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TOWN OF DENMARK, MAINE

OFFICE HOURS
9:00-12:30
1:00-4:30 Daily
Closed Wednesdays
Saturday 9:00-12:00

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Office of the Board of Selectmen

Community Forest Ordinance **Adopted at Town Meeting June 5, 2015**

1. **PURPOSE & DEFINITION.** This Ordinance is enacted for the purpose of regulating and governing the use and management of those lands known as the Perley Mills Community Forest, Perley Mills Lot, Railroad Lot and Ingalls lot and known collectively as the Denmark Perley Mills Community Forest.

Furthermore, it is the purpose of this Ordinance to create a Community Forest Commission whose purpose is to manage the Denmark Perley Mills Community Forest such that it is used in accordance with applicable deeded covenants and restrictions.

The Perley Mills Community Forest is owned and managed by a municipal entity or other group on behalf of the community;

The community forest acquisition and management structure will ensure community participation in and responsibility for management decisions;

The community has secure access to the value and benefits of the forest, both monetary and nonmonetary, that can support and reinforce community priorities and economic development objectives;

The conservation values of the forestland are permanently protected through a conservation easement and sustainable forest management practices.

2. **DELEGATION OF AUTHORITY.** Authority over the governance and management of Denmark Perley Mills Community Forest (hereinafter "Perley Mills Community Forest"), shall be exercised, in accord with the provisions of this Ordinance, by the Perley Mills Community Forest Commission (hereinafter "Commission"), created under Section 4 of this Ordinance and pursuant to 30-A M.R.S.A Sec. 3201.
3. **PERLEY MILLS COMMUNITY FOREST COMMISSION.** The Commission shall be composed of five persons, one of whom shall be appointed from the Planning Board, one of whom shall be appointed from the Denmark Conservation Commission, one of whom shall be appointed from the Snowmobile Club, one appointed by the select board

and one of whom shall be appointed by the other four members of the commission. The members shall serve 3-year terms, however the initial terms shall be staggered. The members shall serve at the pleasure of the Selectboard and may only be removed for cause by the Selectboard. No one serving on any other board shall be excluded from appointment to this board.

- a. The Commission shall also have 3 Ex-Officio non-voting members from the following: 1 from the Town of Bridgton, 1 from the Town of Sebago and 1 From the Loon Echo Land Trust

4. DUTIES AND AUTHORITY OF PERLEY MILLS COMMUNITY FOREST COMMISSION. The Commission shall have the following duties and authority:

- a. To direct and manage all activities upon, and functions pertaining to, the Perley Mills Community Forest, in accordance with the management plan adopted under Section 6, with any applicable conservation easement, and with any regulations. This responsibility includes the coordination of activities and functions assigned to activity managers under Section 7, in a manner consistent with each activity manager's cooperative agreement with the Commission.
- b. To select and engage any ~~licensed~~ professionals required to work on behalf of the commission, these ~~professionals~~ shall assist the Commission in preparation of draft management plans or amendments and, subject to the Commission's supervision, may be responsible for ~~implementing aspects of the management of the Perley Mills Community Forest in accordance with the adopted management plan.~~
- c. To prepare draft management plans or amendments thereto, as set forth in Section 6, and to present such drafts at public hearings held by the Commission.
- d. To prepare drafts of the forest management budgets under Section 10.
- e. To approve all expenditures from the Forest Management Revolving Fund, in conformity with Commission appropriations as set forth in Section 12.
- f. To make all such contracts as are consistent with the fulfillment of the adopted management plan and any adopted regulations.

5. MANAGEMENT PLAN.

- a. Periodically, as instructed by the Selectmen or as required by an applicable conservation easement, the Commission, with the assistance of the forester, activity manager appointed under Section 7, and such other persons as the Commission deems appropriate, shall prepare a draft Perley Mills Community Forest management plan and present it to the Selectmen for their review and approval.
- b. Amendments to the existing management plan may be proposed by the Commission

or activity manager, at any time.

