

**BY-LAWS OF THE
EASTERN TRAIL MANAGEMENT DISTRICT**

ARTICLE 1

THE DISTRICT

- 1.1** The Eastern Trail Management District (the “District”) is a Maine nonprofit corporation formed by Eastern Trail Alliance (the “Alliance”), a Maine nonprofit corporation and advocate for the Eastern Trail, and some or all of the 12 municipalities in southern Maine through which the proposed Eastern Trail is planned to pass. The Eastern Trail is planned to pass through the municipalities of Kittery, Eliot, South Berwick, North Berwick, Wells, Kennebunk, Arundel, Biddeford, Saco, Old Orchard Beach, Scarborough and South Portland.

ARTICLE 2

MEMBERSHIP AGREEMENT

- 2.1** These by-laws incorporate in part and supplement the provisions of the Membership Agreement for the Eastern Trail Management District (the “Membership Agreement”). No conflict is intended between these by-laws and the Membership Agreement, but if any should arise, the provisions of the Membership Agreement shall govern, as it may be amended from time to time.

ARTICLE 3

OFFICES

- 3.1.** The principal office of the District shall be 21 Bradeen Street, Suite 400, Springvale, ME 04083 or such other place as designated by resolution of the Board of Directors of the District.
- 3.2** The Board of Directors may elect to open other offices within Maine to conduct the business of the District.

ARTICLE 4

MEMBERS

- 4.1 **Rights.** The District will be controlled by its Members, acting through the Board of Directors which has been appointed by the Members as set forth below in Article 6. The Members shall be the Eastern Trail Alliance and each municipality, which has entered into the Membership Agreement. Membership interests in the District are not transferable.
- 4.2 **Membership Fee.** Each Member shall pay a membership fee to the District of \$2500.00 for each of the years 2001 and 2002, due on August 1 of such year. Thereafter, the Board of Directors may recommend further sources of funding.
- 4.3 **Membership Book.** The District shall maintain a membership book listing the name and address of each Member. The book shall also contain the date the membership of any Member in the District ceases. The membership book will be kept with the corporate documents in a location as designated by the Board.
- 4.4 **Non-Liability of Members.** No Member by virtue of just being a Member of the District shall be liable for the debts, liabilities or obligations of the District. The District shall procure and maintain an insurance policy that provides coverage to its membership in so far as it pertains to the Member's participation in the District.
- 4.5 **Withdrawal of Membership.** A municipality's membership interest in the District may be withdrawn by a vote of the municipality's legislative body and upon written notice of such vote given to the Board of Directors, and upon the effective date of withdrawal the withdrawing municipality shall lose all rights and benefits derived from membership and the Membership Agreement and to any funds previously contributed to the District. The Eastern Trail Alliance may not withdraw its membership interest for so long as the Membership Agreement is in effect.
- 4.6 **Non-Appropriation Clause.** A member municipality may not be held liable for unpaid membership fees, as invoiced by the District, when the municipality's legislative body has not appropriated such fees.

- 4.7 **Non-Payment of Membership Fees.** The failure of a Member to appropriate or pay the annual membership fee by the annual due date, as outlined in the membership agreement, shall result in the temporary forfeiture of the member's right to participate in any and all votes taken by the Board of Directors.

ARTICLE 5

NON-DISCRIMINATION

- 5.1 The Eastern Trail Management District shall not discriminate against any individual or group for reasons of race, color, age, gender, sexual orientation, national origin, religion, marital status, veteran status or physical disability.

ARTICLE 6

BOARD OF DIRECTORS

- 6.1 **Number and Appointment of Directors.** The Board of Directors shall be composed of one (1) Director from and representing each member municipality and three (3) Directors from and representing the Eastern Trail Alliance. Each member municipality, through its municipal officers, shall appoint one (1) Director who shall have one vote. The Eastern Trail Alliance, through its Board of Trustees, shall appoint three (3) Directors, each entitled to one vote.
- 6.2 **Alternate Directors.** Each member municipality and the Eastern Trail Alliance may appoint an alternate or alternates for each Director it appoints. Alternates may attend all Board meetings and cast the Director's vote for whom they are an alternate, in the Director's absence.
- 6.3 **Terms of Directors and Alternates.** The terms of all Directors and alternates shall be determined by the appointing Member, and need not be consistent from Member to Member. Each Director and alternate shall hold office until a successor is appointed.
- 6.4 **Standard of Care.** Each Director and alternate shall perform his/her duties in good faith. Each shall execute all duties through the use of the standard as to what in his/her opinion

is in the best interests of the District, making all decisions with such reasonable care and inquiry as a reasonably prudent person in a like situation would employ.

