

TOWN OF PRESTON, CT
CONSERVATION COMMISSION REGULATIONS

1.0 TITLE, AUTHORITY AND PURPOSE

1.1 These Regulations shall be known as the "Conservation Commission Regulations of the Town of Preston, Connecticut", and are herein referred to as "these Regulations".

1.2 These Regulations have been prepared and adopted in accordance with the provisions of Section 7-131a of the Connecticut General Statutes, as amended, and as authorized by ordinance of the Town of Preston.

1.3 The preservation and protection of open space from random, unnecessary, undesirable and unregulated uses, disturbance or destruction, is in the public interest and is essential to the public health, welfare and safety. It is therefore the purpose of these Regulations to protect the citizens of Preston by making provisions for the protection, preservation, maintenance and use of open space by minimizing its disturbance, preventing the loss of wildlife, vegetation and the destruction of natural habitats, and preserving and protecting open space for the natural enjoyment of the citizens of Preston.

1.4 The Commission finds that in order to properly protect dedicated open space in the Town of Preston it is necessary to regulate activities which take place therein.

1.5 These Regulations shall apply to any land, or interest in land, acquired by the Town of Preston for use as open space including, but not limited to, any interest in land acquired by conservation easement.

2.0 DEFINITIONS

2.1 Certain words, terms and phrases used in these Regulations shall have the meanings presented in this section. Unless otherwise defined herein, any term defined in the Preston Zoning Regulations, the Preston Subdivision Regulations and the Preston Inland Wetlands & Watercourses Regulations shall have the definitions ascribed therein, unless specifically identified. Words not defined in this section shall have commonly accepted meanings. All words used in the present tense include the future tense, unless specifically identified.

2.1.1 "**Commission**" means the Conservation Commission of the Town of Preston, Connecticut.

2.1.2 "**Conservation Easement**" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will

or other instrument executed by or on behalf of the owner of the land described therein, whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space use.

- 2.1.3 "Open Space" means land, or an interest in land, acquired by the Town of Preston by purchase, condemnation, grant (including interests acquired by easement), gift, devise, lease or otherwise, the preservation of which would maintain and enhance the conservation of natural or scenic resources, protect natural streams or water supplies, promote conservation of soils, wetlands, beaches or tidal marshes, enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, enhance public recreation opportunities, preserve historic sites, or promote orderly urban or suburban development.

3.0 REGULATION OF CONSERVATION EASEMENTS

3.1 The regulation of conservation easements that have been, or may be acquired in the future, by the Town of Preston requires that restrictions be imposed upon the use of the property to keep and retain the property predominantly in its natural condition, restricted from development. The following conditions shall apply to any conservation easement acquired by the Town. Other conditions may be added to a particular easement if considered necessary by the Commission for the protection of the natural condition of the property involved:

1. The construction or placing of buildings, camping accommodations, mobile homes, or sanitary waste disposal systems;
2. The placing or erecting of signs (excepting therefrom the installation of conservation easement markers), billboards or other structures of any kind or nature whatsoever;
3. The making of any topographic changes in or to the property. The general topography of the landscape shall be maintained in its present state or condition. Topographic changes shall include, without limiting the generality of the foregoing, the cutting of trees; filling, excavating, dredging, mining or drilling; removal of topsoil, sand, gravel, rocks or minerals; or the alteration of natural or existing watercourses or drainage.
4. The use or application within the property of any pesticides, herbicides, biocides, poisons or fertilizers;
5. The draining of any wetlands, burning of marshlands, or disturbance and/or change in the natural habitats of the property;

6. The manipulation or alternation of natural watercourses, marshes or other water bodies, or any uses of or activities upon said property which could be detrimental to water purity or to any vegetative wildlife or hydrological function;

7. The placement of or the operation of vehicles, snowmobiles, dune buggies, motorcycles, minibikes, go carts, all terrain vehicles, golf carts or any other types of motorized vehicles upon or within such property;

8. The dumping or placing of soil, trash, ashes, leaves, waste, rubbish, garbage, junk or unsightly or offensive materials within or upon the property;

9. The removal of or destruction of trees, shrubs, natural vegetation, the killing of wildlife, or any other activities or uses detrimental to drainage, flood control, water conservation, erosion control, soil conservation, wildlife or the maintenance of the land and water areas in their open natural condition;

10. The construction and/or installation of roads or driveways;

11. The removal or disturbance of any boundary markers identifying the property as a protected property.

3.2 Conservation easements granted after the effective date of Regulations. The owner or agent of any owner of any lands who, subsequent to the effective date of these Regulations, grants a conservation easement to the Town of Preston as a condition to the granting of any land use application or permit by any land use commission of the Town (including the Town of Preston Planning & Zoning Commission and the Town of Preston Inland Wetlands & Watercourses Commission), shall comply with the following conditions, requirements and restrictions:

1. The grant of the conservation easement shall be in a form substantially in accordance with the Conservation Easement Agreement attached to these Regulations as Schedule A, as may from time to time be amended.