- c. Prior to taking action on any draft management plan or proposed amendment thereto, the Commission shall hold a public hearing as set forth in Section 13.
- d. At or following the public hearing, the Selectboard shall approve or disapprove the draft management plan or proposed amendment or approve it with alterations, provided however that no substantive alteration shall be made unless first discussed at a noticed public hearing.
- e. Adopted management plans or amendments thereto shall be consistent with the purpose of this Ordinance and with any applicable conservation easement(s), and shall be forwarded by the Commission to the easement holder for such approval as may be required by conservation easement(s).
- f. Uses and recreational activities shall be allowed and consistent with that found in the easement as approved by the land owner which includes:
 - i. **Anywhere on the Protected Property.** Anywhere on the Protected Property, except within the Sand and Gravel Pit Area, Owner shall take no action to permanently prohibit, discourage or charge a fee for use by the general public for daytime, outdoor recreation by the general public for walking, hiking, skiing, snowshoeing, nature observation, non-motorized boating, swimming, hunting, fishing and trapping.
 - ii. **Narrow Gauge Trail and Other Designated Trails.** On the Narrow Gauge Trail and other trails designated in the Baseline Documentation or as permitted in Paragraph 4.B., Owner shall take no action to permanently prohibit, discourage or charge a fee for daytime, outdoor recreation by the general public for horseback riding, bicycling, domesticated pet walking, dog sledding, snowmobiling, and use with motorized wheeled recreational vehicles.
 - iii. **Gravel Pit Operation Permitted.** The town is authorized to operate or contract/lease out, operation of the existing gravel pit onsite, under the terms and conditions in the easement and any applicable permit as required by law.
 - iv. **Accessibility.** Notwithstanding the provisions contained above, and in order to comply with prevailing state and federal laws regarding access, service animals and motorized wheelchairs shall be permitted throughout the Protected Property. The use of other power-driven motorized devices for persons with disabilities shall be permitted, however the Owner may determine that certain types of motorized devices are to be limited or prohibited, in accordance with such prevailing laws.

- v. **Other Recreational Uses.** The Owner shall have the right to allow, limit or prohibit any of the following public recreational uses: night time use, camping, fires, picnicking, parking, use of motor boats, and use of non-recreational motor vehicles. Owner shall take measures to limit, prohibit or correct any of the foregoing uses that result in rutting, erosion or other damage to natural resources. Any posting or other controls or limits on such uses must be specific to the prohibited use.
 - vi. **Additional Rules.** Owner and Holder may jointly establish additional recreational rules and regulations that are not inconsistent with the terms of this Easement. Additional rules concerning recreational activities shall be set forth in a management plan or ordinance.
 - vii. **Immunity.** Owner and Holder claim all of the rights and immunities against liability for injury to the public, or other users of the Protected Property, to the fullest extent of the law under Title 14 M.R.S. Section 159-A, et seq. as amended and successor provision thereof (The Maine Recreational Use Statute), under Title 14 M.R.S. Section 8101,
- g. An authorized person (Forest Warden, or other such person “deputized” by the town) may be patrolling the Perly Mills Community Forest at any time. These persons’ have the authority as granted by the town, to issue citations for misuse of the property. Misuses of the property are to be reported to the commission, the Selectboard, the Activities manager or other appropriate personnel. Fines for misuses of the property shall be handed down by the Selectboard, and paid to the Town of Denmark. These amounts will be no less than \$100 and no more than \$500. Repeated violations may lead to a permanent ban from the property. Appeals to such a fine or decision, may be made as described in section 11. (Does there need to be some sort of a hearing held before fines are levied? Public/private?)

6. ACTIVITY MANAGER(S).

The Commission may appoint one or more individuals, companies, organizations or institutions as Activity Manager(s) and shall be considered a volunteer position, to be responsible for one or more of the non-commercial multiple uses of the Perley Mills Community Forest, as identified and authorized by the adopted management plan, including but not limited to any form of outdoor recreation, education, wildlife management, woodlot management or watershed protection. The Commission shall provide a list of the tasks which the activity manager shall undertake. Such tasks may include mapped land areas or corridors under the activity manager's responsibility, the facilities, if any, to be developed, and the expected timing of such development.