- 6.5 Liabilities of Directors and Alternates.** No person who is now, or who later becomes a Director or alternate shall be personally liable to the District's creditors for any indebtedness or liability, and any and all creditors shall look only to the assets of the District for payment.
- 6.6 Vacancies on the Board.** A vacancy on the Board shall be deemed to exist upon the death, resignation, or removal of any Director ~~by the appointing Member.~~ Each Member may appoint a replacement for its Director(s) or alternate(s) to fill any vacancy at any time.
- 6.7 Removal of Directors or Alternates.** The appointing Members may at any time remove their Director(s) or alternate(s). The Board may recommend resignation for any Director or Alternate for just cause whenever in its judgment the commitment made to the District or the best interest of the District would be served thereby. Just cause for the recommendation for resignation shall include failure to attend three regular meetings of the Board without prior notice or reasonable excuse and attitude or behavior at Board meetings that results in a failure of the Board to conduct its business. Removal of a Director or alternate must be recommended and approved by a 2/3 vote of the Board. If the motion to recommend the resignation of a Director or alternate prevails written notice of the Board's recommendation must be provided to the appointing Member along with a request for a new appointment. Such action may be taken at any regular meeting or at any special meeting of the Board.
- 6.8 Powers of the Board of Directors.** The Board of Directors is responsible for the management of the District's business and legal affairs. Towards this end, the Board will exercise all of the corporate powers to do such lawful acts, which are not prohibited by either law, the Articles of Incorporation and these By-laws.

ARTICLE 7

MEETINGS OF THE BOARD OF DIRECTORS

- 7.1 Directors Meetings.** The Board of Directors shall meet at least twice per year and set all meetings, both regular and special, pursuant to these by-laws. All meetings shall be

governed by Title 1 M.R.S.A. sections 401-410. Executive sessions may be called in accordance with Title 1 M.R.S.A. section 405, Freedom of Access (Right to Know Law).

7.2 Regular Meetings. Regular meetings of the Board of Directors shall be held at the corporate offices or such other place as may be designated.

7.3 Special Meetings. Special meetings of the Board of Directors may be called by the President or by 25% of the Directors by written notice of the time, place and business to be considered. Notice to all Directors and the public shall be given at least 7 days in advance unless the President determines there is an emergency, in which case the President may waive the 7 day requirement, providing the media and all Directors or their alternates and all Members are notified. Notices shall be given either personally or by mail (including e-mail). If the notice is mailed, then it must be sent to the last known address of the Director as it appears on the District's books. Upon such mailing the service shall be deemed complete.

A. The actions taken at a special meeting of Directors which was not properly called and noticed will nonetheless be considered valid if:

- 1.** All of the Directors are present at the meeting and sign a written consent to the meeting and the actions taken thereunder, or
- 2.** A majority of the Directors are present at the meeting and those Directors not present sign a written consent to the meeting and the actions taken thereunder. Such consent may be given either before or after the meeting has been held.

7.4 Quorum. At any meeting of the Board of Directors no action may be undertaken unless a quorum of Directors is present. A quorum of Directors shall constitute a majority of duly appointed Directors. Unless state law specifies a higher percentage, every act or resolution of the Board shall need only a majority vote of those present and voting to pass.

7.5 Utilization of Committees. The Board of Directors has the authority to create committees to carry out tasks assigned by the Board. All committees created by the Board shall keep regular and detailed records of their activities and make regular reports to the full Board of Directors.

- 7.6** **Consultants.** The Board of Directors has the authority to appoint one or more persons to serve as consultants to the Board. Such consultants may perform such special assignments as delegated to them by the President and furnish such consultations on such matters as requested by the Board.

ARTICLE 8

INDEMNIFICATION

- 8.1** The Corporation shall, to the fullest extent of its power to do so provided by law, including without limitation Section 714 of Title 13-B of the Maine Revised Statutes Annotated, indemnify any and all present and former members, directors, alternates, officers, employees, committee members and agents of the Corporation against expense, including attorneys' fees, judgments, fine and amounts paid in settlement actually and reasonably incurred by them in the connection with any action, suit or proceeding in which they, or any of them are made parties, or a party, by reason of their being or having been members, directors, alternates, officers, employees, committee members and agents of the Corporation; except in relation to matters as to which any such person shall be financially adjudicated in any such action, suit or proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interest of the Corporation, or with respect to any criminal action or proceeding, where such person is finally adjudged to have had reasonable cause to believe that his or her conduct was unlawful. Such indemnification shall be made in accordance with the procedures set forth in Maine Revised Statutes Annotated, Title 13-B, Section 714, subsection 3, as the same may be amended from time to time. Such indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any other by-law.

