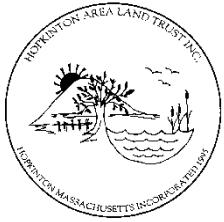


# Conservation Restrictions

**David S. Goldman, P.E.**  
**President**  
**Hopkinton Area Land Trust**



# Why Conservation Restrictions

- **CR's are desirable because they assure that the land will remain in its natural state, in perpetuity**
- **Add an extra layer of protection by the state**
- **Are reversible only by an act of the legislature**
- **Require NO town services at all**
  - **Require no expenditure of tax dollars**
  - **Generate no tax dollars [if held by a 501(c)(3)]\***
    - **Revenue neutral**

\* If Held by a 501(c)(3) in Fee Simple today, then the land generates no taxes today



# Issues in Conservation Restrictions

- **Open to the Public:**
  - If result of OSLPD and written into the Certificate of Planning Board Action, then open to the public;
  - If private, then may or may not be open to the public
- **Fishing**
  - If there is a body of fishable water, then yes
  - If there is no body of fishable water, then No or Moot
- **Hunting**
  - 97% of all open space is within 500 feet of a residential property
  - Allow bow hunting



# Hunting Issue

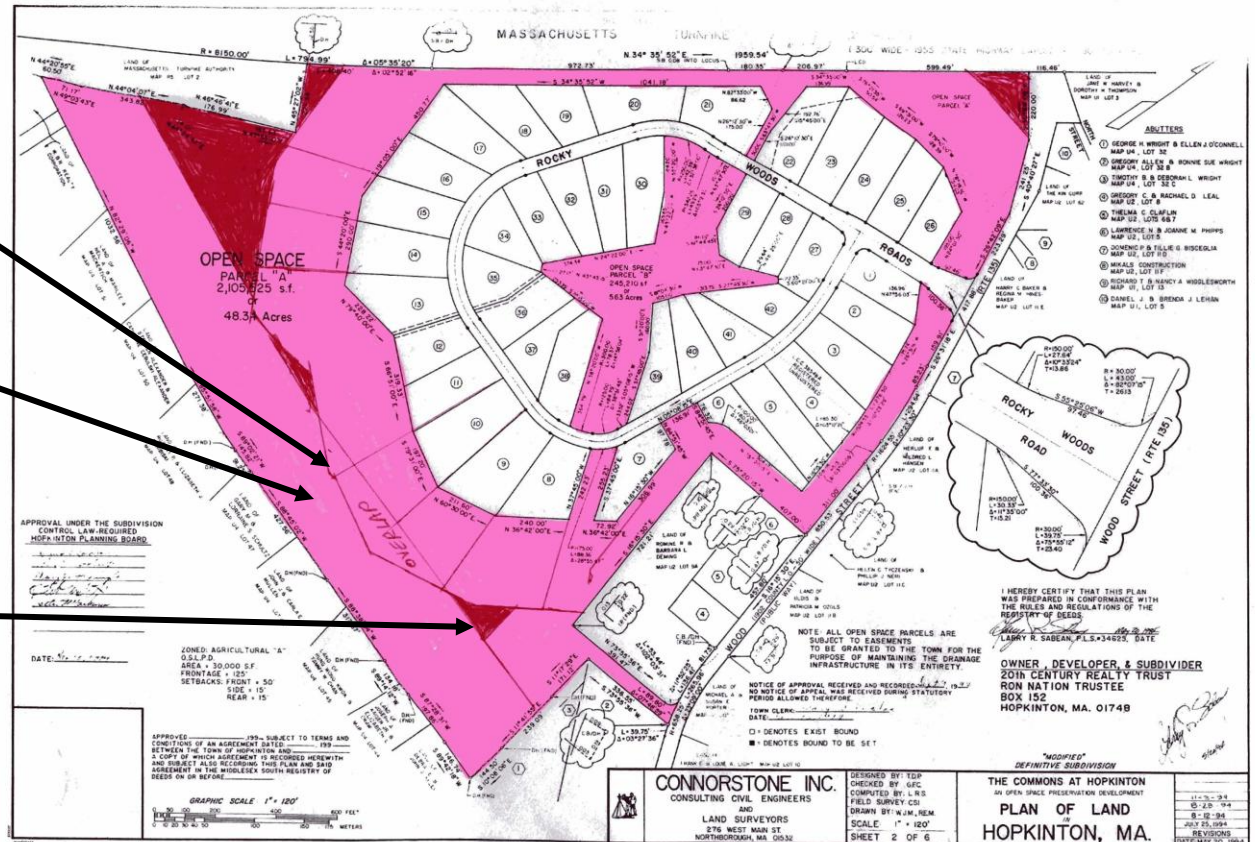
- **MGL Chapter 269: Section 12E. *Whoever discharges a firearm as defined in section one hundred and twenty-one of chapter one hundred and forty, a rifle or shotgun **within five hundred feet of a dwelling or other building in use**, except with the consent of the owner or legal occupant thereof, shall be punished by a fine of not less than fifty nor more than one hundred dollars or by imprisonment in a jail or house of correction for not more than three months, or both.***

