

TOWN OF KENNEBUNKPORT, MAINE

Board of Selectmen Agenda September 10, 2020 @ 6:00 PM VIRTUAL MEETING (VIA ZOOM)

This meeting will be conducted through the electronic platform Zoom.

ZOOM MEETING/WEBINAR INSTRUCTIONS

Ways to join the webinar:

- Connecting by computer or mobile device, go to <https://zoom.us/j/95418675236>

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- Connecting by phone (Use phone number depending on location)
+1 929 205 6099 US or +1 312 626 6799 US or +1 669-900-6833 US
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Webinar ID: 954 1867 5236

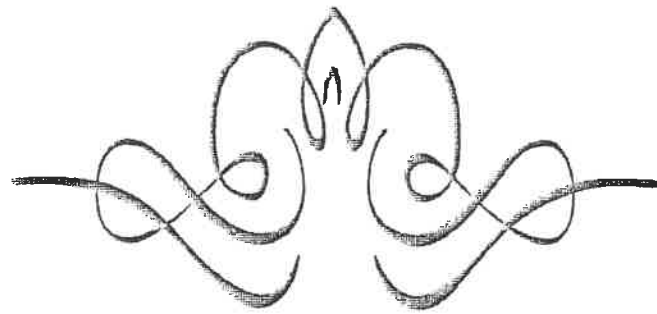
NOTE: During the meeting, only the Selectmen and Town Manager will be on screen with audio connected. All other participants will be blacked out and audio muted except when the Board solicits public input.

PUBLIC COMMENTS: If you wish to speak on an agenda item and you are:

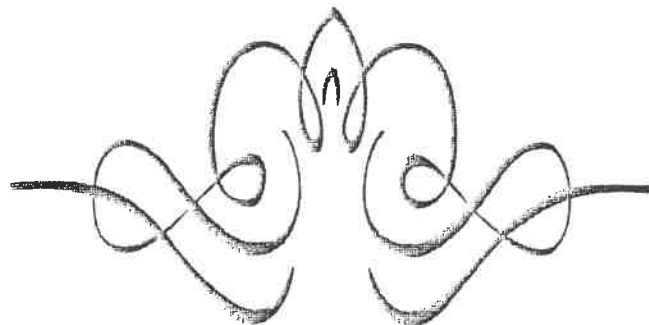
- **Joining via your computer or cell phone**
 - Please use the "raise your hand" feature by clicking "participants" (computer). The host will be notified and will identify you when it is your turn to comment.
- **Joining via landline phone:**
 - The following commands can be entered using your phone's dial pad while in a Zoom meeting. The host will be notified and will identify you when it is your turn to comment.
 - *6 - Toggle mute/unmute
 - *9 - Raise Hand

Written Public Comments: With the shift to remote meetings, we are encouraging written public comments in place of in-person participation. Written public comments must be e-mailed to Town Manager Laurie Smith at LSmith@kennebunkportme.gov, or mailed to Public Comment, Town Manager Office, P.O. Box 566, Kennebunkport, Maine 04046, or dropped in the Town Office "drop box" and must be received by 2 hours prior to the start of a meeting on the date of the Board of Selectmen meeting. These comments will become a part of the permanent record of the meetings. If e-mailing, please note "Public Comment" and the meeting date in the Subject field. *This method is subject to change. Any updates will be communicated.

1. Call to Order.
2. Approve the August 27, 2020, selectmen meeting minutes.
3. Public Forum (This is an opportunity for anyone who wants to address the Board of Selectmen with any issue that is not on the agenda.).
4. Presentation on climate change impacts to Kennebunkport.
5. Certification of proposed ordinances.
6. Set public hearing date for November 3 proposed ordinances (October 22).
7. Consider Collection of Delinquent Accounts Receivable Policy.
8. Authorize the replacement and purchase of swimming advisory signs at all public beach access points at Goose Rocks Beach.
9. Other Business.
10. Approve the September 10, 2020, Treasurer's Warrant.
11. Adjournment.



Agenda Item Divider



Item 2

**Town of Kennebunkport
Board of Selectmen Meeting VIA Zoom
August 27, 2020
5:30 PM**

Minutes of the Selectmen's Meeting of August 27, 2020

Selectmen attending via Zoom: Patrick A. Briggs, Allen A. Daggett, Ed Hutchins, Sheila Mathews-Bull, and D. Michael Weston.

Others attending via Zoom: Kathy Anuszewski, Mike Davis, Werner Gilliam, James McMann, Arlene McMurray, Becky Nolette, Tracey O'Roak, Laurie Smith, Richard Smith, Keith Zakarin, and others

1. Call to Order.

Chair Daggett called the meeting to order at 5:30 PM. He took **roll call** of Selectmen present: Patrick Briggs, Allen Daggett, Sheila Matthews-Bull, Ed Hutchins, and D. Michael Weston.

2. 5:30 PM Executive session per (MRSA 1, §405-6E) for consultation with Town attorney to discuss legal rights and duties.

The Board went into executive session at 5:30 PM and came out at 6:23 PM.

No action was taken.

3. Approve the August 13, 2020, selectmen meeting minutes.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the August 13, 2020, selectmen meeting minutes. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

4. Public Forum (This is an opportunity for anyone who wants to address the Board of Selectmen with any issue that is not on the agenda.).

There were no comments.

5. Sign the November 3, 2020, Special Town Meeting Warrant.

Town Clerk Tracey O'Roak reviewed the Special Town Meeting Warrant.

Town Manager Laurie Smith added that the short-term rentals will not be on the ballot.

Motion by Selectman Matthews-Bull, seconded by Selectman Briggs, to authorize the warrant for the November election. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

6. Sign Order to approve ordinance changes on the November 3, 2020, ballot.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to sign the Order to approve ordinance changes on the November 3, 2020, ballot. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

7. Solid Waste Committee reappointments.

Ms. Smith said according to the Administrative Code, the Solid Waste Committee is a three-year appointment. Their appointments were missed in July. All members of the current Solid Waste Committee wish to be reappointed.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to reappoint Jon Dykstra, Dave Eglinton, Harvey Flashen, Paul Hogan, Thomas McClain and Kinder Wilson to a three-year term expiring in July 2023. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

8. Consider appointment to the Recreation Committee.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to appoint Nina Scott to a term expiring in July 2021 on the Recreation Committee. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed**

9. Authorize a Quit Claim Deed for map 21, block 3, lot 10.

Ms. Smith said this property is going through a sale and the taxes, fees, and interest has been paid in full. The Treasurer is requesting authority to release the property through a quit claim deed.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the quit claim deed for map 21, block 3, lot 10. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

10. Consider tax abatements and supplemental bills.

Property Owner	Location	Map	Blk	Lot(s)	Tax Abatements	Supplemental Bills
Olive C. Eldridge	6 Birch CT	11	4	19	\$2,892.65	\$3,105.27
Albert Palmer Trust	Dyke Road	34	2	26	\$86.94	
Margaret P. Mix R.E. Trust	Dyke Road	34	2	26		\$86.94
Ralph & Mary Smith	Whitten Hills Rd.	26	1	3D	\$382.73	
Leith & Scott Doherty	Roseleith Lane	21	9	6		\$635.99

Assessor's Agent Becky Nolette summarized the tax abatements and supplemental bills.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to authorize the tax abatement in the amount of \$2,892.65 for Map 11, Block 4, Lot 19. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the supplemental bill in the amount of \$3,105.27 for Map 11, Block 4, Lot 19. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the tax abatement in the amount of \$86.94 for Map 34, Block 2, Lot 26. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the supplemental bill in the amount of \$86.94 for Map 34, Block 2, Lot 26. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

Motion by Selectman Weston, seconded by Selectman Matthews-Bull, to authorize the tax abatement in the amount of \$382.73 for Map 26, Block 1, Lot 3D. **Roll Call Vote:** Briggs, Daggett, Matthews-Bull, and Weston. Selectman Hutchins abstained because he is related to the property owners. **Voted:** 4-0-1. **Motion passed.**

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the supplemental bill in the amount of \$635.99 for Map 21, Block 9, Lot 6. **Roll Call Vote:** Briggs, Daggett, Matthews-Bull, and Weston. Selectman Hutchins said he will have to abstain because he is related to the property owners. **Voted:** 4-0-1. **Motion passed.**

11. Discuss short-term rentals.

Chair Daggett explained that this is a work in progress which the Board will continue to discuss and develop through the winter. He said every business has regulations and this is just a start. He reiterated that it will not be on the November ballot, which some people think.

Based on the feedback at the last meeting, Director of Planning and Development Werner Gilliam drafted an ordinance for the Board to review to get the discussion going on regulation and the process for licensing. He summarized the draft ordinance. See Exhibit A.

Discussion followed and the Board members made the following comments:

- Seasonal homes should not be considered in this.
- A seasonal is no different than a business.
- It is assumed that everyone is paying the 7% use tax.
- Residential areas should be residential and not commercial. Rentals are businesses.
- Adequate parking is required.

- It is a good draft and should be on the Town website for people to view.
- It is a good start. They need to know how many rentals they have.

