

V. Management Policies

Town-wide property Management Policies

Open spaces managed by the Town of Cape Elizabeth are for the benefit and enjoyment of all citizens and visitors. Town policy is to impose as few restrictions on use of these properties as possible, consistent with the desire to promote user safety in a natural environment, minimize conflicting uses, protect the natural features and generally exercise proactive stewardship of a valuable and enduring Town asset. When using Town open space, members of the public should respect the rights of abutting private property owners and stay on Town open space.

Existing Ordinances, State laws and Regulations

These management policies supplement existing federal, state, and local laws. Highlights of existing laws are noted below in association with the policy to which they most closely relate. Open space users are responsible for abiding by all applicable laws.

Trail Conditions

Policy: Greenbelt trails are established and maintained primarily as minimally improved pathways. Selected trail improvements will be made to the degree needed to provide trail users with a rustic, enjoyable experience while minimizing impact on the natural environment. Typical trail widths will be 4 to 6 feet wide with a minimum vertical clearance of 8 feet. On wooded trails where snowmobiles operate, curved trail sections may be wider. Almost all trail surfaces will be the existing soil or grassy vegetation that is mowed periodically. Bark mulch, gravel and similar materials may be applied when the use of the trail degrades the trail surface. Water bars, shallow swales or drainage pipe may be employed for erosion control purposes.

Boardwalks, bridges and other structures will be constructed to carry trails over water or protect native soils and vegetation. On trails where snowmobiles are permitted, structures will be wide enough to accommodate one snowmobile and rider at a time. Trail improvements will not introduce grade changes where they do not naturally exist. The Greenbelt Trail system will comply with the spirit of the Americans with Disabilities Act by striving to make at least ten percent of trails accessible to “other-abled” trail users. The rustic nature of greenbelt

trails makes it problematic to make all trails accessible at the same level as the built environment because preservation of the natural environment is also a goal of the trail system. ADA requirements provide an exemption for nature trails in these conditions. Nevertheless, the Town will not make trail improvements on rustic trails that increase inaccessibility of trails. For example, when boardwalks or bridges are constructed, the ends will include ramps or will merge at grade to the adjacent trail surface.

In order to preserve trail surface stability and manage trail maintenance costs, the Conservation Commission may restrict use or close a trail for a season or during wet conditions. Notification of a closed trail will be posted at the trail and on the Town website.

Greenbelt trails are used by almost everyone who visits the Town's open spaces. Many trails are heavily impacted by foot traffic, bicycles and, in some places, snowmobiles and horses. Accordingly, virtually all open space maintenance efforts will be directed to the upkeep and improvement of the trail system. The Town of Cape Elizabeth will make all reasonable efforts to maintain the greenbelt trail system within budget limits, however, trail users are expected to use common sense and avoid trails when natural conditions make them hazardous.

Signage

Policy: Town greenbelt signs adhere to a consistent design and prominently state that the trail is provided by the Town of Cape Elizabeth in order to educate the public about the Town Greenbelt system.

Greenbelt trails constructed and maintained by the Conservation Commission are marked at regular intervals with 4 by 5 inch metal signs as seen below.



Larger 8 by 12 inch versions of these signs are placed where they can be seen at major trail heads to make the location of trail systems easier to find. The Conservation Commission will also identify major trailhead locations where prominent 4' x 8' trail signs, similar to the Winnick Woods sign, should be installed.

At primary open spaces, copies of the maps may be placed at the head of the individual trail systems and at significant intersections to help the public navigate the trails in the field. The public will also be able to view copies of these trail maps, accompanied by a brief narrative, electronically on the Town's public website at www.capeelizabeth.org

In addition, the public is asked to follow and respect any additional trail signage that may be posted on individual trails, such as signs asking recreational bikers to dismount over wet areas of the trail, or signs prohibiting the use of motorized vehicles on the trail system. Destroying, damaging or removing signs, kiosks or any other structure or improvement placed on Town Open Space by the Town's employees or authorized agents is prohibited under Sec. 12-1-6 of the Miscellaneous Offenses Ordinance.

Miscellaneous Offenses, Sec. 12-1-6. Defacing, Injuring Public Property. No person shall mark or write on any public building, nor on any fence not his own nor any sidewalk, nor any other public place in this Town.

