

Why Rights of Wetlands in Shutesbury?

Disclaimer: We are not legal experts. Shutesbury Rights of Wetlands suggests that you consult the actual texts of the laws and regulations or the local and state agencies responsible for administering and enforcing these laws and regulations if you have legal questions.

Time is of the essence, and we are collectively at a crossroads. Escalating wetland loss and destruction continue despite existing environmental protections. Wetlands are essential as a bulwark against climate change and biodiversity loss, but existing approaches have failed to shift the human-Nature relationship or halt consumption-oriented human behavior. As we approach the 6th Mass Extinction, brought on by development and climate destabilization, we must act and shift our mental, cultural, and legal frameworks about our relationship to Nature and the Earth. Rights of Nature statutes provide a legal basis for addressing these issues when existing regulatory frameworks are not enough.

Most people understand that we are facing an existential crisis because our global society is destroying our planet. A growing number of other municipalities are adopting these kinds of statutes because they are recognizing that existing environmental laws are just not working. Every community that steps forward helps to budge the needle closer to the national and global recognition of the Rights of Nature.

Rights of Nature legislative efforts are about democracy and self-determination. The authority for adopting a Rights of Nature statutes is based on the people's fundamental and inalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them.

What matters to you?

Before thinking of solutions, consider what matters to you most, what values you hold dear, and what you would like Shutesbury to look like in 50 years:

- Preservation of Shutesbury's rural habitat
- Climate change resilience
- Carbon sequestration and storage
- Deforestation and habitat loss/fragmentation
- Wildfires
- Droughts and flooding
- Biodiversity and species extinctions
- Invasive species
- Groundwater/drinking water contamination (PFAS, gasoline, salt)
- Erosion, sedimentation, and environmental degradation

- Uncontrolled commercial development
- Pollution control
- Noise and light pollution

If these issues matter to you, then consider becoming a champion of the Rights of Wetlands!

What does “protected” *really* mean?

Activities around wetlands are “regulated” by laws because society recognizes that they are part of the “Commons,” parts of the natural world that are “held in trust”—in common by society—due to their collective benefit to us all.

Having an activity regulated, however, does not mean that wetlands are “protected from all harms or that their inherent rights are observed. Private property rights often take precedence over environmental concerns in our country. Regulatory laws, such as the federal Clean Water Act, local Zoning Bylaws, the state Wetlands Protection Act (WPA), and our local Shutesbury Wetlands Protection Bylaw (SWPB) mean that “permits” are needed for projects in or near wetlands, but the vast majority of permit applications are granted. Permitting agencies have broad discretionary power and may still grant projects for ill-advised projects.

The environmental values provided by wetlands must always be weighed against the overriding rights of the landowner. While permit decisions can be appealed, only a narrow category of parties have the “right” to appeal. Usually, this is limited to direct abutters to a project who can demonstrate objective and financial harms to them personally.

In 2023 and 2024, Shutesbury residents engaged in a vigorous debate about our collective values and the critical importance of wetlands. Significant resources were devoted to questioning local wetlands protections. At a time when environmental protections were never more urgent, residents were asked to believe that wetlands protections are incompatible with the rights of individual landowners.

Despite this, in January 2024, the voters of Shutesbury adopted a new Wetlands Protection Bylaw by a substantial majority vote. The new Wetlands Protection Bylaw now includes climate change resilience, protection of biodiversity, and carbon sequestration as some of its core purposes. As such, Shutesbury has one of the first local statutes in the state to enumerate climate change as a factor in wetlands protection. **This is cause for celebration, but it is a cautionary tale.**

Environmental protections and regulations, however, are only as strong as their weakest link. Even when the voters have spoken and express their wishes in law, things can go awry when special interests have outsized power to influence democratic decision-making, when concerned citizens lack legal standing, or when the regulatory process is determined by who has the deepest pockets. Well-intentioned regulatory boards can become overwhelmed

when they lack the financial, technical, and legal resources needed for enforcement of environmental laws. Even when all of the normal processes work as intended, environmental laws are still stacked to favor of private property rights over the rights of nature. **If the proverbial tree is illegally cut down in a forest wetland, will anyone hear?**

The Future of Shutesbury's Wetlands

Despite being a small community of some 1,800 residents, Shutesbury has some big-city/global-scale environmental challenges.

While residents of Shutesbury have historically been fortunate to enjoy the benefits of ample groundwater, many surface wetlands--that serve as connections points to groundwater--are continually under threat from drought, deforestation, dirt road erosion and runoff, and development.

Since 2010, multiple reported groundwater contamination sites have been reported on municipal property, the cleanup of which is still pending. These contamination issues affect multiple homes with contaminated drinking water, perhaps with long-term health and property value implications.

Shutesbury has Lake Wyola, a residential lake that is densely settled with perpetual erosion and runoff problems. Poorly maintained unpaved roads and an aging dam also come with their own hazards to downstream residents and ecosystems. In recent years, public debate has questioned how the Lake is being managed—whether the Town's priorities are preserving the recreational rights of lakeshore residents or protecting water quality and the wetland ecosystem that stretches from the Lake Wyola Watershed in Wendell to the Sawmill River in Leverett. Throughout this watershed, multiple endangered species habitats are threatened by development activities.

Other areas of Shutesbury are marbled with thousands of smaller wetlands: ponds, streams, brooks, swamps, Bordering Vegetated Wetlands, bogs, and vernal pools. These resources provide ample groundwater resources for Shutesbury's drinking water wells, but they also support habitat for beaver, mink, foxes, bear, deer, moose, waterfowl, and vernal pool species. Shutesbury's many vernal pools serve as reservoirs of life, supporting biodiversity and rare species. Climate change is putting these wetlands and the forests that surround them at risk from increased heat, extreme weather, invasive insect species and tree diseases. Increased precipitation leads to erosion from roads and developed properties create runoff contamination of contaminant-laden sediments. Droughts contribute to increased groundwater stress and wildfire hazards.

Shutesbury wetlands are uniquely under threat from deforestation and fragmentation of habitat created by development projects. In recent years, our community has become the locus for several industrial-scale solar projects, located in and around sensitive wetland and riparian ecosystems. These kinds of projects must be carefully evaluated to ensure they do not result in cumulative adverse effects on wetland habitat in Shutesbury, and downstream

in Amherst, Pelham, and Leverett. Even if these particular projects never come to fruition, however, new development pressures will undoubtedly continue to come along as the eastern part of Massachusetts becomes increasingly uninhabitable due to sea level rise.

All of these challenges put Shutesbury's wetlands, and their clean water and ecosystem benefits, at further risk. Where environmental protections lag, we need to change our way of thinking. Instead of looking for state, national, and international governmental entities to solve problems, we can begin to change things at the local level through direct democracy. Rather than viewing wetlands as "Resource Areas" to be exploited solely for human benefit, Rights of Nature statutes look to protect the natural world as the animate, living, and breathing entity that it is.

Our system and way of thinking about Nature and the Earth are broken and unsustainable. Wetlands, like all of Nature, are living entities that have a right to exist, thrive, and evolve in connection with the Earth. Granting to wetlands the legal rights that humans enjoy may seem strange and novel, but it is really just using a very ancient principle to solve a very modern problem. Worldwide, nations and communities are beginning to incorporate the Rights of Nature into their legal codes. We must give our natural environment the same rights we give to the corporations and governments that are destroying it. If top-down change is not working, then we need to make changes at the local level.

We must act now to create the future we need.