- a. All actions taken by an activity manager shall be consistent with the adopted management plan, and any applicable conservation easement, and shall be undertaken in such a manner as to minimize any negative impacts upon the other

purposes and functions of the Perley Mills Community Forest.

- b. Appointed activity managers may make recommendations and otherwise assist in the preparation of the management plan or amendments thereto.

7. LISTING OF ACTIONS REQUIRING PRIOR APPROVAL. As part of a management plan or amendment thereto, the Commission may designate a list of potential uses or management actions which will require prior approval from the Commission. Whenever the Commission or an activity manager proposes to initiate one of the listed actions, it shall give one month's prior public notice, describing the proposed action, its timing, the area of land to be affected, and any temporary measures needed to facilitate it, including measures needed to protect or accommodate the public while the action is underway. The Commission shall develop a list of activities which will require a written approval prior to that use commencing in the field. The easement as granted to the community has a list of uses which require written approval and may expand this list if warranted. The Selectboard and the Commission shall hold a public hearing in accordance with Section 12, and the Selectboard shall, following the hearing, approve, approve with conditions, or disapprove the proposed action.

8. FOREST MANAGEMENT FUND.

- a. All income or proceeds from the management of the Perley Mills Community Forest shall be placed in a separate Forest Management Fund. The amounts in the Fund shall be held by the Town Treasurer, invested and accounted for separately, and not commingled with other Town funds, and shall not be considered part of the Town's general fund balance, but shall be allowed to accumulate from year to year until expended or withdrawn in accordance with this Ordinance.
- b. The Town Meeting may, from time to time, vote to place additional amounts from any source into the Fund.
- c. The Board of Selectmen hereby authorize the Forest Commission the ability to accept grants or gifts of money to be placed into the Fund, provided, however, that such grants or gifts, and all interest or other investment income derived there from, shall be accounted for separately, and such amounts shall not be subject to withdrawals under Section 10. Nothing in this Ordinance shall be construed to affect in any way the authority of the Town or its officers to accept gifts or trusts for forest-related purposes under the provisions of other statutes.
- d. Appropriations from the Fund shall be made by the Commission in the manner set forth in Section 10, without further approval of the Town Meeting. Nothing in this Ordinance shall be construed as authorizing the Commission to make appropriations from the Town's general fund.

9. FOREST MANAGEMENT BUDGET APPROVAL AND EXPENDITURES.

- a. The Commission, with the assistance of the forester and appointed activity managers, shall prepare a draft annual forest management budget, and shall present that draft to the Selectboard for approval on or before March 1 in each calendar year. The draft budget shall include:
 - i. The balances in the forest management fund at the beginning and end of the previous year, and all sources of income or revenue received during that year, together with any applicable conditions or restrictions attached thereto;
 - ii. All purposes and amounts of appropriations approved by the Commission for the previous year, including any supplemental appropriations, shown together with the actual expenditures made pursuant to those appropriations for each purpose during that year;
 - iii. Any withdrawals made under Section 10 during the previous year;
 - iv. Estimated revenues to be realized over the coming year, including probable sources and conditions, if any; and the purposes and amounts recommended by the Commission to be appropriated for the use and management of the Perley Mills Community Forest for the coming year.
- b. The Commission shall forward its approved budget, including all elements set forth in paragraph A of this Section, to the Selectmen, together with such other information it deems appropriate, as an annual report. The report shall be included in the Town Report, but shall not require any action by the Town Meeting.
- c. Each annual Perley Mills Community Forest management budget shall include a payment in lieu of taxes, to be paid out of the Forest Management Fund into the general fund of the Town. The amount of the payment shall be based on an estimate of the amount of taxes which would be paid with respect to Perley Mills Community Forest lands if such lands were in private ownership. However, the amount of the payment in lieu of taxes may be reduced if the balance in the Forest Management Fund – exclusive of grants or gifts accounted for separately under Section 8(C) is, in the judgment of the Commission, otherwise inadequate to meet operating expenses, or to fulfill a mandatory duty imposed upon the Town by an applicable conservation easement.
- d. Each annual Perley Mills Community Forest management budget shall include a payment amount for property taxes paid directly to the Town of Bridgton as applicable.
- e. The Commission shall have approval authority over all expenditures from the Forest Management Fund and the Town Treasurer shall pay out moneys from