2. Markers identifying the perimeter boundaries of the conservation easement shall be installed by the grantor of the easement before acceptance by the Town of Preston, or its regulatory bodies or commissions, of any land use application or permit. The grantor shall agree, on his/her/its behalf and on behalf of the successors and assigns of the grantor, to maintain and replace said boundary markers, as necessary.

3. The exterior boundaries of the conservation easement shall be posted with boundary markers approved by the Conservation Commission. Said

markers shall be obtained and installed, at the grantor's sole expense, along the exterior boundaries by the property owner, at intervals of not less than 75 feet along the perimeter, and at a height of no less than 5 feet and no greater than 7 feet from the ground. Boundary markers shall be affixed, where reasonable and appropriate, to existing trees along the exterior boundaries. Where posting in this manner is not reasonably possible, boundary markers shall be affixed to posts, installed at appropriate intervals at the grantor's expense, of such type and character as may be approved by the Conservation Commission.

4. The grantor shall provide to the Town of Preston a right-of-way to access the conservation easement. The Town of Preston, or its designee, shall be granted the right to enter into and upon the property at all reasonable times in order to determine if the property owner is complying with the purposes and conditions imposed upon and regulating the use of the property.

5. The grantor shall acknowledge and agree that the Town of Preston may enforce the conditions imposed upon and regulating the use of the property by any appropriate proceeding at law, in equity or by administrative proceedings against any person or persons violating or attempting to violate the same, which enforcement may include, but not be limited to, an attempt to restrain the violation and/or to recover damages.

3.3 Exceptions. Notwithstanding the restrictions set forth in §3.1 of these Regulations, the property owner, or his/her/its successors or assigns, may make application to the Conservation Commission for exception from any one or more of the foregoing restrictions. Any such application shall be made on a form as prescribed in §4.1 of these Regulations, and shall be accompanied by such supporting information as is relevant to the Commission's consideration of the application, as stated herein. Upon application duly made, the Conservation Commission may grant such exceptions as may be deemed necessary and appropriate, taking into consideration all relevant facts and circumstances, including but not limited to: the environmental impact of the proposed exception; the applicant's purpose for, and any feasible and prudent alternatives to, the proposed exception; hardship to the applicant; and the character and degree of injury to, or interference with, safety, health or the reasonable use of the property, which is caused or threatened by enforcement of the restriction. The foregoing notwithstanding, any exception that involves an activity regulated by the Inland Wetlands & Watercourses Commission will also require approval by said Inland Wetlands & Watercourses Commission.

4.0 APPLICATION FOR EXCEPTION FROM RESTRICTED ACTIVITY AND REVIEW PROCEDURES

4.1 Application for exception from a restricted or regulated activity shall be made on a form available for such purposes, which may be obtained from the office of the Town Clerk. Each application shall be accompanied by such

supporting information and documents as are necessary to provide a sufficiently detailed description of the reason or reasons for the requested exception to permit the Commission to evaluate its impact on the specific area.

4.2 Such application and supporting information and documents shall be submitted to the Town Clerk. The official day of receipt of an application shall be the day of the next regularly scheduled meeting of the Commission immediately following the submission of the application, provided such meeting is no earlier than three (3) days after such submission, or thirty-five (35) days, whichever is sooner.

4.3 The Commission shall evaluate the application at its meeting held on the official date of receipt, which evaluation may be continued, at the discretion of the Commission, to its next regularly scheduled meeting for purposes of providing notice of the application to adjoining property owners, or for other necessary purposes. The applicant may, but is not required to attend any meeting of the Commission at which time the application is evaluated.

4.4 The Commission shall take action on the application within sixty-five (65) days from the receipt of the application. At any time during the period between the receipt of the application and the Commission's action thereon, the Commission may require the applicant to submit additional information regarding the requested exception.

4.5 The Commission shall cause notice of its decision to be mailed to the applicant by certified mail within fifteen (15) days of the decision to approve or deny the requested exception.

5.0 AMENDMENTS

5.1 These Regulations may be from time to time amended, changed or repealed, by a majority vote of the Commission at a regularly scheduled meeting. Such amendments or changes shall become effective at such time as is fixed by the Commission.

6.0 VALIDITY AND SEPARABILITY

6.1 If any section, subsection, sentence or portion of these Regulations is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of these Regulations. If there is a conflict among the provisions of these Regulations, the provision which imposes the most stringent standards for the protection of open space shall apply.

6.2 These Regulations shall not supersede or obviate requirements of any other regulations or ordinances presently in force in the Town of Preston.

7.0 EFFECTIVE DATE

7.1 These Regulations were effective on September 16, 2010.