Ms. Smith added that some communities license all rentals. Some of the things she wanted the Board to think about are if Goose Rocks Beach should be treated differently and whether the Board wants to examine all this information first before getting public feedback.

Public comments included the following:

- Jim McMann said he wished the public had more say in this. He is against the ordinance because the Short-Term Rental Committee had meetings in 2018 and agreed not to regulate. He said short-term rentals help people to be self-reliant and that not all out-of-state cars are from people staying at these rentals. Also, limiting stays may cause problems, and why hire a third party to manage them.
- Sharon McCabe said she concurs with Jim McMann. She said she sent a letter to the Board about why short-term rentals are important, e.g., they recommend local businesses to visitors: restaurants, stores, boating, golfing, lobster tours, bike rentals, hotels, B& B's, the trolley museum, etc. She added the big problem will be how they decide who gets a permit and that they will be competing with real estate offices. She said the cost to rental owners must be spelled out.
- Kathy Anuszewski, owner of Maritime Reality at Goose Rocks Beach, said she has rented short-term for 40 years. She said they address all of the items in Mr. Gilliam's ordinance draft.
- Keith Zakarin thanked the Board for doing this. He said it is reasonable to have controls and supports the Board.

The Board will continue this discussion at future meetings.

12. Approve the Public Safety Answering Point Service (PSAP) Agreement.

Ms. Smith explained the York Police Department provides both emergency dispatch as the Town's PSAP, and they provide emergency fire dispatch and emergency medical dispatch. York PD requires a three-year contract. Both parties have the ability to terminate the agreement with six months' notice.

Motion by Selectman Weston, seconded by Selectman Hutchins to authorize the PSAP Agreement with the Town of York. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

13. Other Business.

Chair Daggett announced the last softball game of the season is Wednesday at 6 PM.

Ms. Smith made three announcements:

- Absentee ballots for the November 3 election will not be available until the beginning of October, but people can fill out a request form online now at <https://apps.web.maine.gov/cgi-bin/online/AbsenteeBallot/index.pl>, and the Town Clerk can mail it to them when they become available. There will be a drop box out front of town hall that will hold 300 absentee ballots.
- The Town received a second award of the Keep Maine Healthy Grant for \$123,000. She will be purchasing the Abbot Labs ID Now COVID-19 Rapid Molecular Test which will give COVID-19 results in 15 minutes. The Town was able to purchase this because it has a public health nurse.
- Twenty-Three people have signed up for the Tax Club.

14. Approve the August 27, 2020, Treasurer's Warrant.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the August 27, 2020, Treasurer's Warrant. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

15. Adjournment.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to adjourn. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

The meeting adjourned at 8:10 PM.

Submitted by Arlene McMurray
Administrative Assistant

Exhibit A - 8-27-2020

Kennebunkport Short-term Rental License/Ordinance

A. Purpose:

The purpose of this ordinance/license is to balance the desire of property owners to rent their properties to short-term tenants and the desire of residents to preserve the peaceful quiet and enjoyment of their residential neighborhoods. In some cases, short-term rentals take on the character of a business operating in a residential neighborhood that create negative impacts of unsupervised tourism activities on adjacent residents. Therefore, to preserve the character of residential neighborhoods, help maintain housing availability for long-term residents and protect the public safety of visitors and residents, the operation of short-term rentals must be regulated in some fashion.

- B. Applicability:** This ordinance/license may be applied to all legal residential dwelling units with the exception of accessory apartments that have been constructed/permitted after November 3rd 2009.

C. Definitions:

Advertising: Any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed through various media, including, but not limited to, newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages.

Dwelling unit: One or more rooms arranged for complete, independent housekeeping purposes with space for living and sleeping; space or facilities for eating or cooking; and provisions for sanitation. For purposes of this regulation Recreational vehicles are not considered dwelling units.

Good Neighbor guidelines: A document prepared by the town that summarizes the general rules of conduct, consideration and respect, including, without limitation, provisions pertaining to the use and occupancy of a dwelling unit used or occupied as a short-term rental.

Owner: A person who is the owner of record of real property as documented by deed or other document evidencing ownership recorded at the York County Registry of Deeds.

Short-term rental: The use of a residential dwelling unit offered for rent for transient occupancy by tenants for a tenancy of less than 30 days, excluding motels, hotels, bed and breakfasts, inns, and residential rental accommodations.

D. General Requirements:

- 1. License Required:** No Short-term rental shall be advertised, rented, or operated without first obtaining a Short-term rental License. Failure to obtain or renew a license prior to offering, advertising, or renting the short-term rental shall require payment of double the short-term rental

license fee. The second failure to obtain or renew a license (within a 5-year period) shall be prohibited from obtaining a license for one (1) year. A license application received more than 30 days after the license deadline shall be considered late. A short-term rental license shall be valid for the calendar year in which the license is issued. The property must remain in compliance with the short-term rental license for the calendar year in which the license is issued.

Licenses are not transferable to a new owner. Any change in ownership or change in the members/managers/officers of an owner shall require a new license. Licenses are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.

2. Advertising: It shall be unlawful to advertise occupancy or use of a short-term rental that has not been licensed. For the purposes of this section, the term "advertise" shall mean any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed through various media included, but not limited to newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages. The short-term rental advertising must be consistent with the terms of the short-term rental license and must include the current short-term rental license number. Advertising of the short-term rental must state that the short-term must be rented for a minimum period of seven consecutive (7) days.

3. Minimum stay length: No more than one (1) rental/use of the short-term rental shall occur in a seven (7) day period. When a rental or non-compensated use of the property by any one individual or group, including but not limited to personal or family use by the property owner, of less than seven (7) days occurs, the property shall remain vacant for the remaining portion of the seven (7) day period. Further, not more than one Short-term rental agreement shall be entered for any given property for any consecutive seven-day period.

4. Registration record: The short-term rental owner must (a) maintain accurate, up-to-date records of all rental transactions involving the short-term rental, including the number of tenants and the length of their stays, and upcoming reservations; and (b) present said information to Town inspection officials upon request. Failure of the short-term rental owner to provide this information within 5 business days of a Town request for the same shall be considered a violation of this section.

E. Review Procedure:

Issuance procedure:

1. Short-term rental License applications shall be submitted to the Code Enforcement Office where it shall be endorsed with the date and time of receipt. Applications may be submitted beginning in October of the previous license year. The Code Enforcement Officer shall review all applications for completeness and accuracy and in the order that they were received.

2. The Code Enforcement Officer shall have the authority to issue a Short-term rental license.

3. The Code Enforcement Officer shall provide a Short-term rental application to be completed by the applicant and submitted to the Code Enforcement Officer accompanied by the Short-term rental license fee as established by the Board of Selectmen. The form shall include a non-exclusive checklist of code requirements that the property owner shall demonstrate compliance with.

4. The Code Enforcement Officer shall determine if the form has been properly completed before any license is issued.

5. The first time that a Short-term rental license is submitted for a property, no license shall be issued until the Code Enforcement Officer or designee has inspected the proposed Short-term rental property for compliance with the Short-term rental Standards and compliance with building code requirements. Thereafter, renewal of a Short-term rental license shall require inspection by the Code Enforcement Officer of the Short-term rental property no less than once every five years.

When the Code Enforcement Officer does not conduct an annual inspection, the Short-term rental owner shall certify that there have been no material changes since the last inspection by the Code Enforcement Officer.

6. If the Code Enforcement Officer determines that the proposed Short-term rental application complies with the Short-term rental Standards, a Short-term rental license shall be issued. A license shall be valid for one (1) year from date of issuance. The license may be subject to suspension by the Code Enforcement Officer if the Short-term rental property becomes non-compliant with the Short-term rental Standards and may be revoked.

F. Submission Requirements:

The Short-term rental license application shall include the following information:

1. Location. The street address and map/ block/lot number of the Short-term rental property.
2. Contact Person/Owner Responsibility. The name of the owner of the Short-term rental property and contact information, including address and telephone number. In addition, if someone other than the owner is acting as the local contact person, contact information for that person shall also be provided. Regardless of who enters the Short-term rental agreement, or who may be designated as the owner's contact person, the property owner shall be responsible for compliance with the Short-term rental Ordinance provisions.
3. Availability. The registration form shall include when, during the calendar year, the Short-term rental will be available for rental. If this changes, the owner shall notify the Code Enforcement Officer.
4. All information needed to demonstrate compliance with the standards listed below.

