

CHAPTER 11

SECTION 11-30 OPEN SPACE LANDS

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Sec. 11-30-1. Purpose.

- (a) The town's open space lands shall be maintained to generally achieve the objectives for lands designated for passive recreation as described in the Town of Cheshire Plan of Conservation and Development and, specifically, this Chapter.
- (b) Residents and/or nonresidents may be permitted to use the particular parcels only upon terms and conditions established by this Ordinance and the regulations set forth in a management plan adopted by the Town Council for each parcel.

Sec. 11-30-2. Definitions; Rules Of Construction.

For the purposes of this chapter, the following words, terms, and phrases shall have the meaning respectively ascribed to them herein, unless the context clearly requires another meaning. Rules of construction, as contained in Chapter 1, Section 1-2 of this Code shall apply.

- (a) *Agricultural activities*, if permitted, means activities as defined in a management plan for a particular parcel.
- (b) *Bicycle* is as defined in Connecticut General Statutes Section 14-286 as that section may be amended.
- (c) *Management plan* means a plan which outlines the permitted and/or prohibited use or uses, if any, for each parcel of open space land which plan has been approved as Regulations by the Town Council pursuant to Section 6-15(B) of the Cheshire Charter.
- (d) *Minor* means any person under the age of eighteen (18) years.
- (e) *Motor vehicle* is as defined in Connecticut General Statutes Section 14-1(47) and as may from time to time be amended by the legislature of the state, and shall additionally include, but is not limited to, all-terrain-vehicles (ATVs), snowmobiles, and the like.
- (f) *Open space lands* means any piece or parcel of land, including any building or structure located therein or thereon, as may be so designated by the Town Council and for which a management plan is adopted. Only such property shall be subject to the terms of this Ordinance. The Council, in its discretion, may re-designate any parcel for other municipal purposes.
- (g) *Passive recreation* means recreational trail usage (non-motorized), recreational activities which do not require a formalized delineated playing field or area, picnicking, fishing, non-motorized boating, bicycling, horseback riding and hitching, and permitted environmental education programs.
- (h) *Permitted* means permission, secured in advance, of the Steward in accordance with this Ordinance and a management plan.
- (i) *Person*. The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships, limited liability companies, and bodies corporate as well as to individuals.

- (j) *Program* means any class or activity offered by the Town, or authorized to be offered by others by the Town, pursuant to the terms and conditions of a management plan.
- (k) *Steward* means the individual, as defined herein, responsible for the administration and management of open space lands under the jurisdiction of the Director of Parks and Recreation, pursuant to Section 6-10 of the Cheshire Charter.
- (l) *Town* means the Town of Cheshire.
- (m) *Vehicle* is as defined in Connecticut General Statutes Section 14-1(90) as may be amended.

Sec. 11-30-3. Administration.

- (a) There shall be an open space lands Steward who shall be appointed by the Director of Parks and Recreation with the prior approval of the Town Manager.
- (b) The Steward shall be qualified by education and/or experience in the administration and management of open space land as described herein.
- (c) The Steward shall be under the direction and control of and directly responsible to the Director of Parks and Recreation in the performance of his duties.

Sec. 11-30-4. Dedication, Use, And Management Plans.

- (a) The dedication, use, and management of particular open space lands shall be determined by designation of the Town Council and adoption by the Town Council of a Management Plan for the parcel.
- (b) A management plan for each parcel shall be proposed by the Director of Parks and Recreation and reviewed by the Town Attorney, as to form and legal sufficiency, approved by the Town Manager, and adopted by the Town Council, pursuant to Section 6-15(B) of the Charter. Management plans may cover more than one parcel if contiguous or otherwise logically integral. All proposed changes to a management plan shall follow the same procedure as for the adoption of the plan.
- (c) A copy of each management plan shall be kept on file in the office of the Steward, the Director of Parks and Recreations, and the Town Clerk.
- (d) Each management plan shall include at least the following: General description of the property and map; management goals; permitted uses; prohibited uses, if any; and the terms and conditions for each use; and any special considerations.
- (e) Before the Director of Parks and Recreation proposes a management plan, or an amendment to a management plan, he shall first submit such plan, or any amendment thereto, to the Environment Commission and the Parks and Recreation Commission for their review and written comments. Said Commission shall have forty-five (45) days within which to submit their comments. A copy of such comments, if any, shall be included with any plan submitted to the Town Attorney, the Town Manager, and the Town Council.