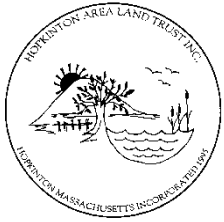


# Example of the Hunting Issue

## - An Analysis of One OSLPD Subdivision

- Lines represent 500 foot limits
- Pink areas are the open space
- Red areas are locations where hunting is theoretically possible





# Fishing Issue

- **If one refers back to the last slide, for this subdivision analysis, there are no fishable bodies of water (in fact no bodies of water at all)**
  - **This would make the fishing issue moot**
- ***Propose that fishing issues, in CRs, be handled on a case-by-case basis with appropriate analytical support***



# OSLPD's & Public Access as written into Cert. of PB Action

	Date	Subdivision	Type	Public Access in the Cert. of PB Action		Developer	PB Chairman
1	09/09/1994	The Commons	OSLPD	Para. 2	Yes	Nation	Markarian
2	11/21/1996	Emerald Hills East/HHI	OSLPD	Para 20	Yes	Lane	Coolidge
3	07/09/1997	Frankland Woods	OSLPD	Para 10 HoA <u>Silent</u>	No	Roux	Coolidge
4a	11/24/1997	Olde North Mill I	OSLPD	Para 6	Yes	Roux	Coolidge
4b	11/24/1997	Olde North Mill II	Grid	-----	Yes	Terry	Coolidge
5	10/20/1999	Deer Run/Brick Hill	OSLPD	Para 5	Yes	Lakeside	Clark
6	05/10/2000	Hopkinton Meadow	OSLPD	Para 4 & 11	Yes	Pulte	Clark
7	06/09/2000	Hopkinton Highlands II	OSLPD	Para 4	Yes	Toll Bros	Coolidge
8	07/11/2001	Brook Hollow	OSLPD	Para 3 <u>Silent</u>	No	Rosewood/Capital Properties	Coolidge
9	11/06/2003	Pine Acres	OSLPD	Para 3 <u>Silent</u>	No	Kotob	Coolidge
10	04/15/2005	Deneen/Scarлата	OSLPD	Para 4 <u>Silent</u>	No	Deneen/Scarлата	Coolidge

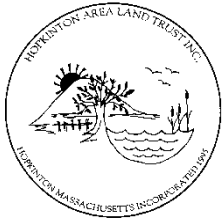


# Upcoming CR's

	Property	Type	Fee	CR	Open To the Public	Fishing	Hunting
1	The Commons	OSLPD	HALT	HOA		N/A	Bow
2	Deneen		HALT	HCC	N	N/A	No
3	Fruit Street	N/A	Town	SVT/HALT	Y	Y	Y*
4	Whitehall	N/A	Town	HALT/FOW	Y	Y	Y*
5	Cameron	N/A	Town	???	Y	Y-N/A	Y*
6	Phipps	N/A	Town	???	Y	Y-N/A	Y*
7	Braden	N/A	Town	???	Y	?	Y*
8	Pine Acres	OSLPD	HALT	HCC	N	Y	?Bow?
9	Hopkinton Highlands II	OSLPD	HALT	HCC	Y	Moot	?Bow?
10	Brook Hollow	OSLPD	HALT	HCC	Y	Moot	?Bow?

**Over the next 6 to 12 months all these CR's will be coming before the Board of Selectmen for Town concurrence. We need to resolve the issues up front so that it is clear where we are going.**





# Backup Material



# Backup

## Chapter 140: Section 121

### Chapter 140: Section 121. Firearms sales; definitions; antique firearms; application of law; exceptions

Section 121. As used in sections 122 to 131P, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Ammunition”, cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun. The term “ammunition” shall also mean tear gas cartridges, chemical mace or any device or instrument which contains or emits a liquid, gas, powder or any other substance designed to incapacitate.

“Assault weapon”, shall have the same meaning as a semiautomatic assault weapon as defined in the federal Public Safety and Recreational Firearms Use Protection Act, 18 U.S.C. section 921(a)(30) as appearing in such section on September 13, 1994, and shall include, but not be limited to, any of the weapons, or copies or duplicates of the weapons, of any caliber, known as: (i) Avtomat Kalashnikov (AK) (all models); (ii) Action Arms Israeli Military Industries UZI and Galil; (iii) Beretta Ar70 (SC-70); (iv) Colt AR-15; (v) Fabrique National FN/FAL, FN/LAR and FNC; (vi) SWD M-10, M-11, M-11/9 and M-12; (vi) Steyr AUG; (vii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and (viii) revolving cylinder shotguns, such as, or similar to, the Street Sweeper and Striker 12; provided, however, that the term assault weapon shall not include: (i) any of the weapons, or replicas or duplicates of such weapons, specified in appendix A to 18 U.S.C. section 922 as appearing in such appendix on September 13, 1994, as such weapons were manufactured on October 1, 1993; (ii) any weapon that is operated by manual bolt, pump, lever or slide action; (iii) any weapon that has been rendered permanently inoperable or otherwise rendered permanently unable to be designated a semiautomatic assault weapon; (iv) any weapon that was manufactured prior to the year 1899; (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available parts into an operable assault weapon; (vi) any semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition; or (vii) any semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine.