G. Standards:

The Code Enforcement Officer shall issue a Short-term rental license upon the applicant satisfying the above requirements if the following standards are met:

1. Code compliance. An applicant's property, without limitation, comply with the following building safety requirements code sections of the (International Residential Code, ("IRC,") and the International Building Code, ("IBC")):

a. IRC Section R 314, Smoke Alarms: A smoke alarm is required in each bedroom. A smoke alarm is also required outside of each bedroom and in the immediate vicinity. A smoke alarm is also required to be on each story of the dwelling, including basements and habitable attics. The alarms shall be interconnected as much as reasonably possible. (Reference IRC Section R314)

b. IRC Section R 315, Carbon Monoxide Alarms: If a house has an attached garage or a fuel fired appliance, a carbon monoxide alarm shall be installed outside each bedroom and 2 in the immediate vicinity. (Reference IRC Section R315)

c. IBC Section 906, Portable Fire Extinguishers: At least one portable fire extinguisher shall be mounted in a prominent location. One size/type 2/A is required or two size/type 1/A extinguishers. The building shall be an R-1 Occupancy (Boarding House) for the purpose of determining the type and location of portable fire extinguishers; IBC Section 1006.2. 1006.3 and 1006.4.

2.The applicant shall provide floor plans of the dwelling unit that shows the location of the alarms and fire extinguisher(s).

3. Building evacuation plan. A building evacuation plan shall be prominently posted in the Short-term rental property during the rental period.

4. Sanitary waste disposal. The applicant shall submit information demonstrating that adequate sanitary waste disposal is available in compliance with the Maine Subsurface Wastewater Disposal Rules, or that the property is served by public sewer. This shall include the total number of bedrooms included in the property, any additional sleeping space, and the total number of tenants that the property accommodates. The total number of tenants used to determine adequacy of sanitary waste disposal shall not be less than the total number of tenants that the property is advertised to accommodate. For the purpose of evaluating the adequacy of a subsurface disposal system, every two tenants shall be equivalent to one bedroom.

5. Parking. The applicant shall include a depiction of how parking will be provided for tenants and guests on the same lot where the Short-term rental is located. Garage parking spaces not allowed for tenant use shall not be used to meet the Short-term rental parking requirement.

6. Rental Agreement Addendum. The Short-term rental license application shall be submitted with an addendum to be attached to the Short-term rental agreement between owner and tenant that shall be provided to all tenants. The Town shall not be responsible for enforcement of the rental agreement of addendum. The rental agreement addendum shall include the following:

- a. Contact person and contact information.
- b. Emergency responder contact information.
- c. Building evacuation plan.
- d. Maximum number of tenants and guests.
- e. Parking arrangements, including a prohibition of tenants and guests parking in a manner that impedes access by emergency vehicles to the property or any other dwelling in the neighborhood.
- f. Maximum number of tenants and guests allowed at the property.
- g. Good neighbor guidelines.

7. Limit on rental intensity.

The maximum tenant capacity of a short-term rental shall be limited to no more than 2 tenants per bedroom, plus 2 additional tenants for no more than 1 additional sleeping space.

H. Suspension and Revocation of License:

A license for a Short-term rental may be suspended or revoked if the Code Enforcement Officer determines that one or more substantiated complaints regarding Short-term rentals of a property have been made in a three-year period. The Police Department may provide a report of conditions observed and reported to the Code Enforcement Officer.

Complaint. Any individual or town official may file and/or initiate a complaint against a Short-term rental license holder. If the Police Department or the Code Enforcement Officer receives a complaint, they shall visit the property. The Police Department shall generate a report of the facts its officers have observed upon a visit, and statements made to them regarding the Short-term rental. The Police Department shall then forward the report to the Code Enforcement Officer. When the Code Enforcement Officer receives a report from the Police Department, or the Code Enforcement Officer has responded to a complaint or independently investigated, the Code Enforcement Officer shall inspect the property and shall collect information related to the complaint, including notifying the property owner and requesting information regarding the complaint. Within five days of receiving a Police Report or complaint, the Code Enforcement Officer shall determine if the complaint is substantiated. A complaint is substantiated when the Code Enforcement Officer concludes that one or more violations of the Short-term rental provisions occurred.

2. First Substantiated Complaint. Once the Code Enforcement Officer has made a finding of a substantiated complaint, the Code Enforcement Officer shall notify the property owner in writing. The notification shall require the property owner to meet with the Code Enforcement Officer within five (5)

business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected. The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer. Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a second 36 violation of the Short-term rental provisions. In addition, the Code Enforcement Officer may suspend the Short-term rental license for a term not to exceed thirty days.

3. Second Substantiated Complaint. Once the Code Enforcement Office has made a finding of two (2) substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the Short-term rental license shall be suspended for not less than thirty days, nor more than one hundred twenty days. The notification shall require the property owner to meet with the Code Enforcement Officer within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected. The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer. Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a violation of the Short-term rental provisions.

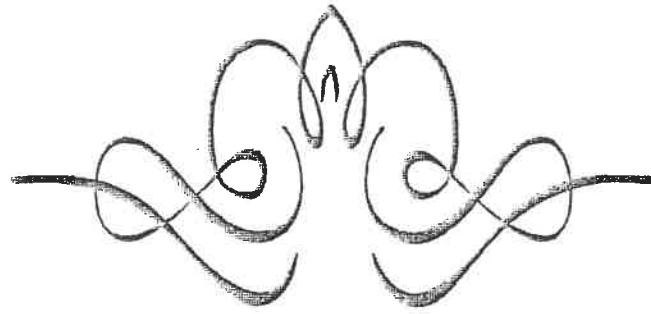
4. Third Substantiated Complaint. Once the Code Enforcement Officer has made a finding of three substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the Short-term rental license has been revoked for (1)one calendar year.

5. Appeal. An appeal to the Zoning Board of Appeals as an Administrative Appeal may be taken by any person aggrieved by a determination of the Code Enforcement Officer

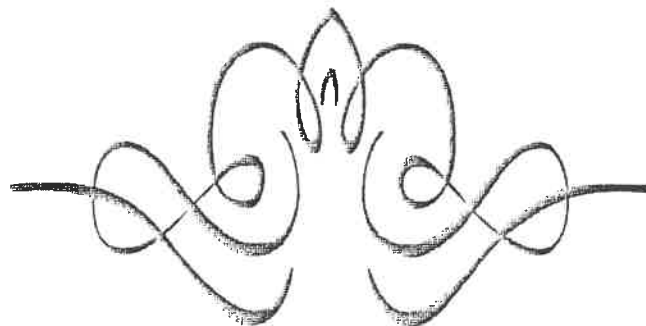
Effective Date. [to be determined.] The Short-term rental provisions shall be fully effective as to all contracts for short-term rentals executed on or after 30 days from date of enactment, and shall further apply to all contracts in effect on such date to the extent the application of these provisions would not result in a substantial impairment of such existing contracts.

I. Maximum Rate of Licenses Issued:

The Code Enforcement Officer shall issue short-term rental licenses on an annual basis. The total number of annual licenses shall be set each year by the Board of Selectmen at their first meeting of the calendar year. In no event shall the number of annual licenses be less than the number issued in the previous calendar year:



Agenda Item Divider



Item 4

Memorandum

To: Board of Selectmen

Fr: Laurie Smith, Town Manager

Re: Climate Change Presentation

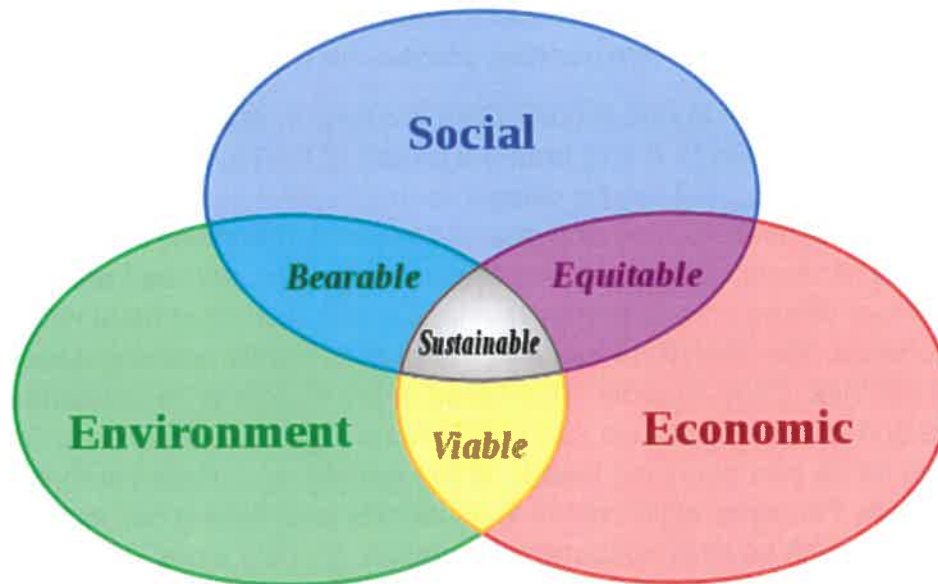
Dt: September 8, 2020

Kennebunkport is known for many attributes, our most recent invitation for proposals regarding the next comprehensive planning process summed it up nicely.