Hours of Operation

Policy: All Town open spaces, except for Fort Williams, are open at all hours for the enjoyment of the public. From the hours of sunset to sunrise, trail users shall limit activities to the quiet enjoyment of the trails.

Encroachments

Policy: The goal of the Encroachment Policy is to protect Town owned land for the benefit and enjoyment of public use, for its' own use, and within the context of local ordinances, deed restrictions, and usage easements which the Town has purchased or been granted. No alteration of Town property or use for private purpose without the express permission of the Town should occur.

The Town of Cape Elizabeth strives to be a good neighbor in its efforts to maintain and enhance the public's use and enjoyment of the Town's Open Space and Greenbelt Trails. The Town wishes to protect the public interest in public property, now and for future generations, and has a fiduciary responsibility to protect these assets. The Town's public property rights shall be respected in the same spirit as those of private property owners.

Encroachment defined. An encroachment is an alteration of Town property by a private party without permission of the Town. Encroachments may include, but are not limited to:

1. Placement of structures; buildings, fences, landscape objects, play equipment
2. Placement of yard and leaf waste
3. Placement of household trash
4. Planting of trees and vegetation
5. Removal of trees and vegetation
6. Unauthorized clearing, mowing, landscaping

When encroachments occur. Encroachments may be reported by a member of the public, by a Town employee or official, or by the Conservation Commission. When a potential encroachment has been identified, the following process shall be used:

1. Confirm encroachment. Following a complaint or report of a possible encroachment, the Town Manager shall be notified. The encroachment shall be inspected and, if deemed necessary, a professional surveyor will be retained to confirm the property boundary and prepare a sketch showing the extent of the encroachment. When applicable, the deed for the property shall be reviewed for restrictions. If the Conservation Commission learns of a possible encroachment, it may gather information as described above and report its findings to the Town Manager.
2. Identify party causing encroachment. The Town Manager shall attempt to identify who has caused the encroachment and initiate contact. If the responsible party cannot be determined, the Town may take action to remedy the encroachment under #3 below. If the party can be identified, the Town Manager shall initiate contact and seek voluntary cooperation to remove, repair or replace as necessary.
3. Enforcement. If the Town Manager is unable to obtain voluntary cooperation, legal advice may be sought and all legal remedies available to a property owner may be undertaken by the Town. Remedies may include but are not limited to removal of structures, replanting of vegetation, installation of fencing or other visually prominent boundary markers, and efforts to recover costs. Appeal of the Town Manager's determination that an encroachment has occurred may be made to the Town Council.

Vegetation damage and Removal/Invasive Species

Policy: No vegetation will be removed on Town owned open space without the permission of the Town, except for blockage of Town trails.

Greenbelt trails are primarily located in naturally vegetated areas, and often adjacent to sensitive natural resources such as wetlands and ponds. Vegetation will be removed to maintain greenbelt trails. Volunteers are encouraged to partner with the Town to conduct vegetation management, and may remove vegetative barriers across existing trails, such as fallen trees and branches, only where the trail is located, without permission.

The Town also encourages and participates in programs to discourage and remove invasive species. Volunteers have requested and received permission to remove bittersweet on Town open space, especially where it is threatening the health of trees.

Rubbish, Litter, Sewerage and Animal refuse

Policy: The Town of Cape Elizabeth has a “Carry-in, Carry-out” policy. No person shall dump, deposit or leave any bottles, broken glass, paper, boxes, cans, rubbish, waste or garbage or other trash in any open space areas. Persons must, upon departing, carry out all residual items, waste or trash. No person shall deposit waste water, sewage or effluent from sinks, portable toilets, holding tanks or other plumbing fixtures directly upon or into the surface of the ground or into surface water within an open space area.

If any domestic animal, dog, horse or other animal brought onto open space defecates on or near open space, the person or persons accompanying the animal are responsible for the immediate removal and appropriate disposal of feces from the open space.

Below is the existing Health and Sanitation Ordinance prohibiting activities on Town land:

Health and Sanitation Ordinance, Sec. 11-3-12. Consent to dispose of waste. No person shall throw, place, deposit or permit any person under his control or employ to throw, place, or deposit any putrid substance, human or animal excretion, dead animal, night soil, filth of any kind, garbage, rubbish, refuse piles, old lumber, or any unwholesome material in or upon any vacant lot, alley, lane, sidewalk or street, beach, harbor, pond, or stream, or upon any private lot or public grounds within the Town of Cape Elizabeth without the consent of the Town health officer or his duly authorized representative.

