

Article IX - RANDOLPH TOWN FOREST

9.01. **PREAMBLE.** Pursuant to the authority conferred by RSA 31:110, 674:16, 674:17 and 674:21, and Chapter 35 of the Laws of 2001, the following ordinance is hereby enacted by the Town of Randolph. This Ordinance shall be known as the Randolph Town Forest Ordinance (hereinafter “this Ordinance”), and shall be considered an appendix to, and a part of, the Town of Randolph Land Use Ordinance.

9.02 **PURPOSE.** This Ordinance is enacted for the purpose of regulating and governing the use and management of those lands which have been, or hereafter shall be, acquired by the Town and designated by vote of the Town as Town Forest lands, in accord with the purposes set forth in RSA 31:111. Such lands have been, or are anticipated to be, acquired subject to conservation easements, held by the State of New Hampshire or other parties, or to be acquired without being subject to such easements. The Town Forest Commission will undertake to place easements on any unprotected lands as soon after acquisition as possible. But, pending the placement of such an easement on such land, or in the event the Commission is unable to make such arrangement, the Commission shall manage the land as if it were covered by the conservation easement covering the original Randolph Town Forest. Since all conservation easements governing Town Forest lands may impose affirmative forest management duties upon the Town, it is the further purpose of this ordinance to ensure that such lands are used and managed in accord with the terms of those conservation easements, and the purposes stated therein

9.03. **DELEGATION OF AUTHORITY.** Authority over the governance and management of Town Forest lands owned by the Town of Randolph, whether located within or outside the Town’s boundaries, shall be exercised, in accord with the provisions of this Ordinance, by the Town of Randolph Planning Board (hereinafter “Planning Board”), and by a Town Forest Commission (hereinafter “Commission”), created under Section 5 of this Ordinance.

9.04. **DUTIES AND AUTHORITY OF PLANNING BOARD.** The Planning Board shall have the following duties and authority:

- A. Adoption and amendment of management plans under Section 7.
- B. Approval of the forest management budget, and supplemental appropriations from the forest management revolving fund, under Section 11.
- C. Appointment of activity managers under Section 8.
- D. Resolution of disputes, as set forth in Section 13, including the authority to override decisions concerning the Town Forest made by other bodies or agents of the Town.
- E. The enactment of regulations pursuant to RSA 41:11-a, consistent with the adopted management plan and applicable conservation easements, governing the management of the Town Forest and its use by the public. No such regulation shall be enacted without a public

hearing in accord with Section 14. Any person violating such regulations shall be guilty of a violation, as set forth in RSA 41:11-b.

9.05. TOWN FOREST COMMISSION.

A. The Commission shall be composed of five persons, one of whom shall be appointed by the Planning Board from among its regular or alternate members, one of whom shall be appointed by the Randolph Conservation Commission from among its members, and three of whom shall be appointed by the Selectmen. No Commission member shall serve concurrently as Selectman or Town Treasurer. No member appointed by the Selectmen shall serve concurrently on the Planning Board or Conservation Commission. The members appointed by the Selectmen shall serve 3-year terms, however the initial terms shall be staggered, in the manner set forth for local land use boards under RSA 673:5, II. The members appointed by the Planning Board and Conservation Commission shall serve at the pleasure of the appointing body.

B. On the recommendation of the Forest Commission the Planning Board may appoint up to three alternate members of the Forest Commission. Alternate members shall serve for staggered three year terms. At any given time one alternate member may also serve concurrently on either the planning Board or the conservation Commission, otherwise alternate members shall have the same qualifications as members appointed by the Board of Selectmen. Alternate members may participate fully in the Commission's discussions, but shall only take part in a vote if appointed by the chairman to sit in place of an absent member.

9.06. DUTIES AND AUTHORITY OF TOWN FOREST COMMISSION. The Commission shall have the following duties and authority:

A. To direct and manage all activities upon, and functions pertaining to, the Town Forest, in accordance with the management plan adopted under Section 7, with any applicable conservation easement, and with any regulations adopted by the Planning Board under Section 4(E). This responsibility includes the coordination of activities and functions assigned to activity managers under Section 8, in a manner consistent with each activity manager's cooperative agreement with the Planning Board.

B. To select and engage a licensed professional forester, or other qualified person approved by the Planning Board, and by the holder of the conservation easement if required. The forester shall assist the Commission in preparation of draft management plans or amendments and, subject to the Commission's supervision, shall be responsible for the day to day management of the Town Forest in accord with the adopted management plan.

C. To prepare draft management plans or amendments thereto, as set forth in Section 7, and to present such drafts at public hearings held by the Planning Board.

