

MEMORANDUM

TO: Cape Elizabeth Town Council
FROM: Ordinance Committee
DATE: April 30, 2019
SUBJECT: Chapter 13 Traffic Regulations Fort Williams enforcement amendments

The Town Council, at its April meeting, referred to the Ordinance Committee amendments to Chapter 13, Traffic Regulations, to adjust enforcement provisions in Fort Williams Park.

At the April 23, 2019 meeting, the Ordinance Committee reviewed draft amendments. Town Manager Matt Sturgis and Police Chief Paul Fenton attended the meeting.

The committee discussion emphasized coordination between the Police Chief and any entity the town may contract with, as well as appropriate transition strategies to implement the pay/display proposal.

At the end of the meeting, the Ordinance Committee voted 3-0 to recommend the attached amendments to the Town Council for consideration. The Ordinance Committee also recommends that the parking ticket and late fee amounts be added to the Town Fee Schedule.

CHAPTER 13
TRAFFIC REGULATIONS

Article I. In General.

Sec. 13-1-1. Definitions.

- a. The words "motor vehicle" means every vehicle that is self-propelled but does not include electric personal assistive mobility devices motorized wheelchairs or vehicles operated on rails.
- b. The word "park" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading.
- c. The word "standing" means any stopping of a vehicle, whether occupied or not.
- d. The words "street, way or road" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of traffic.
- e. The word "roadway" means that portion of a street, way or road, designated or ordinarily used for vehicular traffic.
- f. The word "person" means every natural person, firm, co-partnership, association or corporation.
- g. The words "all-terrain vehicle" means a motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low pressure tire vehicle; a motorcycle or related two-wheel, three-wheel or belt driven vehicle; an amphibious machine; or other means of transportation deriving motion power from a source other than muscle or wind. For purposes of this ordinance, "all-terrain vehicle" does not include a snowmobile; an airmobile; a construction or logging vehicle used in performance of its common functions; a farm vehicle used for farming purposes; a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.
- h. The term "school complex" means the portion of Cape Elizabeth that includes (i) Cape Elizabeth High School, (ii) Cape Elizabeth Middle School, (iii) Pond Cove Elementary School, (iv) the Donald Richards Community Pool, (v) the roadways, except Jordan Way, extending from Scott Dyer Road and Ocean House Road leading to and around the schools, and (vi) the sidewalks, athletic fields, tennis courts, basketball courts, playgrounds, parking lots and other improved areas accessed from the roadways described in (v). The "school complex" does not include the Cape Elizabeth Community Center.

i. The term “impound” means to tow a motor vehicle for storage on the premises of the towing company.

j. The term “immobilize” means to render a motor vehicle inoperable by affixing a device, commonly referred to as a boot.

13-1-2. Signs Required. No provision of this Ordinance for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective without signs being erected to give notice thereof.

Sec. 13-1-3. Unauthorized Signs, Signals or Markings. No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking or device, which purports to be or is an imitation of or resembles an official traffic control device or sign or signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any sign or signal, and no person shall place or maintain any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

Sec. 13-1-4. Penalty. Any person who violates any provision of this Chapter 13, with the exception of the parking provisions of Articles II, VI or VII, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100.00) to be recovered for the use of the Town for each such violation. The registered owner of a motor vehicle that is in violation of the parking provisions of Articles II, VI or VII of this Chapter shall be guilty of an infraction and shall be punished by a fine in an amount to be established by order of the town council as provided in Section 13-2-6 (a).

Article II. Parking Regulations.

Sec. 13-2-6. Penalty.

a. A motor vehicle in violation of any provision of this Article II (Parking Regulations), the parking provisions of Article VI, (Fort Williams Park Regulations), or the parking provisions of Article VII (School Property Regulations) may be issued a ticket by a law enforcement officer or duly authorized parking enforcement agent. In addition, a motor vehicle in violation of any parking provision of Article VI (Fort Williams Park Regulations) may be issued a ticket by a-an authorized municipal employee or parking enforcement agent authorized to do so by the Chief of Police. The dollar amount of the fine to be paid in conjunction with a ticket issued for a parking violation shall be set by order of the town council. and paid to ~~If payment of a ticket is not received at the Public~~

~~Safety Building - the Town of Cape Elizabeth or its duly authorized agent, within 30 days after the date of the issuance of the ticket, the fine shall double.~~

b. A registered owner of a motor vehicle that has been issued a ticket under this Ordinance for a parking violation may request that the issuance of the ticket be rescinded by appealing the issuance of the ticket. An appeal shall be made by delivering to the Cape Elizabeth Police Department, within seven business days of the issuance of the ticket, a written appeal on a form to be provided by the Police Department. Delivery of the appeal shall be accomplished by hand delivery to the Police Department or by deposit in the United States mail, postage prepaid, properly addressed to the Chief of Police and post marked within seven business days of the date of issuance of the ticket. The Chief of Police or his designee shall render a written decision granting or denying the appeal within ten business days of the submission of the appeal. Written notice of the decision shall be sent by regular mail to the registered owner of the motor vehicle. The failure of the Chief of Police or his designee to timely render a decision granting or denying the appeal shall be deemed a denial of the appeal.

c. If a motor vehicle has received two tickets in violation of parking provisions of this Ordinance, both of which tickets were issued after December 31, 2002 and which remain unpaid for more than thirty (30) days, and neither of which tickets is currently under appeal as permitted under paragraph b. of this Section, the Chief of Police may release the name of the registered owner of the vehicle to one or more local newspapers and / or the Town webmaster, for publication of notice that the motor vehicle may be immobilized and / or impounded if the vehicle is found to be in further violation of this Article II while the two tickets remain unpaid.

d. If a motor vehicle has two tickets in violation of parking provisions of this Ordinance, both of which tickets were issued after December 31, 2002 and which remain unpaid for more than thirty (30) days, and neither of which tickets is currently under appeal as permitted under paragraph b. of this Section, and the vehicle is found to be in further violation of this Ordinance, the motor vehicle may be immobilized or impounded. If the motor vehicle is immobilized or impounded, a reasonable attempt shall be made by telephone to contact the registered owner in order to make the owner aware of the immobilization or impoundment.

e. If a motor vehicle has been immobilized and remains at such location for twenty four hours the vehicle may be impounded.

f. Before an immobilized or impounded motor vehicle may be released from the immobilization or impoundment, all outstanding tickets must be paid, along with a \$50.00 "boot" disengagement fee, if applicable, and any applicable towing fee and storage fee. The registered owner shall have the right to appeal the ticket issued when the motor vehicle was immobilized or impounded. If the registered owner is successful in appealing the ticket, the owner shall not be entitled to either reimbursement of fees paid or waiver of fees otherwise due under this paragraph.

g. This Section shall not be construed to mean that a motor vehicle must be immobilized before it may be impounded.