the Fund upon orders of the Commission. Such expenditures shall be in conformity with the budget approved by the Selectboard. The Commission shall keep public records of all such expenditures. The Commission shall have the authority, during the year, to transfer an unexpended balance remaining in one appropriation to another appropriation, so long as every expenditure is properly classified and entered, and so long as any expenditures exceeding the original appropriation are offset by unexpended balances remaining in other appropriations; provided, however, that the Commission may not transfer any amount appropriated to an activity manager, and provided further that the Commission shall have the authority to designate particular amounts or purposes of appropriations as non-transferable.

- f. During the year the Commission, on its own motion, or upon request of any activity manager(s), shall have the authority to make supplemental appropriations from the Forest Management Fund, for purposes pertaining to Perley Mills Community Forest use and management. Prior to approving any supplemental appropriation, the Commission shall hold a public hearing in accordance with Section 13.
- g. All capital expenditures proposed by the commission for the upcoming year shall be placed in the town's capital budget proposal and paid for by the town upon approval at town meeting.

10. **WITHDRAWALS.** The Town by majority vote under an article properly placed in the warrant of any Town Meeting, may vote to withdraw an amount from the Forest Management Fund, and appropriate it to a purpose unrelated to forest management, provided, however, that no such vote shall be valid to the extent that it withdraws any amount attributable to grants or gifts made to the fund, or to the extent that it draws the fund down to a level below that of the total expenditures made from the fund during the previous three years, including payments in lieu of taxes made during those years, less the income from operations during the previous three years. A withdrawal under this Section shall only be made pursuant to a separate warrant article, and not as part of the Town's operating budget. When such an article appears in the warrant, the Commission shall be given an opportunity to present to the Town its recommendation with respect to the article, prior to any vote.

11. **RESOLUTION OF DISPUTES AND OVERRIDING.** On its own motion, upon request by the Commission or an Activity Manager, or upon petition of 10 percent of the registered voters in town, calculated from the last gubernatorial election, the Selectmen shall review any decision made concerning the Perley Mills Community Forest by the Commission, any activity manager, or any other agent of the Town. The review shall include a public hearing with notice as set forth in Section 12, provided, however, that the Commission may, at any public meeting, make such orders as will preserve the status quo, pending such review. Following such review the Selectmen may in its discretion, by a majority vote, vote to override or modify the decision under review. The Selectmen shall state its reasons for any modification or override.

12. **PUBLIC HEARINGS.** At least 10 calendar days before any public hearing required by this Ordinance, notice of the hearing shall be published in a paper of general circulation in the Town of Denmark, shall be posted in at least one public place within the Town, and shall be mailed by first class mail to the Selectmen, Commission and to all activity managers appointed under Section 6. Notice shall include the time, date and place of the hearing, a general description of the subject matter under consideration, and the place where any relevant materials are available for examination. The Reviewing Body shall provide an opportunity for testimony, orally or in writing, by the Selectmen, Commission, activity managers, and members of the public. The Reviewing Body may in its discretion invite persons with special knowledge or information to assist it in making decisions.
13. **NOTICE TO PLANNING BOARD.** All notifications, including submission of draft management plans and proposals for amendments under Section 5, notice of intent to initiate a listed action under Section 7 presentation of draft budgets or requests for supplemental appropriations under Section 8, and requests for review under Section 11, shall be made by first class mail, sent to The Town of Denmark Town Hall.
14. **SEVERABILITY AND LIMITATION.** The invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance. Nothing in this Ordinance shall be deemed to affect any property held by the Town of Denmark which has not been designated as part of the Perley Mills Community Forest by vote of the Town.