"The town center, the area in and around Dock Square, is located along the Kennebunk River, approximately 1 mile (1.6 km) from the mouth of the river on the Atlantic Ocean. Historically a shipbuilding and fishing village, for well over a century the town has become a popular summer colony and seaside tourist destination. The Dock Square area is a district of shops, art galleries, seafood restaurants, and bed and breakfasts. The Maine Street Village area is largely residential with many historical homes and municipal services. The Riverfront has a mix of historic hotels, working waterfront and commercial marinas. Cape Arundel showcases many shingle style residences, bold ocean views and is home to places such as St Anne's and Walkers Point. Goose Rocks is best known for its mile plus long beach, active wildlife, and vibrant summer population, Cape Porpoise, while retaining its identity as a fishing harbor, has a very small village area with several restaurants, a church, grocery store, coffee shop, small library, and art gallery. The farm and forest area has large expanses of undeveloped woods and trails maintained by the Conservation Trust. Development is primarily single family in nature with a number of agricultural uses. Kennebunkport's year-round population tends to be older than the average population in Maine. Due to its popularity as a summer haven that population swells to over 10,000 in the summer and is considered to be one of the more wealthier communities in the state of Maine."

As we examine the above description and imagine the individual locations noted above, try to imagine them in 2050 or 2100 when temperatures, rainfall, and sea levels are all predicted to rise. How will Kennebunkport feel when our seasonal temperatures are expected to be similar to New Jersey? How will businesses and town infrastructure be impacted when sea levels rise 1 – 5 feet? How will waterfront properties cope with additional flooding? How will our fisheries survive with rising sea temperatures? How will Cape Porpoise and the Kennebunk River be different with a changing marine environment? How will our tourist economy be impacted? How will Goose Rocks and Colony Beach change for visitors and residents? How will waterfront homes adapt to rising water? How will the economy of taxable valuation be impacted throughout town? How will the shift of valuation effect homeowners in more rural parts of town? How will our budget be pinched to address climate change?

Climate change will impact Kennebunkport in many ways over the next century. It will force all communities to examine their resiliency and question their sustainability. Community resilience is the capacity of a community to absorb, withstand, recover from and adapt to changing conditions and disturbances while sustaining key functions, structures, and performance. It involves all dimensions of a system, including social, built, and natural environments within a community. Meanwhile, sustainability is when a healthy environment, economic prosperity, and social justice are pursued simultaneously to ensure the well-being and quality of life of present and future generations. This is demonstrated in the diagram below.



In the FY 20 budget introduction I underscored that recognizing the importance of these factors and developing a strategy to address them protects our economy, health, and future. Although the Town has been engaged in preserving our environment through water quality analysis, the preservation of important lands and view corridors, and the reestablishment of recycling and solid waste programs, we need to develop a climate change policy.

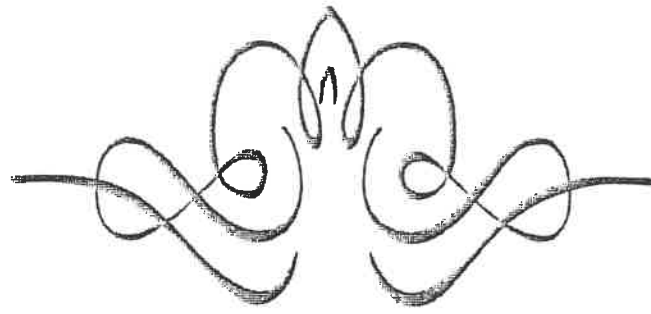
Understanding our own carbon footprint, developing a vision for reducing greenhouse gas emissions, and improving the resiliency of our community are the first steps. A comprehensive strategy that examines energy use, fuel consumption, and sea level rise would assist us in mapping future actions to benefit our citizens. In FY 20 we funded an intern to perform the initial data gathering process, examining the work of other communities, and identify short and long-term goals for consideration by the Board of Selectmen. Town staff then began conversations with other coastal communities in August of 2019 and the six-town cooperative with SMPDC (Southern Maine Planning and Development Commission) was adopted. Each municipality is funding an equal share of our new Southern Maine Regional Sustainability and Resilience Program assisting our communities in the progress of our climate change goals.

A recent review of potential climate change goals with SMPDC staff resulted in a large document covering 11 focus areas including climate, economic development, energy, land ecosystems, leadership, mobility, municipal operations, sustainable communities, sustainable development, waste and recycling, and water. The challenge is that the 11 topic areas cover over 200 individual strategies. Where do we begin? Do we enact a no idling policy, do we invest in energy efficient vehicles, do we develop a solar array farm, do we implement a food waste reduction program? There are many choices but only so many resources to begin this journey. As with most challenging mountains, we should begin with one step at a time. Immediate future work should include: picking the low hanging fruit, building on current successes, integrating policies and programs into the work plans and budgeting of departments and committees, and finding opportunities to leverage the work of partnerships and grants.

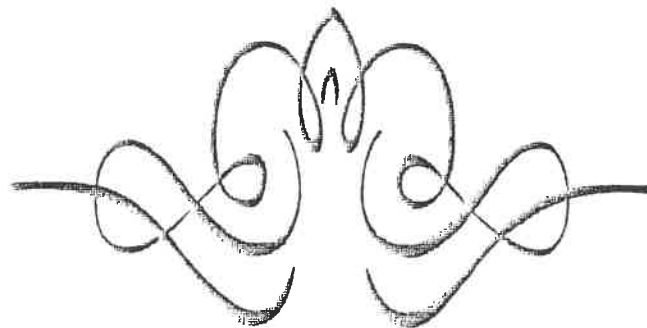
As the Selectmen set goals for Kennebunkport, it is important to appreciate the input and priorities of our citizens. In 2018, our Growth Planning Committee surveyed citizens about a variety of issues in preparation for the 2022 Comprehensive Plan. The data outlined below leads staff to believe that the citizens of Kennebunkport see these as pressing and important issues.

- Town priorities over the next 5-10 years
 - The preservation of natural resources and the environment was listed as the #1 priority by 54% of respondents.
- The town should continue to preserve and support the fishing industries in town.
 - 95% of respondents agreed or strongly agreed.
- The town should plan for local impacts to sea level rise and changing climate.
 - 77% of respondents agreed or strongly agreed.
- The town should work to reduce energy consumption of town-owned facilities.
 - 85% of respondents agreed or strongly agreed.
- Municipal sustainability means meeting the needs of present community members without compromising the ability of future generations to meet their own needs. The town should develop a sustainability plan.
 - 82% of respondents agreed or strongly agreed.

Although the words climate change and sustainability cannot be found in the 2012 comprehensive plan, it does begin with the assessment of the character of the Town, "The resilience and fortitude of Kennebunkport and its residents has long been demonstrated over the years by our current and ancestral farmers, fishermen, builders, artisans and tourists. More recently this same determination has helped the town adapt, manage and flourish with tourism and growth." This same resilience that established and grew our community will be the foundation for needed adaptation to meet the next century's challenges. The examination of future challenges, planning, department teamwork, regional partnerships, community engagement, and fiscal sustainability will serve our community well when meeting these adverse situations.



Agenda Item Divider



CERTIFICATION OF PROPOSED ORDINANCE

TO: Tracey O'Roak, the Town Clerk of the Town of Kennebunkport. In the name of the State of Maine, we hereby certify that the Ordinance entitled:

"Codification of the Ordinances of the Town of Kennebunkport"

attached hereto as Exhibit A is a true copy of the Ordinance proposed for enactment at the Special Town Meeting of the Town of Kennebunkport to be held on November 3, 2020.

Dated this 10th day of September 2020, at Kennebunkport, Maine.

Patrick A. Briggs

Sheila A. Matthews-Bull

Edward W. Hutchins

Allen A. Daggett

D. Michael Weston

A majority of the Board of Selectmen of the Town of Kennebunkport

Exhibit A

PROPOSED CODIFICATION OF THE ORDINANCES OF THE TOWN OF KENNEBUNKPORT

TOWN OF KENNEBUNKPORT YORK COUNTY, MAINE

ORD. NO. _____

AN ORDINANCE TO REVISE AND CODIFY THE ORDINANCES OF THE TOWN OF KENNEBUNKPORT, MAINE

Be it enacted and ordained by the Town of Kennebunkport at Town Meeting duly assembled:

§ 1-1. Code adopted; existing ordinances continued.

Pursuant to 30-A M.R.S.A. § 3004, the ordinances of the Town of Kennebunkport of a general and permanent nature adopted by the Town Meeting of the Town of Kennebunkport, as revised and codified and consisting of Chapters 1 through 290, are hereby approved, adopted, ordained and enacted as the Code of the Town of Kennebunkport, hereinafter referred to as the "Code." The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments.

§ 1-2. Code on file; additions and amendments.

- A. A copy of the Code has been filed in the office of the Town Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance. Following adoption of this ordinance such copy shall remain on file in the office of the Town Clerk, to be made available to persons desiring to examine the same during all times while said Code is in effect.
- B. Additions or amendments to the Code, when adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into

such Code so that reference to the "Code of the Town of Kennebunkport" shall be understood and intended to include such additions and amendments.

§ 1-3. Notice; publication.

The Clerk of the Town of Kennebunkport shall cause notice of the passage of this ordinance to be given in the manner required by law. The notice of passage of this ordinance coupled with the filing of the Code in the office of the Town Clerk as provided in § 1-2 shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-4. Severability.