Sec. 11-30-5. Open Space Lands Rules And Regulations.

- (a) No person or group of persons shall use any open space land or structure located thereon for any purposes inconsistent with this Ordinance or any management plan. All use of open space lands shall be in compliance with any conservation easements or other deed restrictions, as may apply. Restrictions or conditions in such documents shall supersede the terms of this Ordinance, which are contrary to said restrictions or conditions, and such restrictions or conditions shall be specifically incorporated in any management plan.
- (b) Passive recreation, as defined herein, is permissible on all open space lands unless specifically prohibited in a management plan or if a particular parcel is “closed” by the Steward.

- (c) No person shall use, occupy or otherwise remain in a building, structure or facility parking area beyond hours of use established in a management plan or by special permit of the Steward.
- (d) No person shall be allowed to enter, loiter or remain in or on any Town open space land at any time one hour after sunset to one hour before sunrise, unless a permit to do so has been issued by the Steward.
- (e) Entry and exit to open space lands shall be by established entranceways or exits as set forth in the management plan and noted on its map.
- (f) The Town reserves the right to close all or any part of its open space lands to the public for the purpose of protecting the environmental quality of the area, to perform activities necessary to carry out necessary maintenance, or during periods of flooding, fire hazard, dangerous weather conditions, or other such conditions deemed hazardous or dangerous to persons or property. The Steward, with the approval of the Director of Parks and Recreations and/or the Town Manager, may declare and post all closed areas for such reasons.
- (g) No person shall remove, cut, break, injure, deface, mark, write upon, or disturb any tree, shrub, plant, rock, monument, fence, bench, table, gate, fence, stonewall, structure, apparatus, equipment, or property of any nature, or remove any flora or natural geological or paleontological features, or carry any flowers, shrubs or branches into, out of, or through any open space land. In addition, no person shall remove, add or introduce any vegetation, wood, soil, rock, sand or gravel from or onto any open space land without a permit from the Steward.
- (h) The use of metal detectors is prohibited.
- (i) No person shall kindle, build, or maintain a fire for any purpose within any open space land unless permits have been obtained from the Steward and the Fire Marshal.
- (j) No person shall smoke in open space land except in designated areas.
- (k) No person shall dump, deposit or leave any bottles, broken glass, paper, boxes, cans, rubbish, waste or garbage or other trash of any kind in any open space land. Waste or trash from incidental day use must be deposited in receptacles located on open space lands, as provided. If receptacles are not available, persons must, upon departing, carry out all such items for subsequent disposal in appropriate waste receptacles.
- (l) No person shall camp or erect or maintain a tent shelter, unless permitted in a management plan.
- (m) No person shall deposit waste water, sewage or effluent from sinks, portable toilets, holding tanks or other plumbing fixtures directly upon or into the surface of the ground or water within open space lands.
- (n) No person shall swim, bathe, change, or alter the water quality of any pond, lake, river, stream or waterway. No person or persons shall introduce to waters in open space land substances that would alter the natural water quality.
- (o) No motorized watercraft are allowed on any water, pond, or stream located on any open space land unless use of such watercraft is necessary to save life, perform maintenance, or for permitted research.
- (p) No person shall hunt, molest, harm, frighten, kill, trap, poison, chase, tease, shoot or throw rocks or missiles at any fauna in any open space land; however, law enforcement officials or agencies directed or permitted by the Steward may trap, hunt, or kill fauna when deemed necessary to protect the public health, safety, and/or the management of such fauna.
- (q) No person except duly qualified federal, state, or local law enforcement officials shall take into any open space land any firearm, air gun or gas weapon, sling shot, crossbow, bow and arrows or other articles of like character capable of maiming or destroying wildlife or destroying or defacing property, or any deadly weapon, dangerous instrument, or electronic defense weapon, as those terms are defined in Connecticut General statutes Section 53a-3, as amended, even if said person has a valid permit to carry such a weapon.

