**Open Space Management Plan**

**V. Property Management Policies**

Town-wide property Management Policies

Open spaces owned by the Town of Cape Elizabeth are intended 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 need to maintain user safety, minimize conflicting uses, protect the natural features and generally exercise proactive stewardship of a valuable and enduring Town asset.

1. Existing Ordinances, State laws and Regulations (Maureen)

The Town Council, and its designated representatives, manages public property for the benefit of all residents. No alterations, including encroachments of private property owners onto abutting public land, or activities shall be conducted on town owned land that are inconsistent with Town policy and any applicable laws and deed restrictions and without first obtaining permission from the Town. Below is a summary of highlights in Federal, State and Local laws and ordinances.

*Federal Law*

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.

*State Laws*

Recreation and open space type activities on town owned land are subject to several state laws. The most pertinent laws regulate Hunting and Fishing. 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, 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 Ordinances*

Below are excerpts from pertinent local regulations.

**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.

**Miscellanous 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.

**Sec. 12-2-2. Penalty**. Any person found to have violated Sec. 12-2-1 shall be punishable by a fine not to exceed Two Hundred Fifty ($250.00) to be recovered for the use of the Town. [Revised eff. 10/08/08.]

**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.

**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.

**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.

2. Trail Conditions (Bauman)

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.

**Condition Standards.** Greenbelt trails will be established and maintained primarily as minimally improved pathways. Typical trail widths will be 4 to 6 feet wide with a minimum vertical clearance of 7 feet. On wooded trails where snowmobiles operate, curved areas may be widened sufficiently to accommodate safe passage.

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 required to address safety or usability issues. Water bars, shallow swales or drainage pipe will 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 sufficiently strong and wide enough to safely carry one snowmobile and rider at a time.

Any manner of trail improvement will extend only so far as required to provide trail users with a safe, enjoyable experience while minimizing impact on the natural environment. Further, such improvements will not limit handicapped access to any greater degree than it is by topography and other natural features.

3. Signage (Planinsek)

All Green Belt 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 were also placed at major trail heads, in an attempt to make the location of trail systems easier to find. Recently the Commission funded a project to map all of the Green Belt trails with a GPS system. This information is currently being downloaded into a format that will allow maps of the trails to be created. The use of these maps will be two fold. First, the plan is to place copies of the maps at the head of the individual trail systems and at significant intersections to help the public navigate the trials in the field. Secondly, the public will be able to view copies of these trail maps, accompanied by a brief narrative, electronically at the towns 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.

Trail users should remember that the Cape Elizabeth Greenbelt is a multi-user trail system, including but not limited to hiking, biking, horseback riding, skiing and hunting, and proceed accordingly and with consideration of all users.

4. Hours of Operation (DeSena)

Hours of operation vary from trail to trail and season:

The hours should be placed on all Trail heads:

Highlands Trial: Sunrise to sunset

Great Pond Trail: Open hours

Note: People fish and ice fish in the evenings late after sunset.

Town Center Trail: Open hours

Note: People cross country ski in the moon light.

Spurwink Trail: Open hours

Note: People cross country ski at night

Gull Crest: Open hours

Note People cross country ski at night.

Cross Hill: Sunrise to sunset

Note: Hunting hours during the hunting season

Leighton Farms: Sunrise to sunset

Note: Hunting hours during the hunting season

Whaleback Way: Sunrise to sunset

Stonegate/Loveitt Woods: Sunrise to sunset

Winnick Woods: Open hours

Note: People cross country ski at night and owl watch in the winter

Scott Dyer Road: Sunrise to sunset

5. Encroachments (Sullivan)

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.

The Town of Cape Elizabeth owns over 1000 acres of land within the Town. 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.

Encroachments shall be defined as “Private Use Encroachments Onto Municipal Property” (PEMP - private encroachment municipal property).

As no written PEMP policy exists, this shall be the first PEMP written policy for the Town of Cape Elizabeth.

A. Encroachments are defined as follows:

1. An obstruction which inhibits the public or municipal

property

2. Violation of the deed restrictions or use easements of municipal property, or on private property over which the Town has use easements.

3. An unauthorized physical change

4. An authorized use

B. Examples of encroachments that have occurred on Town property, and on property over which the Town has purchased, or been granted a use easement:

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. Removal of municipal signs and posts

7. General environmental degradation

8. Unauthorized clearing, mowing, landscaping

C. Encroachment activity may be reported to the Town in several ways:

1. Neighbor complaint

2. Identification by a Town employee or official

3. Complaint from a member of the public

D. Strategies in addressing encroachments

1. Following complaint, visual inspection by a Town official

2. A letter (s) from the Town Manager to the citizen or entity involved, requesting removal, repair, replacement as appropriate

3. Voluntary public cooperation

4. Public education

5. Surveys if required

E. Strategies in preventing and discouraging encroachment

1. Public education

2. Improved posting of Town owned property signs

3. Limits of Town property signs

4. Clearly define access to Open Space and Greenbelt Trails (stonedust paths, signs)

5. Low cost barriers (split rail fencing, turnpike style fencing, low boulders, plantings)

6. Seek not to accept small strips of land from developers unless they are access to other Open Space or Greenbelt Trails

7. Encourage developers to visually mark Town owned property (install fencing, etc.)

8. Schedule periodic surveys to insure the integrity of property lines between public and private property

F. Strategies of resolution of encroachment activity

1. Surveys if needed

2. Removal of obstruction

3. Replant vegetation/trees if needed

4. Involvement of Town attorney, if requested by the Town Manager

5. Follow up visual inspection by a Town official

6. Fines

7. Property lien placement to recover costs of encroachment resolution

(costs of survey, replantings, removal of obstructions )

6. Vegetation damage and removal

Greenbelt trails are primarily located in naturally vegetated areas, and often adjacent to sensitive natural resources such as wetlands and ponds. No vegetation should be removed on town owned open space, including without the permission of the Town. When vegetation has been removed without permission, the responsible party may be required to reimburse the town for replacement plantings.

