

RE: Cape Elizabeth-Regulating activities on town owned land[Print all](#)[Expand all](#)[Forward all](#)

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Dear Maureen,

State statute (12 M.R.S.A. Section 13201) expressly preempts municipalities from enacting any ordinance, law or rule regulating hunting, trapping or fishing or the operation of ATVs or snowmobiles, with one exception: except that a municipality may regulate the operation of all-terrain vehicles on municipal property and on rights-of-way and easements held by that municipalities.

This broad preemption, coupled with the one narrow exception, leads me to believe that municipalities may not regulate any of these activities even on municipal property, with the exception of ATVs.

For the record, though, I would note that municipalities may regulate the discharge of firearms, including on municipal property (25 M.R.S.A. Section 2011(3); see also 30-A M.R.S.A. Section 3007(5)).

Also, with respect to hunting, it is unlawful to erect or use a tree stand without the permission of the landowner (12 M.R.S.A. Section 10652(1)(B)(2)). I have no reason to believe that this would not also apply to municipal property.

Finally, you said that a similar requirement for landowner permission applies to trapping. I have been unable to locate such a requirement in the statutes, but if it or other such requirements apply to specified activities on someone else's land, again, I have no reason to believe that they would not also apply to municipal property.

I hope this explanation is helpful. Please let me know if you have any further questions.

Best regards,

Richard P. Flewelling, Assistant Director**Legal Services Department****Maine Municipal Association**

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From: Maureen O'Meara [mailto:maureen.omeara@capeelizabeth.org]**Sent:** Thursday, January 06, 2011 12:20 PM**To:** Legal Services Department**Cc:** Dena DeSena; Dick Bauman; John Marchewka; John Planinsek; Marti Blair; Zach Matzkin; Jessica Sullivan**Subject:** Cape Elizabeth-Regulating activities on town owned land

TO: Richard Flewelling

Richard,

Thank you for speaking with me on the phone. As we discussed, the Cape Elizabeth Conservation Commission is working on an Open Space Management Plan. As part of their work, they asked if the Town can regulate activities, such as hunting, trapping, placement of a tree stand for hunting, on town land in addition to any regulations under state law. While initial discussions suggest that they will not recommend that hunting not be allowed, other questions have been raised. For example, state law requires that hunting stands may only be placed with the permission of the property owner and the Commission is aware of hunting stands located on town open space with no knowledge that permission has been provided.

I look forward to receiving your opinion and forwarding it to the Conservation Commission.

Maureen

—

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Maureen O'Meara to **Dena, Dic** [show details](#) 4:29 PM (18 hours ago)

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