Each section of this ordinance and of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-5. Repealer.

- A. Ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Town of Kennebunkport which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.
- B. The following ordinances are specifically repealed: an ordinance adopted March 6, 1972, relating to lobster buoys in Cape Porpoise Harbor and an ordinance adopted June 15, 1976, relating to panhandling.

§ 1-6. Enactments saved from repeal; matters not affected.

The repeal of ordinances provided for in § 1-5 of this ordinance shall not affect the following classes of ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Kennebunkport prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Town of Kennebunkport or any penalty, punishment or forfeiture which may result therefrom.

- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision of the Town of Kennebunkport.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Kennebunkport.
- E. Any ordinance of the Town of Kennebunkport providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Kennebunkport or any portion thereof.
- F. Any ordinance of the Town of Kennebunkport appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Kennebunkport or other instruments or evidence of the Town's indebtedness.
- G. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- H. The levy or imposition of taxes, special assessments or charges.
- I. The annexation or dedication of property or approval of preliminary or final subdivision plans.
- J. Any ordinances relating to salaries and compensation for municipal employees.
- K. Personnel policies of the Town.
- L. Any ordinance adopting or amending a comprehensive plan.
- M. Any ordinance adopting or amended a zoning map or otherwise rezoning property.
- N. The General Assistance Ordinance and all amendments thereto.
- O. Any ordinances adopted subsequent to June 11, 2019[LBRI].

§ 1-7. Changes in previously adopted ordinances.

- A. In preparing the revision and codification of the ordinances pursuant to 30-A M.R.S.A. § 3004, certain minor grammatical and nonsubstantive changes were made in one or more of said ordinances. It is the intention of the governing body that all such changes be adopted as part of the Code as if the ordinances so changed had been formally amended to read as such.
- B. In addition, the changes, amendments or revisions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

§ 1-8. Titles and headings; editor's notes.

- A. Chapter and article titles, headings and titles of sections and other divisions of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

§ 1-9. Altering or tampering with Code; violations and penalties.

It shall be unlawful for anyone to change, alter or tamper with the Code in any manner which will cause the laws of the Town of Kennebunkport to be misrepresented thereby. Anyone violating this section shall be subject, upon conviction, to a fine of not more than \$100 for the first offense, \$250 for the second offense and \$500 for the third and subsequent offenses LBR2].

§ 1-10. When effective.

This ordinance shall take effect immediately upon final passage and publication as provided by law.

**Town of Kennebunkport
Code Adoption Ordinance**

**Schedule A
Specific Revisions to Language in Effect at Time of Adoption of Code**

Nomenclature.

- A. The following nomenclature changes are made:
- (1) "Chairman" and "Chairperson" are changed to "Chair."
 - (2) "Appeals Board," "Board of Zoning Appeals," and "Board of Appeals" are changed to "Zoning Board of Appeals."
 - (3) "Road Commissioner" and "Highway Superintendent" ("Superintendent of Highways") are changed to "Director of Public Works."
 - (4) References to Tax Assessor (singular) are changed to Tax Assessors.
- B. In Chapter 127, instances of "Shellfish Conservation Warden" and "Clam Warden" are changed to "Shellfish Warden."
- C. Chapter 140 is amended to change instances of "commercial mass gathering" to "commercial gathering" and to change "noncommercial mass gathering" to "noncommercial gathering."
- D. Chapter 147, Streets and Sidewalks, Article II, Street Openings, is amended to change "Highway Director" to "Director of Public Works."
- E. Chapter 147, Streets and Sidewalks, Article III, Right-of-Way and Road Infringement, is amended to change "Highway Department" to "Public Works Department."
- F. Chapter 219 is amended to change instances of Federal Insurance Administration to Federal Insurance and Mitigation Administration.
- G. Chapters 219, 240 and 290 are amended to change instances referring to registered professional engineers to licensed professional engineers.
- H. Chapter 240 is amended to change instances of:
- (1) "Maine Department of Agriculture" to "Department of Agriculture, Conservation and Forestry."
 - (2) "State Soil and Water Conservation Commission" to "Department of Agriculture, Conservation and Forestry."
 - (3) "Department of Human Services" to "Department of Health and Human Services."

Fees.

The following sections are amended to delete the fee amount and instead state that the fee is as set by the Board of Selectmen: §§ 160-22C(2)(a), 160-24C(2), 160-25C(2), 183-20B, 183-32A, 183-35A(1)(a), 183-76B.

Chapter 5, Administrative Code.

- A. Section 5-8 is amended to add the following to the list of appointed officers:
Deputy Health Officer
Public Access Officer
- B. Section 5-10A is amended to change the phrase "consisting of one or more persons" to "consisting of a minimum of five members and a maximum of seven members."
- C. Section 5-25A is amended to change "Sewer Department Supervisor" to "Deputy Director of Public Works."
- D. Section 5-43 is amended as follows:
A notification of any Annual or Special Town Meeting shall ~~be sent to all box holders of the Town of Kennebunkport and shall also~~ occur by the following methods: by posting the warrant at five conspicuous places in the Town at Town Hall; by posting on the Town website; by advertisement in a newspaper...

Chapter 9, Alarm Systems.

Article I, False Alarms.

Section 9-7E is amended as follows:

"Within the ten-day period, the user may appeal the imposition of the ~~false alarm fee~~ civil penalty to the Chief of Police or designee, in the case of a police related alarm, or the Fire Chief or designee, in the case of a fire alarm, who may abate or reduce the ~~fee~~ penalty upon good cause shown."

Chapter 16, Animals.

Article II, Animal Control.

- A. In § 16-3, in the definition of "responsible party," "a dog" is changed to "an animal."
- B. Section 16-4F is amended as follows:
"An owner or responsible party, except a person with a disability using a service dog, must remove and dispose of any feces left by his/her animal..."

Chapter 24, Beaches.

Article II, Use of Goose Rocks Beach.

Section 24-8A is amended as follows:

"...recorded in the York County Registry of Deeds in Book _____, Page _____..."

Chapter 46, Fires and Fire Prevention.

Article I, Life Safety Code.

Section 46-1 is amended to change "most recent edition" to "edition accepted by the State Fire Marshal."

Chapter 49, Fireworks.

Section 49-3 is amended to delete "or by the Town of Kennebunkport" from the end thereof.

Chapter 61, Harbor and Waterfront.

Article II, Waterfront.

This article is amended to add the following section:

§ 61-18. Lobster Buoys in Cape Porpoise Harbor.

A. *Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this section shall be as follows:*

BUOY — Any type of device which floats on the surface of the water or within three feet of the surface of the water at mean low tide, used for marking the locations of lobster traps.

CAPE PORPOISE HARBOR — The harbor at Cape Porpoise Village, Kennebunkport, Maine.

SET — To place, put, fix or otherwise cause to exist.

Chapter 105, Peace and Good Order.

Article I, Electronically Amplified Sound.

Section 105-2 is added:

§ 105-2. Violations and penalties.

Violations of this article shall be subject to a penalty of \$100 per day offense.

Chapter 110, Property Assessed Clean Energy.

In § 110-4, the definition of "renewable energy installation" is amended as follows:

RENEWABLE ENERGY INSTALLATION -- A fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, including but not limited to masonry stoves and wood pellet systems, landfill gas to energy systems, geothermal systems, wind systems, ~~wood pellet~~

systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

Chapter 127, Shellfish Conservation.

- A. Section 127-4 is amended to repeal the definition of "Shellfish Conservation Warden."
- B. Section 127-5D(4) is amended as follows:
The Town Clerk shall issue licenses to residents and nonresidents as allocated [Subsection D(1)] from ~~January 1~~ mid-April and until ~~March 31~~ June 30, after which licenses shall be issued without regard to residency on a first-come, first-served basis ~~or by lottery~~.
- C. Section 127-6G is amended to change "Marine Resource Committee" to "Shellfish Conservation Committee."

Chapter 140, Special Events and Mass Gatherings.

Section 140-3B(1) and (2) is amended to delete the fee amount and instead state that the fee is as set by the Board of Selectmen ~~[LBR3]~~.

Chapter 147, Streets and Sidewalks.

Article I, Business on Public Streets.

Section 147-3 is amended to change "The fee shall be \$50 per license" to "The municipal officers shall annually set the amount of the permit fee ~~[LBR4]~~."

Article II, Street Openings.