Work Alterations/Improvements to Public Land

Policy: Any proposed improvement to Town open space, not including infrastructure improvements funded by the Town Council, must be reviewed by the Conservation Commission.

Individuals or groups that wish to make improvements to Town trails or open space shall first meet with the Conservation Commission and describe the proposed improvements. The Conservation Commission will conduct a field visit to the improvement area, and may request plans or other materials confirming the proposed work. The Conservation Commission will also monitor the improvements.

Any work that falls within existing policies and plans approved by the Town Council may then be authorized by the Conservation Commission. Proposed improvements that exceed the scope of the Conservation Commission's role as steward of the Greenbelt system shall be forwarded to the Town Council with the Conservation Commission's recommendation.

Hunting, Fishing, and Trapping

Town policy on hunting, fishing and trapping is dictated by state and federal law. Highlights of the laws are summarized below.

State Laws. The Town has obtained legal advice that it does not have the authority to prohibit hunting on Town owned land. Hunting, fishing and trapping is regulated by the State of Maine. Adherence to all state laws and regulations shall be the responsibility of the persons who wish to engage in hunting, fishing, or trapping on Town open space. A complete summary of state law is not provided here, however, the following general hunting provisions¹ should be noted:

- "The hunting, possession, transporting of any species of wild animal or wild bird, or parts thereof, for which an open hunting season is not specifically provided, and except as provided in the fish and wildlife laws, and except as provided in the fish and wildlife laws, is unlawful."
- "Wild birds and wild animals may not be hunted from 1/2 hour after sunset until 1/2 hour before sunrise the following day. Exceptions: migratory bird, turkey, raccoon and coyote."
- [Shooting] within 100 yards of a dwelling is unlawful.
- Tree hunting stands on private property may not be erected without the permission of the property owner. The hunting platform must include the name of the owner on the stand and steps may only be strapped onto the tree.

¹ State of Maine Hunting and Trapping 2009-2011 Laws and Rules

Local Laws: Use of firearms in Cape Elizabeth is limited by the Firearms Ordinance as follows:

Firearms Ordinance, Sec. 9-1-1. Prohibition of Discharge of Firearms. The discharge of firearms, air rifles or pistols is prohibited in all areas of Town excepting the salt marshes, property owned by the Spurwink Rod and Gun Club, and property under federal jurisdiction, and excepting the use of such weapons at military exercises or in the lawful defense of person, family or property of any individual or entity. Use of rifles except on target ranges authorized by the Police Department is prohibited within all areas of the Town.

Federal Laws. On federal land, discharge of firearms is allowed. In addition, discharge of firearms on land located below the low water mark of coastal lands is allowed.

Policy: Hunting, fishing and trapping in Town open space areas are allowed in accordance with all Town and State laws and regulations.

Hunting Stands. In accordance with state law, the Town does assert its right as a property owner to require that no hunting stand be installed on Town open space without obtaining the permission of the property owner. Permission to erect a tree stand will be granted in conformance with the following:

1. The tree stand must be installed in conformance with state law;
2. The tree stand must be installed a minimum of 100 yards from any residential dwelling;
3. The tree stand must be installed a minimum of 10 yards from any Town of Cape Elizabeth trail marked with greenbelt trail signs; and
4. Tree stands to be erected on Town open space shall include the name of the owner on the tree stand.

Traps. State Trapping Rules allow only “cage-type live traps and drowning sets” to be set within one-half mile of the built-up section of a city or town.” The Town of Cape Elizabeth has determined that all of the property it owns is within the 1/2 mile trapping limitation zone. Further, setting the type of traps that are allowed by the Trapping Rules on Town property requires written permission from the Town. Licensed trappers will be granted such permission in order to remove animals causing damage to property or for wildlife survey and research purposes.

Camping

Policy: No camping is allowed on Town owned open space without the written permission of the Town. A camping permit is required.

Miscellaneous Offenses, Article II. Camping on Public Property.
[Adopted eff. 10/13/71, under R. S. 1964, T. 30, Sec. 2151.]

