

## Chapter 701: PROPERTY USE VIOLATIONS

[HISTORY: Adopted by the Conservation Commission of the Town of Barnstable 6-2-1988; revised 7-6-1988, 7-1-2003, 3-14-2006, 6-16-2015. Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Noncriminal disposition — See Ch. 1, Art. I.  
Alcoholic beverages — See Ch. 20.  
Camping — See Ch. 147, Art. II.  
Sandy Neck — See Ch. 177, Art. I; Ch. 601.  
Shooting range — See Ch. 702.

### § 701-1. Authority; goals.

Under the terms of the Conservation Commission Act, Conservation land is received and held "in the name of the city or town." The Conservation Commission has a clear authority under the Conservation Act to adopt rules and regulations for the use of its land. The Town of Barnstable Conservation Commission's goal in management of its property is to protect the values of the land. The values are related to the protection or preservation of biological and ecological diversity, water supply and water quality, aesthetics and recreation, and community character. These values are related to public health and safety and environmental protection. The Commission is charged with balancing these values with public use and accessibility. The Conservation Commission discourages the following land use practices.

### § 701-2. Findings with respect to littering and illegal dumping.

Unfortunately there are people who find open space parcels a quick answer to their unwillingness to drive to the solid waste station or pay the necessary dumping fees. Illicit dumping is a large problem in West Barnstable Conservation area. The Town's Public Works Division has removed items, time and time again, such as sofas, chairs, mattresses, tires, rugs, cardboard boxes and refrigerators. Other items dumped throughout all the Conservation parcels include household trash, landscaping debris and weekend party debris. Illicit dumping and littering impacts not only public health and safety, but also aesthetics and community character.

### § 701-3. Findings with respect to unauthorized vehicle use.

*Editor's Note: See Ch. 601, Sandy Neck Barrier Beach.*

Illegal motorcycle and ATV use on Conservation parcels is on the rise. The unauthorized motorcycles and ATVs race along the narrow winding paths that the hikers, horseback riders and mountain bikers share. This raises a public safety concern. Gates and other barricades are placed to discourage unauthorized vehicle use, but the smaller vehicles continue to make new paths around them. Many times gate locks are broken or even the large steel gates themselves are cut or torn out of the ground allowing the larger vehicles access. The Commission depends on the Town's Natural Resource Officers to patrol; however the mere size of West Barnstable Conservation Area, which boasts over 1,000 acres with 15 miles of trails makes this a difficult task.

**§ 701-4. Unauthorized use of firearms prohibited.**

- A. Unauthorized use of firearms on Conservation lands is clearly a public safety issue. Prior to 2013, the Conservation Commission managed a public shooting range at the West Barnstable Conservation Area. Hunting is allowed on certain Conservation parcels as long as the person follows the state and federal laws. The discharge of a firearm, unrelated to the actual hunting of a game species for any reason, including but not limited to, target practice and / or the discharge of live ammunition is strictly prohibited on all property managed by the Conservation Commission. The firing of blanks including the use of starter's pistols is limited to property managed by the Conservation Commission where hunting is allowed.
- B. No hunting is allowed in the following conservation areas:
  - (1) Crocker Neck\*
  - (2) Long Pond
  - (3) Jenkins Wildlife Sanctuary
  - (4) Whelan
  - (5) Meetinghouse Farm
  - (6) Santuit River

\*Note the hunting of waterfowl is permitted below the high tide mark in coastal waters.

**§ 701-5. Open fires; camping; consumption of alcoholic beverages.**

- A. For public safety reasons, unpermitted fires are not allowed. Area Fire Departments are called on an average to at least one or two fires a year occurring on Conservation parcels that have been maliciously started. Fire Departments reach many of these fires by using a brush breaker, which also causes damage.
- B. For public health, safety and environmental reasons camping is unpermitted on the lands. Public rest rooms are not available which would be a public health issue and campsites can damage the environment if not managed properly. Unpermitted camping can also lead to unpermitted fires.
- C. Consumption of alcoholic beverages is not permitted on Conservation property. This regulation is in conjunction with the Chapter 20, Article I, Open Containers, of the Code of the Town of Barnstable. The consumption of alcohol seems to be prevalent at Long Pond and Whelan Conservation Areas in Marstons Mills and Crocker Neck Conservation Area in Cotuit. Associated with underage drinking is unpermitted fires and littering which are also public health, safety and environmental issues.

**§ 701-6. Findings with respect to vandalism.**

Vandalism is prevalent in most of the large Conservation parcels that promote public access with parking areas, trails and signage. Only to mention a few incidences: gates, barriers and fences have been cut or even torn out of the ground. Large wooden Conservation signs removed from a busy road side edge. Kiosks torn down and wood viewing decks burned to the ground. Interpretive trail markers are torn out of the ground. Replacement of these structures requires land management funds.

**§ 701-7. Violations and penalties.**

- A. Pursuant to Town of Barnstable By-laws Chapter 1, Article I, and MGL Chapter 40, § 21D, regarding the establishment of a noncriminal disposition process for Conservation Commission land use violations, the Commission does hereby promulgate the following regulation and penalty schedule for its land management rules and regulations for properties which the Commission both controls and directly manages:

<b>Violation</b>	<b>Fine</b>
Littering	\$300.00
Illicit dumping	\$300.00
Unauthorized vehicle use (cars, trucks, ATVs and motorcycles/dirt bikes)	
First	\$100.00
Second	\$200.00
Cutting or removal of vegetation, soil, stone	\$200.00
Consumption of alcoholic beverages	\$100.00
Camping	\$200.00
Defacing or destruction of any structure, sign or gate	\$200.00

- B. The Conservation Commission, its agents, and any Town police officer or Natural Resource Officer shall have the authority to issue citations assessing monetary fines, depending on the extent and severity of the violation.
- C. Failure to pay a fine assessed under this regulation within 21 calendar days may result in criminal prosecution.