- A. Section 147-13 is amended to repeal the definition of "Highway Director."
- B. Section 147-13 is amended to add the following definition:
NEWLY CONSTRUCTED, RECONSTRUCTED OR REPAVED STREETS -- Any street that has been newly constructed, reconstructed or repaved within the last five years.
- C. Section 147-16C is amended to delete the fee amount and instead state that the fee is as set by the Board of Selectmen ~~[LBR5]~~.
- D. Section 147-21 is added:
§ 147-21. Excavations in reconstructed streets.
Whenever the Town has developed plans to reconstruct a street, the Town or its representative shall give written notice thereof to all abutting property owners, to the Town departments, and to all public utilities that have or may wish to lay pipes, wires or other facilities in or under the highway. Upon receipt of such written notice, such person or utility shall have 60 days in which to install or lay any such facility. If an extension of time is needed by a person or utility for the installation of such facilities, the person or facility shall make a written application to the Town during the sixty-day notice period explaining fully the reasons for requesting such an extension of time. At the expiration of the time fixed or extended and after such street has been reconstructed, no permit shall

be granted to open such street for a period of five years from installation of hot-mixed asphalt surface course layer unless an emergency condition exists or unless the necessity for making such installation could not reasonably have been foreseen at the time such notice was given. The above-mentioned five-year moratorium for street openings also pertains to all new public or private streets, i.e., new subdivisions or developments that have been accepted in accordance with Town specifications. The Town shall publish an annual street opening moratorium list with year of notice and year of expiration for each street. This section should not be construed to supersede Maine DOT street opening regulations for roads maintained by the State of Maine.

Article III, Right-of-Way and Road Infringement.

Section 147-37A is amended to update the penalties to:

- \$100 for first offense
- \$500 for second offense
- \$1,000 for third and subsequent offenses

Chapter 160, Traffic and Vehicles.

Article I, Dock Square Shuttle and Parking.

Section 160-1 is amended to change 30 M.R.S.A. § 1917 to 30-A M.R.S.A. § 3001.

Article II, Traffic and Parking Control.

- A. The second sentence of § 160-15 is amended as follows:
There shall be immediately adjacent to and visible from the designated parking space a posted sign consisting of a profile view of a wheelchair with occupant in white on a blue background with the wording "Handicapped Parking."
- B. Section 160-15 is amended to change 29 M.R.S.A. § 252 to 29-A M.R.S.A. § 521.
- C. Sections 160-24E(2) and 160-25F(2) are amended to change the sentence "Second and subsequent offenses: shall be at the discretion of the officer up to and including a fine of \$100." to "Second and subsequent offenses: a fine of \$100."
- D. Section 160-25C(7)(c) is amended to delete the maximum fare amount and instead state that the maximum is as set by the Board of Selectmen.
- E. Section 160-26D is amended as follows:
Exemptions. Vehicles that are exempt from the most recent Maine Department of Transportation's (MDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways" ~~dated December 31, 1996 and amended on March 4, 1998, a copy of which is attached hereto and is hereby incorporated as part of this section (Attachment A),~~ are exempt from this section. In addition, the following vehicles are exempt from this section: any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MDOT..."
- F. Section 160-28D(2) is amended to change the impoundment charge from \$25 to \$50[LBR6].

- G. Section 160-29A is amended to delete the following wording therefrom:
"Section 160-27 fine amount is \$50; or after 48 hours from the time of issuance and before a court summons is issued, pay a fine of \$60 to the Chief of Police or his/her representative for full satisfaction of such parking violation."

Chapter 172, Victualers.

Section 172-3, Subsection A(1), and Subsection A(1)(e) are amended to change "innkeepers, victualers and tavern keepers" to "victualers."

Chapter 179, Waste Management.

Article I, Radioactive and Hazardous Waste.

- A. Section 179-1 is amended to change "radioactive waste materials as defined by 38 M.R.S.A. § 361-D.1.B" to "radioactive waste as defined by 38 M.R.S.A. § 1451."
- B. Section 179-3 is added:
§ 179-3. Violations and penalties.
Violations of this article shall be subject to a penalty of \$100 per day.

Article II, Solid Waste.

- A. The definition of "hauler" in § 179-6 is amended as follows:
"Any entity or person ~~licensed~~ granted a permit by the Selectmen to collect and haul solid waste in the Town."
- B. Section 179-8A is amended to change "the operation and licensing of waste disposal vehicles" could be revised to "the operation of and issuance of permits for waste disposal vehicles."

Chapter 183, Wastewater Use.

- A. Section 183-9 is amended to change State Bureau of Health to Department of Health and Human Services.
- B. Section 183-13 is amended to change Division of Health Engineering, Maine Department of Human Services to Department of Health and Human Services.
- C. Section 183-18 and 183-32A are amended to change "Building Inspector" to "Code Enforcement Officer or designee."
- D. Section 183-19 is amended to delete the latter portion thereof (*and shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, Subchapter 1, Subsection 361, as amended*).
- E. Section 183-21 is amended as follows:

"A sewer connection ~~application~~ permit shall be applied for and the fees shall be paid ~~therefor~~[,] whenever a homeowner applies for a building permit that will increase the flows from that structure into the collection system."

- F. Section 183-32 is amended to delete the following at the beginning thereof:
Unless exempted under subparagraph (B) below...
- G. Section 183-47 is amended to change Part 128 to Part 125.
- H. Section 183-70 is amended as follows:
"When a sewer connection application is processed and a permit is issued, the owner of the property for which the ~~application~~ permit was issued will be billed for the units that were approved."
- I. Original Article XIV, Licensing of Persons Authorized to Make Connection to the Public Sewers, is repealed.

Chapter 210, Condominium Conversion.

Section 210-5B is amended to delete the condominium conversion permit fee and instead state that the fee is as set by the Board of ~~Selectmen~~[LBR7].

Chapter 240, Land Use.

- A. Section 240-2.2.
 - (1) The definition of "mobile home" is amended to change "manufactured housing unit" to "manufactured housing."
 - (2) The definition of "recreational vehicle" is amended to change the reference to the State Division of Motor Vehicles to the State Bureau of Motor Vehicles.
 - (3) The definition of "wetland, inland," is amended to change 38 M.R.S.A. 406 et seq. to 38 M.R.S.A. § 480-B.
- B. The opening paragraph of Article 5 and § 240-5.7B are amended to delete references to the Stream Protection Zone.
- C. Section 240-5.11A is amended to change Maine Bureau of Public Lands to Bureau of Parks and Lands.
- D. Section 240-6.9C and 240-11.8 are amended to change "occupancy permit" to "certificate of occupancy."
- E. Section 240-6.9G is amended to change "Day-care centers" to "Child-care centers."
- F. Section 240-6.9N and O are amended to delete the reference to § 240-1.6.
- G. Section 240-6.17B and C are amended to change references to "license" [to blast] from Township to "permit."

- H. Section 240-7.1G is amended to add "In the Free Enterprise and Farm and Forest Zones only."
- I. Section 240-7.3B is amended to delete "great pond" setback reference.
- J. Section 240-10.8B is amended to change "Superintendent of the Sewer Department" to "Deputy Public Works Director."
- K. Section 240-11.3C is amended to change State Historic Preservation Officer to State Historic Preservation Commission.
- L. Section 240-11.9D is amended to change Bureau of Land and Water Quality to Bureau of Water Quality.
- M. Section 240-11.9E(2) is amended so that the first sentence thereof reads:
If the Code Enforcement Officer has been certified by the Department of Economic and Community Development, Office of Community Development, as being familiar with court procedures under 30-A M.R.S.A. § 4453, he/she may serve civil process and, when specifically authorized to do so by the Municipal Officers, represent the Town in District Court.
- N. Section 240-11.12G(3) is amended to change "nonrefundable application fee of \$250" to read "a nonrefundable application fee to be established in accordance with § 240-11.6 of this chapter."

Chapter 252, Marijuana.

Article I is amended to read:

§ 252-1. Marijuana establishments prohibited unless Town opts in.

No person may operate an adult use marijuana establishment within the Town of Kennebunkport unless or until the legislative body of the Town ~~has voted to "opt in" to allow~~ has voted to "opt in" to allow votes to amend its ordinances or to adopt an ordinance expressly authorizing some or all types of marijuana establishments within the Town in accordance with 28-B M.R.S.A. § 401(3) of the Marijuana Legalization Act. No person may operate a caregiver retail store, registered dispensary, marijuana testing facility, manufacturing facility, or other facility governed by the Maine Medical Use of Marijuana Act unless or until the legislative body of the Town votes to amend its ordinances or to adopt an ordinance expressly authorizing ~~has voted to "opt in" to allow~~ some or all types of these facilities within the Town in accordance with 22 M.R.S.A. § 2429-D(3) of the Maine Medical Use of Marijuana Act. This section does not apply to authorized conduct by a person 21 years of age or older under 28-B M.R.S.A. § 2422, in accordance with the provisions of 22 M.R.S.A. § 2423-A, as may be amended.

§ 252-2. Authorization.

As of the [date of this codification], the Town of Kennebunkport has not specifically authorized any category of marijuana business establishment within the Town under either the Maine Medical Use of Marijuana Act or the Marijuana Legalization Act.

Chapter 290, Wireless Telecommunications Facilities Siting.

- A. Section 290-6G(2) is amended to change "90 days" to "60 days."
- B. Section 290-11A is amended to change "The CEO, as appointed through either the Zoning Ordinance or by the Board of Selectmen or Town or City Council, shall enforce this ordinance." to "The Code Enforcement Officer, appointed by the Board of Selectmen as provided in § 5-12 of the Town Administrative Code, shall enforce this chapter."

