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GUEST COLUMN: Illegal use of off-highway vehicles on town land becoming more problematic

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The Foxboro Conservation Commission

A disturbing trend, the burgeoning illegal use of Off-Highway Vehicles (OHVs), which includes all-terrain vehicles (ATVs), off-highway motorcycles (OHMs) and snowmobiles, on town land has become more problematic over recent years. Illegal OHV use has resulted in an increasing number of residents' complaints regarding noise, pedestrian safety and extensive damage to our town's natural resources. It would appear from talking with some OHV riders, that they are unaware of the existing laws and regulations concerning OHV use.



This photo of the same vernal pool was taken in October, after ATV "mudding" destruction. (Submitted photos)

Because of the alarming number of people who are unaware of the restrictions against the use of motorized vehicles on Foxboro's conservation lands and other town-owned land, the Conservation Commission would like to take this opportunity to reiterate that they manage Foxboro's conservation and open space lands for "passive" (non-motorized) recreational uses and to preserve wildlife habitat to the benefit of all Foxboro citizens.

The damage OHV use is causing to our natural resources is becoming increasingly evident. Formerly narrow hiking trails have become widened or braided through the repeated use of OHVs. New trails have been created to increase trail networks or to avoid natural obstacles. Vegetation has been destroyed, trees cut (in some cases to build bridges), and rock walls have been torn apart by OHV users who seek to gain access to gated or other inaccessible areas. Wider trails, which are more susceptible to erosion due to the lack of vegetation and compacted soils, can negatively affect wetlands and waterways. Wider trails also provide easy access into the forest for predators, which can negatively affect the nesting success of some of our migratory birds (often referred to as "interior forest nesters").

More alarming damage to wildlife habitat is caused when OHV users actually ride through sensitive wetland areas, an unfortunate but common practice referred to as "mudding" that is used by OHV riders to "enhance" their off-roading experience. Shallow, temporary wetlands called "vernal pools" are particularly vulnerable to the damage that is caused by OHV mudding activities. Vernal pools are fragile, though highly productive, wetlands that provide breeding habitat for amphibians (e.g. toads, frogs, salamanders and newts). In fact, several varieties of amphibians that breed exclusively in vernal pools are listed as rare or protected species in Massachusetts.

Aside from the direct physical destruction to vegetation and amphibian eggs, mudding activities create sediments that can smother or kill amphibian eggs by depriving them of oxygen, which is necessary for their development.

Agricultural lands in Foxboro have also been negatively affected by illegal OHV activities. For example, the Commission has worked for many years with a farmer in Foxboro who maintains several agricultural fields through cropping or mowing which provides a diversity of habitat types on conservation land. Unfortunately, over the last several years, due to severe soil and crop damage

caused by OHV riders using the fields repeatedly, this farmer has been unable to recoup maintenance costs.

On May 13, 2002, the citizens of Foxboro passed a General By-Laws, Article V, Section 1 Police Regulations, Disturbances, Section D that states the following:

"Except as provided by statute, it is unlawful to operate unauthorized motorized vehicles (all terrain vehicles, dirt motorcycles, and snowmobiles) on property under the care and control of the Foxborough Conservation Commission, Water Department, Recreation Commission or Board of Selectmen of the Town of Foxboro. Any person violating this by-law shall be punished by a fine of fifty (\$50.00) dollars for the first offense and one hundred fifty (\$150.00) dollars for subsequent violations and or criminal prosecution along with restitution of any damage incurred to the Town of Foxboro property."

Foxboro is not the only town that has experienced an increase in OHV use; the scope of the problem is state-wide. According to an article in the Boston Globe dated April 23, 2012, in Massachusetts there were 69 total recreation vehicle accidents resulting in five fatalities in 2012, 76 recreation vehicle accidents and four fatalities in 2011, and 62 accidents and six fatalities in 2010.

Recognizing the need for stricter regulations, legislation signed in August of 2010 (Ch. 202 of the Acts of 2010) brought new provisions to the Massachusetts Recreation Vehicle Laws. Among the new provisions are educational requirements for young riders, age restrictions for operators of OHVs, increased penalties for illegal use, and the establishment of an OHV program fund to support improved riding opportunities and law enforcement.

In general, the law requires all persons under the age of 18 to take an OHV Safety and Responsibility Course. Upon successful completion of the course, the operator must attend a two-hour classroom-based course, taught by an Environmental Police Officer.

If the operator is under the age of 16, a parent or guardian is also required to attend. Once both requirements have been satisfied, the operator will receive a Massachusetts Off-Highway Vehicle Safety Certificate. This certificate must be on the operator at all times while operating an OHV.

To mention a few of the additional prohibitions, the law makes it illegal to operate an OHV within 150 feet of a residence (without homeowner permission) in a manner that emits noxious fumes, makes excessive noise or causes damage to public or private property. It is also illegal to operate an OHV on any public property not designated for recreation vehicle use.

If you are an OHV user or the parent of OHV user, please take the time to review and comply with our Town By-Law and the Massachusetts OHV regulations. Also, please be sure to consult the Massachusetts Department of Recreation and Conservation's website (<http://www.mass.gov/eea/agencies/dcr/massparks/recreational-activities/off-road-vehicles.html>) for information about areas where OHV use is allowed (for example, the Gilbert State Forest is designated for Off-Highway Motorcycles only).

The Commission would also like to encourage residents to contact the Foxboro Police and/or the Massachusetts Environmental Police to report any illegal use of OHVs on town property. Perhaps, through the collective efforts of concerned citizens and law enforcement personnel, illegal OHV use on town land can be managed more effectively.

Together we can preserve and protect our natural resources. It's your land to enjoy and preserve for future generations.

For more information about our town's conservation areas, please visit the Foxborough Conservation Commission's website at http://www.foxboroughma.gov/Pages/FoxboroughMA_Conservation/index.

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