Sec. 12-2-1. Permit Required. No person shall sleep, tent, camp or be housed in a camper, trailer or other mobile home upon any property owned by the Town of Cape Elizabeth after sunset or before sunrise except in accordance with a permit issued by the Chief of Police upon conditions sufficient to assure that adequate water and sanitary facilities will be preserved, that the normal use of the Town property will not be disrupted, that the peace and property of any abutters will not be disturbed, and that any liability which the Town might incur has been waived; such permit may be summarily revoked by the Chief of Police, or his duly authorized agent, upon the violation of any of the conditions recited therein.

Horses

Policy: Horses are allowed on designated greenbelt trails. Due to the extreme sensitivity of a horse's nature and its inherent unpredictability, all other trail and open space users shall heed all warnings and requests from horse riders, whether mounted or on foot. Dogs must be restrained in the vicinity of horses.

In 2011, there are approximately 130 horses owned and boarded in Cape Elizabeth. The majority of these are boarded at 4 farms.

Pets

Policy: All dogs must be leashed on groomed Town property. In natural open space areas, greenbelt trail users who are accompanied by their pets must maintain control of their animals at all times so as to prevent their harassing or otherwise interfering with wildlife or other users. With the above restrictions, dogs are allowed off-leash in open space areas. (See also the Rubbish, Litter, Sewerage and Animal Refuse Policy)

The Town Dog Ordinance, Sec. 7-1-7, may need to be amended for clarification and consistency with this policy.

Dogs Ordinance, Sec. 7-1-7 Dogs to be Restrained on Municipal Property. Any dog within the boundaries of a groomed and/or regularly maintained municipal property including, but not limited to, Fort Williams Park, public roads, municipal sidewalks and athletic fields, will be walked on a leash or tether at all times. The person accompanying the dog in these situations is required to collect any feces dropped by the animal and dispose of same in an area where it will not likely be encountered by any persons. The Cape Elizabeth Poor Farm, Lions' Field excluding the Little League field, and a 20+- acre portion of Fort Williams Park Southerly of Humphreys Road (the road fronting the Parks Maintenance Building) and extending along a line to the rear of the long garages at the rear of Officers Row buildings, (but excluding the fields immediately south of Portland Head Light and in front of Battery Blair) are not considered to be groomed and/or regularly maintained for purposes of this ordinance.

Motorized Vehicles

Policy: No motorized vehicles may operate on Town open space except:

- snowmobiles in accordance with the Uses and Activities Chart, Sec. III.
- vehicles performing authorized construction and maintenance work
- emergency service vehicles

Fires and Alcohol

Policy: In accordance with State Law, open burning anywhere in Town is allowed only upon issuance of an Open Burn Permit. Alcohol may not be consumed on Town open space.

Complete information related to burn permits can be found in the Fire Department section of the Town website (www.capeelizabeth.com).

Social Gatherings/weddings

Policy: Individuals or groups desiring to schedule weddings, or events (which are not just for use of the trails) which include an assembly of more than 20 persons on Town open space, not including Fort Williams Park or

athletic fields, should meet with the Conservation Commission to obtain permission. Information regarding the date and time of the event, number of attendees, any structures, tables, chairs, etc intended to be used and parking arrangements should be included in the request.

Closure of Open Space

Policy: The Town reserves the right to close open space areas to the public for the purpose of protecting environmental quality or during public safety emergencies.

Property Management Policies for specific parcels

Fort Williams Park

The Fort Williams Advisory Commission is a 7 member volunteer board appointed by the Town Council to supervise and provide advice to the Town Council regarding all facets of Fort Williams Park. Fort Williams Park is the premier Town-owned open space in Cape Elizabeth and is therefore included in the inventory section of this plan. Fort Williams Park, however, is exempted from any of the management provisions of this plan in deference to the organizational structure already established for the park.

Riverside Cemetery Trustees

The Riverside Cemetery Trustees is also a volunteer board appointed by the Town Council with oversight over the Riverside Cemetery. Riverside Cemetery is also exempted from the management policies of this plan.

School Campus and Gull Crest

The school campus and Gull Crest together form the central hub of the greenbelt trail system. Centrally located within the town, both sites also serve multiple purposes. The school campus includes all three public schools and the Town Community Center, as well as the several athletic fields. Gull Crest includes the Public Works Facility, Recycling Center and Community Garden. On these sites, greenbelt and open space uses are secondary to these primary uses, and therefore management policies on these sites take precedence over open space management policies.