CERTIFICATION OF PROPOSED ORDINANCE

TO: Tracey O’Roak, the Town Clerk of the Town of Kennebunkport. In the name of the State of Maine, we hereby certify that the Ordinance entitled:

"Proposed Revision to Land Use Ordinance
regarding tents"

attached hereto as Exhibit A is a true copy of the Ordinance proposed for enactment at the Special Town Meeting of the Town of Kennebunkport to be held on November 3, 2020.

Dated this 10th day of September 2020, at Kennebunkport, Maine.

Patrick A. Briggs

Sheila A. Matthews-Bull

Edward W. Hutchins

Allen A. Daggett

D. Michael Weston

A majority of the Board of Selectmen of the Town of Kennebunkport

Exhibit A

PROPOSED AMENDMENT TO THE KENNEBUNKPORT LAND USE ORDINANCE CONCERNING TENTS

Revisions to Article 11.2: Permit Required

11.2 Permit Required

- L. Temporary placement of an awning or tent(s) exceeding 80 square feet in size from Memorial Day weekend until Labor Day shall be permitted. Temporary placement outside of the Memorial Day weekend through Labor Day season shall not exceed 30 days per any calendar year per parcel. Tents that exceed 80 square feet and are in place beyond the limits mentioned above ~~for more than 30 days per calendar year~~ are subject to conditions and approvals as a permanent structure.

CERTIFICATION OF PROPOSED ORDINANCE

TO: Tracey O’Roak, the Town Clerk of the Town of Kennebunkport. In the name of the State of Maine, we hereby certify that the Ordinance entitled:

"Emergency Management Ordinance"

attached hereto as Exhibit A is a true copy of the Ordinance proposed for enactment at the Special Town Meeting of the Town of Kennebunkport to be held on November 3, 2020.

Dated this 10th day of September 2020, at Kennebunkport, Maine.

Patrick A. Briggs

Sheila A. Matthews-Bull

Edward W. Hutchins

Allen A. Daggett

D. Michael Weston

A majority of the Board of Selectmen of the Town of Kennebunkport

Exhibit A

PROPOSED EMERGENCY MANAGEMENT ORDINANCE

Section 1: Short title; authority.

This Ordinance shall be known and may be cited and referred to as the "Emergency Management Ordinance of the Town of Kennebunkport" authorized under 37-B M.R.S.A. §§ 781 to 834.

Section 2: Intent and purpose.

It is the intent and purpose of this Ordinance to establish an Emergency Management Agency in compliance and in conformity with the provisions of 37-B M.R.S.A. §§ 781 *et seq.*, to ensure the complete and efficient utilization of all of the Town's facilities and resources to combat disaster as defined herein.

Section 3: Definitions.

The following definitions shall apply in the interpretation of this Ordinance:

Director means the Emergency Management Director . appointed and supervised as prescribed in the Town's Administrative Code, and also referred to as the "Emergency Management Agency (EMA) Director" in the Town' Emergency Operations Plan.

Disaster means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade causes including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

Emergency Management Agency means the agency created under this Ordinance for the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy or terrorist attacks, sabotage, riots or other hostile action or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency welfare, rescue, engineering, air raid warning and communications services; radiological, chemical and other special weapons defense; evacuation of persons from stricken areas; economic stabilization; allocation of critical materials in short supply; emergency transportation; existing or properly assigned functions of plant protection; other activities related to civilian protection; and other activities necessary to the preparation for the carrying out of these functions.

Emergency Management Agency Forces means the employees, equipment and facilities of all town departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.

Section 4: Organization and administration.

The Kennebunkport Emergency Management Agency is hereby established under the direction of the Town Manager. The Town Manager shall be responsible for the agency's organization, administration and operation utilizing to the fullest extent possible the existing departments within the town, and maintaining a liaison with other local, regional and/or state emergency management and public safety agencies.

The Director shall be the executive head of the Emergency Management Agency. The Director shall be appointed by the Board of Selectmen and work under the direction of the Town Manager as prescribed in the Town's Administrative Code.

Section 5: Emergency proclamation.

- A. The Chairperson of the Board of Selectmen, in consultation with the Town Manager, shall have the power and authority to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the town. If the Board Chairperson is temporarily absent from the town or otherwise unavailable, the Vice Chairperson of the Board of Selectmen may, after consultation with the Town Manager, issue the proclamation that an emergency exists. If neither the Board Chair nor Vice Chair is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Town Manager; the Police Chief; the Fire Chief; the Emergency Management Director; the Public Works Director. A copy of the proclamation shall be filed within twenty-four (24) hours in the office of the town clerk.
- B. The Town Manager and the Director shall be responsible for reporting to the Board of Selectmen all actions taken as a result of the declared emergency as soon as the Board of Selectmen can be convened.

Section 6: Termination of emergency.

- A. When the Chairperson of the Board of Selectmen, in consultation with the Town Manager, is satisfied that a disaster or civil emergency no longer exists, he/she shall terminate the emergency proclamation by another proclamation affecting the sections of the town covered by the original proclamation, or any part thereof. If the Board Chairperson is temporarily absent from the town or otherwise unavailable, the Vice

Chairperson of the Board of Selectmen may, after consultation with the Town Manager, issue the proclamation terminating the emergency proclamation. That proclamation terminating the emergency shall be filed in the office of the town clerk.

- B. No state of emergency may continue for longer than seven (7) days unless renewed or extended by the Board of Selectmen.

Section 7: Town manager's emergency powers and duties.

- A. During any period when an emergency proclamation is in effect, when an emergency or disaster exists or appears imminent, or when the Governor has proclaimed a disaster pursuant to 37-B M.R.S.A. §742, the Town Manager may promulgate such regulations as he/she deems necessary to protect life and property and to preserve critical resources. Such regulations may include, but are not limited to, the following:

- (1) Regulations prohibiting or restricting the movement of vehicles in areas within or outside of the town;
- (2) Regulations facilitating or restricting the movement of persons within the town;
- (3) Regulations pertaining to the movement of persons from areas deemed hazardous or vulnerable to disaster within the town;
- (4) Regulations governing the use of town-owned or town-managed property and facilities; or
- (5) Such other regulations necessary to preserve public peace, health and safety.

Nothing in this section shall be construed to limit the authority or responsibility of any department or town official to proceed under powers and authority granted to them by state statute, town ordinance or the town's administrative code.

- B. The Town Manager, in consultation with the Board Chairperson, or the Vice Chairperson if the Board Chairperson is unavailable, shall have the authority to:

- (1) Order the evacuation of persons from hazardous areas within the town;
- (2) Request aid or assistance from the State or any of the State's political subdivisions, and render assistance to other political subdivisions pursuant to the provisions of 37-B M.R.S. § 781 *et seq.*;
- (3) Obtain vital supplies, equipment, and other items found lacking and necessary for the protection of health, life, and property.

C. The provisions of this section shall terminate at the end of the declared emergency.

Section 8: Emergency operations plan.

The Director, in consultation with the Town Manager, shall prepare a comprehensive emergency operations plan for the town which shall be submitted to the Board of Selectmen for approval.

It shall be the responsibility of all municipal departments to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The emergency operations plan shall be reviewed and updated periodically by the Director in conjunction with the Town Manager for compliance with state law, 37-B M.R.S. § 781 *et seq.*

Section 9: Immunity from liability.

All members of the emergency management agency forces, while engaged in emergency management activities, shall be immune from liability, as set forth in 37-B M.R.S. § 822.

Section 10: Compensation for injuries.

All members of the emergency management agency forces shall be deemed to be employees of the state when engaged in training or on duty and shall have all of the rights of state employees under the Workmen's Compensation Act, as set forth in 37-B M.R.S. § 823.

Section 11: Violation of Regulations.

It shall be unlawful for any person to violate any of the provisions of this Ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the emergency management agency as herein defined in the enforcement of the provisions of this Ordinance or any regulation or plan issued thereunder.

Section 12: Penalties.

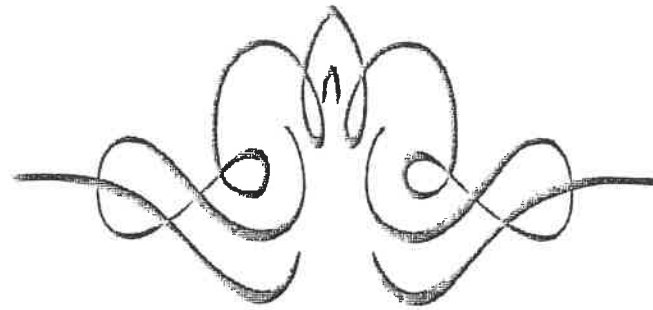
Any person, firm or corporation violating any provision of this Ordinance, or any rule or regulation promulgated thereunder, upon conviction thereof, shall be punished by a civil penalty of a minimum of \$100 to a maximum of \$1,000 per occurrence and the costs of prosecution.

Section 13: Severability.