Vegetation will be removed to maintain greenbelt trails. Volunteers are encouraged to partner with the Town to remove vegetation with the intent to maintain trails. In addition, volunteers 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. The Town has participated for several years in a regional purple loosestrife eradication program. Volunteers have requested and received permission to remove bittersweet on town open space, especially where it is threatening the health of trees.

7. Rubbish, Litter, Sewerage and Animal refuse (Marchewka)

The Town of Cape Elizabeth has a strict 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.

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 the feces off open space area.

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.

8. Reserved for now

9. New work (Planinsek)

The next major trail project that the Conservation Commission has in the planning stages is the establishment of trails on land easements acquired by the town during the permitting process for the Eastman Meadows Subdivision. Several new trails will be constructed in the area that will connect to existing trails in the Winnick Woods and Cross Hill trail systems.

A second area of trail development that the Conservation Commission is currently looking into is new public access for the Loveitt Woods/Stonegate trails systems in the Oakhurst neighborhood. In addition the Commission will continue to monitor existing trails with an eye to improvement of trail quality through bridge construction or re-routing of trails around wet or muddy area as deemed necessary.

10. Hunting, Fishing, and Trapping (Marchewka)

Hunting, fishing and trapping in Town open space areas is allowed in strict accordance with all Town and State laws and regulations. Adherence to all these laws and regulations shall be the responsibility of the persons who wish to engage in hunting, fishing, or trapping on Town open space.

11. Reserved

12. Camping

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

13. Horses (Sullivan)

14. Pets (Blair)

The state leash law is enforced throughout the community. All dogs must be leashed on groomed Town property unless specifically marked. (from town website).

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.

Pet waste deposited on or in the immediate vicinity of trails and on other areas where people are likely to walk must be removed by whoever accompanies the animal.

15. Reserved

16. Other

**Motorized Vehicles.**

No motorized vehicles may operate on Town open space except:

·        snowmobiles in Gull Crest Park and the Town Farm

·        vehicles performing authorized construction and maintenance              work

·        emergency service vehicles

**Fires.**

In accordance with State Law, open burning anywhere in Town is allowed only upon issuance of an Open Burn Permit. Complete information related to burn permits can be found in the Fire Department section of the Town website ([www.capeelizabeth.com](http://www.capeelizabeth.com/)).

**Additional Restrictions**

Cyclists, equestrians and snowmobile operators must yield to pedestrians and give audible warnings before passing.

Blazing, clearing of vegetation or other actions mean to create new trail routes is prohibited.

Users must stay on Town property and respect the rights and privacy of adjoining landowners.

Alcohol may not be consumed on Town Open Space.

Social Gatherings/weddings

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.

**Management Plans**

Some town open space, such as Winnick Woods and Gull Crest, are the subject of master plans. Where master plans have been adopted for specific town land, the master plan takes precedence over this management plan.

**Preserves**

Some of the land owned by the Town has been acquired due to its unsuitability for development due to natural constraints. Most common are wetland areas. In some cases, the wetness of the area, its lack of connectivity to the existing greenbelt trail system and its value as wildlife habitat support the designation as a “preserve.” Preserve areas are valuable elements to the open space system of the town, but pedestrian activity and access is not encouraged. The town’s intent in these areas is essentially to leave the land in its natural state. Designation as a preserve does not preclude future construction of trails in a preserve area as the greenbelt trail network expands.

At this time, the following town lands are proposed as a town preserve:

1. Holan Preserve

2. Ferne Peddy Preserve

3. Eastfield Preserve

4. Highland Preserve

5. Alewife Cove Preserve

**VI. Property Maintenance Policies**

**General Maintenance Program.** The condition of every Greenbelt trail is to be inspected no less than annually by the Conservation Commission to determine if it meets basic safety and usability standards. Additionally, the Commission will receive and follow-up on pertinent comments from the public and Town officials.

* The Commission will compile an annual list of areas where vegetation continually overgrows trail surfaces and closes off trail corridors. It will determine the nature, frequency and priority of remedial action necessary to properly maintain these areas and consult with the Department of Public Works to determine which projects the Department has the resources to address.

Upon approval of the Town Manager, The Commission may solicit bids from commercial firms to perform reoccurring maintenance work that will not be done by Public Works. The Commission will evaluate the bids, determine what work can be done with available funds and recommend a winning bidder or bidders to the Manager.

All other condition issues will be categorized as either conditions that will be addressed by commission members and volunteers such as trimming vegetation, removing debris, adding or replacing signs, etc. Nothing should be removed or done without permission of the Town Planner, Town Manager and/or Public Works.

* All other condition issues will be categorized as either:

Conditions that will be addressed by Commission members and volunteers such as trimming vegetation, removing debris, adding or replacing signs and construction/repair projects within its capabilities and resources.

- or -

Conditions that require the resources of a commercial enterprise to address. An annual report of all such problem conditions will be compiled by the Commission and submitted to the Town Manager in time for consideration during the budget preparation cycle. The Commission will describe each problem, assess the consequences of not addressing the situation promptly and obtain an estimated cost for the work.

The Commission's condition problems report will be in priority order with safety issues identified as the most critical. The next order of priority will be problems located on heavily used trails that seriously compromise use.