D. To prepare drafts of the forest management budgets under Section 11.

E. To approve all expenditures from the Forest Management Revolving Fund, in conformity with Planning Board appropriations as set forth in Section 13.

F. To make all such contracts as are consistent with the fulfillment of the adopted management plan and any adopted Planning Board regulations; provided, however, that a contract which creates any binding obligation of more than twelve months' duration shall not be valid unless approved by the Planning Board.

9.07. MANAGEMENT PLAN.

A. Periodically, as instructed by the Planning Board or as required by an applicable conservation easement, the Commission, with the assistance of the forester, activity managers appointed under Section 8, and such other persons as the Commission deems appropriate, shall prepare a draft town forest management plan and present it to the Planning Board.

B. Amendments to an existing management plan may be proposed by the Commission, any activity manager, or by the Planning Board itself, at any time.

C. Prior to taking action on any draft management plan or proposed amendment thereto, the Planning Board shall hold a public hearing as set forth in Section 14.

D. At or following the public hearing, the Planning Board 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 or adjourned session thereof. Any plan or amendment not acted upon within 60 days after the public hearing shall be deemed rejected, and may not thereafter be approved without an additional public hearing.

E. Adopted management plans or amendments thereto shall be consistent with the purpose of this Ordinance and with any applicable conservation easement, and shall be forwarded by the Planning Board to the easement holder for such approval as may be required by the conservation easement.

9.08. ACTIVITY MANAGERS.

A. The Planning Board may appoint one or more individuals, companies, organizations or institutions as Activity Managers, to be responsible for one or more of the non-commercial multiple uses of the Town Forest, as identified and authorized by the adopted management plan, including but not limited to any form of outdoor recreation, education, wildlife management or watershed protection. The Planning Board shall enter into a cooperative agreement with each activity manager detailing the tasks which the activity manager shall undertake. Such an agreement 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.

B. The cooperative agreement shall set forth in detail the scope of the powers and duties being delegated to the activity manager. All actions taken by an activity manager shall be consistent with the cooperative agreement, 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 Town Forest.

C. Appointed activity managers may make recommendations and otherwise assist in the preparation of the management plan or amendments thereto. Activity managers are entitled to notice of all public hearings in accord with Section 14.

9.09 THE CRYSTAL MINE

A. The crystal mine, otherwise known as the Randolph quartz location, situated within the Randolph Community Forest, is hereby declared to be a natural area for purposes of RSA 164:2 and a natural resource and the Town is authorized by Article 5 (D) of the Conservation Easement to restrict access to land within the Forest for the purpose of preventing natural resource degradation. In exercise of that authority, the Town hereby adopts the following measures:

(1) The Planning Board, upon the recommendation of the Forest Commission, after a publicly notified hearing held for the purpose, may restrict access to the crystal mine, and the area immediately around it and shall post notices to that effect on public notice boards within the Town and on similar notice boards posted in the vicinity of the mine.

(2) Anyone wishing to visit the mine or its environs shall be required to sign a register, indicating the date, time and purpose of the proposed visit. A register will be made available in the vicinity of the mine.

(3) The Planning Board, upon the recommendation of the Forest Commission, may recognize a club, constituted for the pursuit of the hobby of mineral collecting, and authorize the club members and their guests, as a group, to have access to the mine and the area immediately around it at any time without the need to sign the register.

(4) Minerals taken from the mine site shall not be sold or otherwise used for commercial purposes. Anyone engaged in the hobby of collecting minerals on the Randolph Community Forest, as is permitted under Article 3 (J) of the Conservation Easement, may remove minerals from the ground for his/her own use by employing hand tools only. Use of power equipment or explosives is prohibited. Excavated holes shall be limited to a maximum depth of three feet and no more than one cubic yard of material may be removed. No roots measuring one half inch or more shall be damaged. Prior to leaving the site excavations will be filled and the disturbed area restored to a condition similar to that which existed prior to the digging.

(5) The Planning Board, on the recommendation of the Forest Commission, after a publicly notified hearing held for the purpose, may adopt such additional measures or restrictions as it shall deem necessary to protect this valuable natural resource. Any such additional measures or restrictions adopted by the Planning Board shall be posted and published as provided in section (1) above.

9.10. LISTING OF ACTIONS REQUIRING PRIOR APPROVAL. As part of a management plan or amendment thereto, the Planning Board may designate a list of potential

uses or management actions which will require prior approval from the Planning Board. Whenever the Commission or an activity manager proposes to initiate one of the listed actions, it shall give the Planning Board one month's prior 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. Upon receiving such a notice, the Planning Board shall hold a public hearing in accord with Section 14, and shall, following the hearing, approve, approve with conditions, or disapprove the proposed action.