# Backup

## Chapter 140: Section 121

**“Conviction”**, a finding or verdict of guilt or a plea of guilty, whether or not final sentence is imposed.

***“Firearm”***, a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16 inches or 18 inches in the case of a shotgun as originally manufactured; provided, however, that the term firearm shall not include any weapon that is: (i) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-chains, pens, cigarette-lighters or cigarette-packages; or (ii) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk-through metal detectors.

**“Gunsmith”**, any person who engages in the business of repairing, altering, cleaning, polishing, engraving, blueing or performing any mechanical operation on any firearm, rifle, shotgun or machine gun.

**“Imitation firearm”**, any weapon which is designed, manufactured or altered in such a way as to render it incapable of discharging a shot or bullet.



# Backup

## Chapter 140: Section 121

**“Large capacity feeding device”, (i) a fixed or detachable magazine, box, drum, feed strip or similar device capable of accepting, or that can be readily converted to accept, more than ten rounds of ammunition or more than five shotgun shells; or (ii) a large capacity ammunition feeding device as defined in the federal Public Safety and Recreational Firearms Use Protection Act, 18 U.S.C. section 921(a)(31) as appearing in such section on September 13, 1994. The term “large capacity feeding device” shall not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber ammunition.**

**“Large capacity weapon”, any firearm, rifle or shotgun: (i) that is semiautomatic with a fixed large capacity feeding device; (ii) that is semiautomatic and capable of accepting, or readily modifiable to accept, any detachable large capacity feeding device; (iii) that employs a rotating cylinder capable of accepting more than ten rounds of ammunition in a rifle or firearm and more than five shotgun shells in the case of a shotgun or firearm; or (iv) that is an assault weapon. The term “large capacity weapon” shall be a secondary designation and shall apply to a weapon in addition to its primary designation as a firearm, rifle or shotgun and shall not include: (i) any weapon that was manufactured in or prior to the year 1899; (ii) any weapon that operates by manual bolt, pump, lever or slide action; (iii) any weapon that is a single-shot weapon; (iv) any weapon that has been modified so as to render it permanently inoperable or otherwise rendered permanently unable to be designated a large capacity weapon; or (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available parts into an operable large capacity weapon.**



# Backup

## Chapter 140: Section 121

**“Length of barrel”** or **“barrel length”**, that portion of a firearm, rifle, shotgun or machine gun through which a shot or bullet is driven, guided or stabilized and shall include the chamber.

**“Licensing authority”**, the chief of police or the board or officer having control of the police in a city or town, or persons authorized by them.

**“Machine gun”**, a weapon of any description, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged by one continuous activation of the trigger, including a submachine gun.

**“Purchase”** and **“sale”** shall include exchange; the word **“purchaser”** shall include exchanger; and the verbs **“sell”** and **“purchase”**, in their different forms and tenses, shall include the verb exchange in its appropriate form and tense.

**“Rifle”**, *a weapon having a rifled bore with a barrel length equal to or greater than 16 inches and capable of discharging a shot or bullet for each pull of the trigger.*

**“Sawed-off shotgun”**, any weapon made from a shotgun, whether by alteration, modification or otherwise, if such weapon as modified has one or more barrels less than 18 inches in length or as modified has an overall length of less than 26 inches.

**“Semiautomatic”**, capable of utilizing a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and requiring a separate pull of the trigger to fire each cartridge.

**“Shotgun”**, *a weapon having a smooth bore with a barrel length equal to or greater than 18 inches with an overall length equal to or greater than 26 inches, and capable of discharging a shot or bullet for each pull of the trigger.*



**“Violent crime”, shall mean any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or possession of a deadly weapon that would be punishable by imprisonment for such term if committed by an adult, that: (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion, arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.**

**“Weapon”, any rifle, shotgun or firearm. Where the local licensing authority has the power to issue licenses or cards under this chapter, but no such licensing authority exists, any resident or applicant may apply for such license or firearm identification card directly to the colonel of state police and said colonel shall for this purpose be the licensing authority.**

**The provisions of sections 122 to 129D, inclusive, and sections 131, 131A, 131B and 131E shall not apply to:**

- (A) any firearm, rifle or shotgun manufactured in or prior to the year 1899;**
- (B) any replica of any firearm, rifle or shotgun described in clause (A) if such replica: (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and**
- (C) manufacturers or wholesalers of firearms, rifles, shotguns or machine gun**