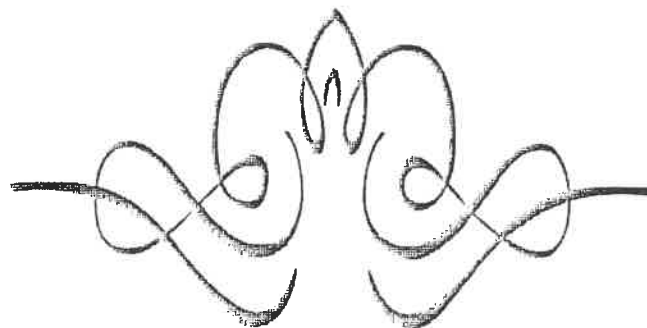
Should any provisions of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions of this Ordinance as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and remain valid notwithstanding such declaration.

Section 14: Effect on existing ordinances and regulations.

At all times when an emergency proclamation is in effect, the orders, rules and regulations made and promulgated pursuant to this Ordinance shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.



Agenda Item Divider



Item 7

Memo

To: Kennebunkport Board of Selectmen, Laurie Smith, Town Manager
From: Jennifer Lord, Treasurer
Date: 8/31/2020
Re: Collection of Delinquent Accounts Receivable Policy

The finance department has developed the attached Collection of Delinquent Accounts Receivable Policy to ensure equity and consistency. The Policy would allow the finance department to send notices following this guideline:

- 30 days delinquent – send a past due notice
- 60 days delinquent – send a second past due notice
- 90 days delinquent – send a final notice advising if not paid, then the account would be turned over to collections.
- 120 days delinquent – turn outstanding accounts over to collections

The following types of accounts would be included:

- Recreation fees
- Parking violations
- Mooring fees
- Pier fuel
- Pier dues for both Cape Porpoise and Government Wharf
- Miscellaneous fees such as reimbursements for Public Works, legal, Shade Tree and the RSU's invoicing, and others.

This policy does not include Real Estate Taxes, Personal Property Taxes or Sewer billings as they have their own set of State laws we must follow.

The amount of \$100.00 has been set as a starting point for write offs. It is my hopes that we will be able to write off the smaller amounts as they age with the collection agency and after all means have been exhausted. This will assist with cleaning the accounts up quicker and it would be fewer amounts for you to review. The majority of these types of accounts are parking violations and moorings.

COLLECTION OF DELINQUENT ACCOUNTS RECEIVABLE POLICY

Purpose: The purpose of this policy is to:

1. To maximize revenue by timeously collecting all monies owed to the Town, in conjunction with specific Town ordinances.
2. Define the parameters for the collection of delinquent accounts receivable for monies owed to the Town at any particular time.
3. Define the authority for the write-off of receivables.
4. Communicate to Elected Officials, Department Heads and Employees the formal policy of the Board of Selectmen regarding the collection of delinquent accounts receivable.

Authority: Board of Selectmen, Town of Kennebunkport

Application: This policy applies to the various Funds of Kennebunkport that record accounting activities on the general ledger of the Town, in conjunction with specific Town ordinances. Including, but not limited to the following:

- Recreation fees
- Parking violations – the software company will follow our timeline
- Mooring fees – if not paid the mooring permit will be voided and reassigned to the next eligible individual on the Mooring waiting list.
- Cape Porpoise fuel – Members have 30 days to pay their bills or risk losing all fueling privileges.
- Cape Porpoise dues – unpaid bills will be forwarded to the Board of Selectmen for dispensation. Members with accounts over 60 days past due may be removed from the membership and all privileges revoked.
- Government Wharf dues
- Miscellaneous fees – Including but not limited to: Public Works, reimbursements for legal, shade tree, RSU COPS, etc

Responsibility: The Town Manager and Treasurer shall be responsible for the implementation and administration of this policy.

Definitions: **Delinquent accounts receivable** are monies greater than 120 days past the date of the invoice was due that are legally owed to the Town at any particular time and represent assets. Examples may include, but are not limited to, the following:

- a. Amounts billed by the Town for services rendered by a department to another individual, municipality or entity.
- b. Any claim for funds, monies, or other property, which would normally be required by the Governmental Accounting Standards Board to be recorded as a receivable in the official records of a governmental unit.

Write-off of Accounts Receivable is the removal of an amount, or part of an amount, of money owed to the Town that had been determined to be a receivable, from the accounts receivable subsidiary ledger.

Policy: Departments that sell on credit or contract their services out shall collect promptly, efficiently, and in a thoroughly accountable manner all town receivables for which they are responsible.

Administrative

Procedures: Departments that generate receivables shall maintain accurate and current listing of aged accounts receivable for the purpose of prompt and efficient collection and reporting.

Collection procedures for receivables –

- A. An invoice must be prepared, recorded and delivered to the debtor as soon as practical after a receivable is created, and the debtor must be given 30 calendar days from the date of the invoice to return payment to the Town.
- B. If payment is not received within 30 days from the date of the invoice and payment arrangements have not been made in writing with the Town Manager and/or Treasurer, the debtor will be notified in writing that payment is past due and payable immediately. At this point, the debt has become an overdue receivable.
- C. If payment is not received within 60 days from the date of the invoice and payment arrangements have not been made in writing with the Town Manager and/or Treasurer, the debtor will be notified in writing one more time that payment is past due and payable immediately.
- D. If payment is not received within 90 days from the date of the invoice and payment arrangements have not been made in writing with the Town Manager and/or Treasurer, the debtor will be notified in writing that this will be their final notice before going to the Town's contracted collection agency.

- E. If payment is not received prior to 120 days from the date of the invoice, the delinquent account shall be referred to the Town's contracted collection agency immediately.

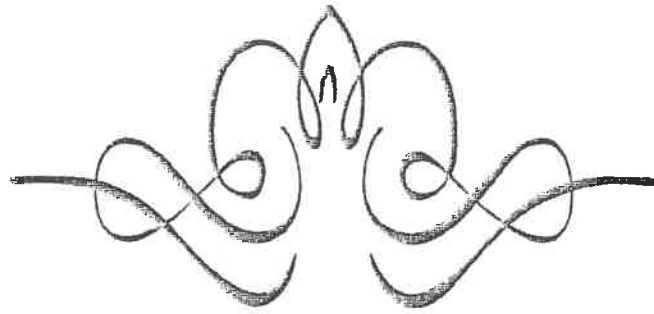
Referral for collection –

- A. The account shall be referred to a collection agency when it reaches 120 days past due.
- B. Once the Town has determined the account will be referred to a collection agency, all correspondence and past due statements for that account holder will be maintained in a file in finance.
- C. Finance will forward all documentation to the collection agency the Town is contracting with.

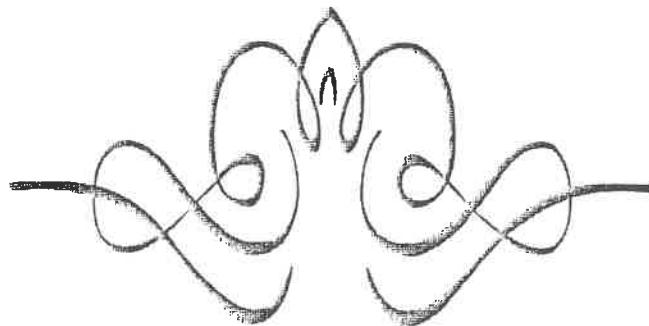
Accounting Entries –

- A. After a delinquent account has been sent to collections and all means have been exhausted, the Town Manager and/or Treasurer has the authority to write off any uncollectible amounts that are \$100 or less. (This enables us to write off parking violations, moorings, etc. after collections has exhausted all means to collect.)
- B. The Board of Selectmen must approve all write-offs of delinquent or uncollectible accounts over \$100.
- C. The amount of any receipts that may be remitted to the Town from the collection agency, after a write off, will be credited to the Allowance for Doubtful Accounts. This will effectively reduce overall bad debt loss expense.

Periodic Review: The Town Manager and Treasurer shall review this policy and make recommendations for changes as needed.



Agenda Item Divider





SWIMMING ADVISORY

Weekly water testing: Memorial Day – Labor Day

Caution

Elevated bacteria levels have been found in the rivers at either end of Goose Rocks Beach (Little River and Batson River), particularly at low tide. At low tide, it is advised to swim in the main beach of Goose Rocks Beach and avoid water contact in the rivers.

Elevated bacteria levels can occur at the beach and river areas after heavy rains. Water contact should be avoided after heavy rain at all parts of Goose Rocks Beach.

For more information, contact:

Kennebunkport Public Health Dept @ (207)967-4401, or visit:
www.mainehealthybeaches.org

NO LIFEGUARD ON DUTY

[River Warning Words]

[Beach Warning Words]

[Rainfall Warning Words]



SWIMMING ADVISORY

Heavy rain events may cause elevated bacteria at this beach.
If you should become ill or wish further information, please contact:

Kennebunkport Public Health Department: 967-4401

www.Kennebunkportme.gov

or

Maine Healthy Beaches: www.MaineHealthyBeaches.org

Weekly water testing: Memorial Day - Labor Day

NO LIFEGUARD ON DUTY