECTION III REGULATED ACTIVITIES (Cont'd)

- F. No person of any age shall operate a wheeled motor driven vehicle at an unreasonable speed in any portion of Londonderry's major conservation areas or recreational facilities
- G. Paragraphs A through F may be waived by a majority vote of the Conservation Commission upon specific application.
- H. The above restrictions do not apply to handicapped individuals under RSA 261:88. However, the right to operate may be suspended or revoked at any time for irresponsible or reckless operation.
- I. All trails and foot paths shall be kept free of berms, barways, or barriers of any kind to prevent total access to all Conservation Lands, except where said barriers are authorized by the Conservation commission for road and trail improvements on a temporary basis, or on a permanent basis for protection of a fragile or abused area.

SECTION IV ENFORCEMENT

- A. The provisions of this Ordinance shall be enforceable by every Police and law enforcement officer, including, but not limited to, State Police officers, sheriffs, deputy sheriffs, fish and game officers, policemen, constables, and all persons empowered to make arrests in criminal cases. (TM 1989, Art. 21)

SECTION V PENALTIES

- A. Any person found guilty of violating any provision of this Ordinance shall be fined as follows:
 - I. First Offense - \$100
 - II. Second Offense - \$250
 - III. Third Offense - \$750
 - IV. Fourth Offense \$1,000
- B. The net proceeds of all penalties collected pursuant to this Ordinance shall be paid into the General Fund of the town of Londonderry to help defray the costs of enforcing the ordinance.
- C. Any person who, while violating the provisions of this Ordinance, causes any damage to any of Londonderry's major conservation areas or any recreational facility, shall be ordered to repair all such damage or to reimburse the town of Londonderry for the repair of all such damage.
- D. If such person is a minor, then the parents or legal guardian of said minor shall also be liable to the Town for all such damage. ***Londonderry Municipal Code Title III - Land Use Codes August 26, 2002***

Chapter III - Conservation Areas (Cont'd)

SECTION VI EVIDENCE OF VIOLATION

- A. Notwithstanding any other provision of law to the contrary, any wheeled motor driven vehicle used in violation of this Ordinance shall be deemed evidence of the violation and may be seized by a law enforcement officer and retained for up to twenty four (24) hours or until released to a parent, guardian or owner upon payment of the cost of such seizure and retention. (TM 1989, Art. 21)

SECTION VII VALIDITY

- A. If any section, clause, provision, portion or phrase of this Ordinance 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, clause or provision, portion or phrase of this Ordinance.
- B. The provisions of this Ordinance shall be valid and in full force and effect whether or not there is snow cover on the ground or whether or not any, all or none of the borders of Londonderry's major conservation areas or recreational areas are posted or identified by signs. (TM. 1989 Art. 21)

SECTION VIII ACQUISITION OF LAND

- A. The Town Council is authorized to accept private donations of land, interest in land, or money to be deposited into the Conservation Fund for the purpose of contributing to the local matching portion required for acquiring conservation land or interest in land or other costs associated therewith for permanent conservation use under the NH Land Conservation Investment Program (LCIP), RSA 221-A.
- B. The Town Council is authorized to apply for and accept the State matching funds under the LCIP for the purposes of acquisition of the fee or lesser interest in conservation land. Said appropriated or donated funds and State matching funds may be expended by majority vote of the Conservation Commission. (TM 1992 Art. 38)

~~ End of Section~~