9.11. FOREST MANAGEMENT REVOLVING FUND.

A. All income or proceeds from the management of the Town Forest shall be placed in a separate Forest Management Revolving Fund, as authorized by Laws of 2001, Chapter 35, Section 2. 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 accord 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 Planning Board may, without further approval by the Town Meeting, 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 therefrom, shall be accounted for separately, and such amounts shall not be subject to withdrawals under Section 12. 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 Planning Board in the manner set forth in Section 11, without further approval of the Town Meeting. Nothing in this Ordinance shall be construed as authorizing the Planning Board to make appropriations from the Town's general fund.

9.12. 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 Planning Board on or before the 15th day of October in each calendar year. The draft budget shall include:

(1) The balances in the forest management revolving 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;

(2) All purposes and amounts of appropriations approved by the Planning Board 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;

- (3) Any withdrawals made under Section 12 during the previous year;
- (4) Estimated revenues to be realized over the coming year, including probable sources and conditions, if any; and
- (5) The purposes and amounts recommended by the Commission to be appropriated for the use and management of the Town Forest for the coming year.

B. On or before January 15 in each calendar year, the Planning Board shall hold a public hearing on the draft annual budget prepared by the Commission. The Commission, activity managers, and the general public may testify.

C. Following the public hearing the Planning Board shall vote to approve a final annual forest management budget, making such changes in the Commission's recommendations as it deems appropriate.

D. The Planning Board 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.

E. Each annual town forest management budget shall include a payment in lieu of taxes, to be paid out of the Forest Management Revolving Fund into the general fund of the Town of Randolph and of any adjoining town in which Randolph Town Forest lands are located. The amount of the payment shall be based on an estimate of the amount of taxes which would be paid with respect to Town Forest lands if such lands were in private ownership, using Current Use rates under RSA 79-A, together with any timber yield taxes which would be payable under RSA 79; provided, however, that the amount of the payment in lieu of taxes may be reduced if the balance in the Forest Management Revolving Fund – exclusive of grants or gifts accounted for separately under Section 10(C) – is, in the judgment of the Planning Board, otherwise inadequate to meet operating expenses, or to fulfill a mandatory duty imposed upon the Town by an applicable conservation easement.

F. The Commission shall have approval authority over all expenditures from the Forest Management Revolving 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 Planning Board. 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 Planning Board shall have the authority to designate particular amounts or purposes of appropriations as non-transferable.

G. During the year the Planning Board, on its own motion, or upon request of the Commission or any activity manager, shall have the authority to make supplemental appropriations from the Forest Management Revolving Fund, for purposes pertaining to Town Forest use and management. Prior to approving any supplemental appropriation, the Planning Board shall hold a public hearing in accord with Section 14.

9.13. 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 Revolving 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. 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 Planning Board shall be given an opportunity to present to the Town its recommendation with respect to the article, prior to any vote.

9.14. RESOLUTION OF DISPUTES AND OVERRIDING. On its own motion, upon request by the Commission or an Activity Manager, or upon petition of 10 or more citizens of the Town, the Planning Board shall review any decision made concerning the Town 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 14, provided, however, that the Planning Board may, at any public meeting, make such orders as will preserve the status quo, pending such review. Following such review the Planning Board may in its discretion, by an affirmative vote of at least 3 members, vote to override or modify the decision under review. The Planning Board shall state its reasons for any modification or override.

9.15. 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 Randolph, shall be posted in at least one public place within the Town, and shall be mailed by first class mail to the Commission and to all activity managers appointed under Section 8. 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 Planning Board shall provide an opportunity for testimony, orally or in writing, by the Commission, activity managers, and members of the public. The Planning Board may in its discretion invite persons with special knowledge or information to assist it in making decisions.

9.16. NOTICE TO PLANNING BOARD. All notifications to the Planning Board under this Ordinance, including submission of draft management plans and proposals for amendments under Section 7, notice of intent to initiate a listed action under Section 9, presentation of draft budgets or requests for supplemental appropriations under Section 10, and requests for review under Section 13, shall be made by first class mail, sent to The Randolph Town Hall, Durand Road, Randolph NH 03570.

9.17. SEVERANCE 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 Randolph which has not been designated a Town Forest by vote of the Town.

9.18. **EFFECTIVE DATE.** This Ordinance shall take effect upon its adoption by the Town by official ballot vote in accordance with RSA 675:3.