ARTICLE 9

NOTICES

- 9.1** **Notices.** All notices to Directors, alternates and Members must be in writing and given by personal delivery, mail or e-mail. If the notice is mailed or e-mailed, then it must be sent to the last known address of the Director, alternate or Member as it appears in the Membership Book, and upon such mailing the notification shall be deemed given. Notice to the public shall be given by publishing it at least once in such newspapers serving southern Maine as may be determined by the President with the intent of reaching residents in all Member municipalities.

9.2 **Waiver of Notice.** If a person who is entitled to vote at any meeting is not given such a valid notice of the meeting, no action undertaken at such meeting will be valid unless the person gives a valid waiver of notice. A waiver of notice is accomplished by:

- A.** Being present at the meeting and either not objecting to the meeting or entering oral consent to the meeting on the record, or
- B.** Executing a written waiver of notice for the meeting and the business to be transacted therein. Once a waiver of notice has been validly executed, the transaction undertaken at the meeting, if a quorum was present, shall be as valid as if the meeting had been properly called and noticed.

ARTICLE 10

OFFICERS

10.1 **Election.** The Board of Directors shall elect the officers of the District. Only Directors shall be eligible to be officers. The officers of the District shall be the President, Vice President, Secretary and Treasurer. The Board may appoint assistants to the above officers as it deems appropriate. Any person can hold two or more offices unless precluded by state law. All officers and assistants shall have such duties as may be specified by the Board of Directors in addition to those duties specified herein.

10.2 **Officers' Salaries.** The Board of Directors shall set by resolution the salaries and compensation, if any, to be paid by the District to the officers and any assistants.

10.3 **Officers' Term.** The term of office for the officers of the District shall be one year from their election or their earlier death, resignation or removal. There is no limitation on the number of one-year terms an officer may serve. Any officer may resign at any time by giving written notice to the Board of Directors. A resignation shall take effect on the date specified in the notice unless the Board of Directors votes to have a sooner date and removes the resigning officer prior to the effective date of the resignation. The Board may remove any officer from office at any time by a majority vote. The Board of Directors shall fill any vacancy in any office of the District.

10.4 President. The President shall preside over all meetings of the Board of Directors, and has the authority to appoint all committees, to call all meetings, to preside over executive sessions, to authorize the expenditure of funds up to \$5,000 without prior approval of the Board, to, in the absence of the Treasurer and when necessary and proper, endorse on behalf of the Corporation for collection, checks, notes and other obligations and to deposit the same to the credits of the Corporation and to hire and fire all employees or independent contractors of the District on such terms and conditions as may be specified by the Board of Directors.

10.5 Vice President. The Vice President shall act for the President in the President's absence.

10.6 Secretary. The Secretary is responsible for the minutes, records, correspondence and notice of the meetings of the Board of Directors. The Secretary must keep a record of all resolutions, votes, transactions, correspondence, findings and conclusions of the Board of Directors. Records are deemed public, unless deemed exempt under Title 1 M.R.S.A section 402, and may be inspected upon request.

10.7 Treasurer. The Treasurer shall have the custody of all funds, property, and securities of the Corporation, subject to such regulations as may be imposed by the Board of Directors. When necessary and proper, the Treasurer shall endorse on behalf of the Corporation for collection, checks, notes and other obligations and shall deposit the same to the credit of the Corporation at such bank or banks or depository as the Board of Directors may designate. The Treasurer shall, in general, perform all duties incident to the office of Treasurer, including a general supervision and control of the accounts of the Corporation, subject to the control of the Board of Directors. The Board may authorize the delegation of some of the functions of the Treasurer to Southern Maine Regional Planning Commission subject to the supervision of the President and Treasurer.

ARTICLE 11

AMENDMENTS

11.1 These By-laws may be amended by a majority vote of the Board of Directors at any duly noticed meeting, provided that such amendments are consistent with the Membership Agreement.

By-laws adopted this 26th Day of September 2001