- (r) No person shall take fish within the boundaries of any restricted area as may be designated and posted by the Town. Fishing in other areas shall be in accordance with the rules and regulations established by a management plan provided, however, such person shall be required to display a valid state fishing license. No person shall utilize a spear or arrow for fishing.
- (s) No person or persons shall release, introduce or abandon any animal of any type into any open space land without a permit from the Steward.
- (t) Free roaming dogs are prohibited on all open space lands. Dogs must be on a leash and restricted at all times. Owners shall clean up and dispose of animal waste.
- (u) No person shall operate a motor vehicle on, over or across any trail or open space land, except within designated parking areas. This prohibition shall not apply to emergency or maintenance vehicles operated by an employee or contractor of the Town of Cheshire or the State of Connecticut or other person authorized by the Steward. The speed limit within all parking areas shall be ten (10) miles per hour, or as otherwise posted, for all permitted motor vehicles and bicycles.
- (v) No person shall solicit or distribute any signs, handbills, or circulars, or post, place or erect on any open space lands any bills or notices advertising any program or event without a permit from the Steward.
- (w) No person shall sell, expose for sale, or offer to sell any product of any kind on open space lands without a permit from the Steward.
- (x) No person shall engage in any activity or operate any device recklessly or negligently so as to endanger the life, limb or property of any person.
- (y) No person shall ice skate, ice boat, or ice fish, unless permitted in the management plan for that particular open space land.
- (z) No person shall use or possess fireworks of any kind.
- (aa) No person shall drive, chip or in any manner play or practice golf or hit golf balls.
- (bb) No person shall operate gas-powered model airplanes, boats, automobiles or other modelcraft of any kind or description.
- (cc) No person shall throw, release or discharge model missiles, rockets or similar projectiles.
- (dd) No person shall hang glide, parasail, or parachute.

Sec. 11-30-6. Permits.

- (a) A permit is required for any person who seeks to use any open space land in a manner for which either this Ordinance or a land management plan specifically requires a permit.
- (b) Duly authorized Town officers or employees shall not be required to obtain a permit for governmental actions but shall be required to obtain permission from the Steward, unless such conduct involves emergency or maintenance activities.
- (c) Any person wishing to procure a permit shall file an application with the Steward at the office of the Steward on a form supplied by the Town.
- (d) The Steward may approve or deny a permit upon such conditions as are reasonably necessary to protect public property and safety, and to protect the Town from claims for personal injury or property damage, provided no such application may be denied arbitrarily or without reasonable cause.
- (e) Any permit granted by the Steward is granted subject to any other statutes, ordinances, regulations, and the management plan which are applicable to the use sought, activity to be undertaken, and open space land to be used.

- (f) Any permit obtained under this section shall be retained by the person to which the permit was granted and shall be shown to any members of the town police department or the Steward upon request.
- (g) Failure to have possession of and to show said permit upon such request to members of the town police or the Steward shall entitle town police or the Steward to exclude any person(s) or group from any open space land and may subject the person to civil remedies or criminal penalties as are available under this chapter or other law.

Sec. 11-30-7. Stolen Property; Property Damage; Personal Injury.

- (a) As a condition for use of open space lands, persons or groups using any open space land assume all responsibility for lost or stolen property, personal injuries, or property damage, and by entry to the open space land agree that the use of the open space land is at their own risk.
- (b) The Town may seek full recompense, as well as any applicable civil, administrative and/or criminal penalties, for damage or vandalism to open space lands, structures or equipment. In the event that the damage or vandalism is caused by a minor, the minor's parent or legal guardian having custody or control of the minor shall be responsible for all damages and penalties.

Sec. 11-30-8. Minors.

- (a) Parents or guardians of any minor are responsible for the supervision, safety, and well-being of the minor while on any open space land.
- (b) No supervision shall be provided by the Town for minors except during programs specifically sponsored by the Town, and the Town assumes no responsibility for the supervision of minors except in such programs sponsored by the Town, and only as may be set forth in the terms of the program.
- (c) Any parent or guardian whose minor child enters any open space land without responsible supervision, is responsible for the acts of the minor, to the extent permitted by law, and accepts the risk of personal injury to said minor.
- (d) An unsupervised minor may be denied access to or expelled from any open space land.

Sec. 11-30-9. Power To Enforce Chapter.

The town police department shall have the power and authority to issue infractions for all violations of this Chapter or any management plan.

Sec. 11-30-10. Chapter Violations And Penalties.

Violations of any provision of this chapter or any management plan shall constitute an infraction. Any person who violates any provision of this chapter shall be fined in accordance with the guidelines established in the current state infractions schedule. Where more than one (1) fine is listed within the state infractions schedule for violation of a town ordinance, the higher fine shall be utilized.

(This ordinance is effective March 18, 2005.)