

# TOWN OF KENNEBUNKPORT, MAINE

—INCORPORATED 1653—

## **Board of Selectmen Agenda Village Fire Station- 32 North Street February 22, 2018 – 6:00 PM**

1. Call to Order.
2. Approve the February 8, 2018, 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 by the Ad Hoc Senior Advisory Committee regarding the Senior Questionnaire.
5. Consider consent agreement regarding building setback violations for 25 Mills Road.
6. Approve restrictions on vehicle weight limits on certain roads in accordance with 29-A M.R.S.A. Section 2395 and the Kennebunkport Traffic and Parking Control Ordinance.
7. Review recommendations from Harbormaster regarding violations of the Waterfront Ordinance, Cape Porpoise Pier Ordinance and Pier Rules and Regulations.
8. Review of Town Attorney's response to letter regarding Kings Highway addressing.
9. Public discussion and input regarding proposed ordinance revisions for Town Meeting Warrant:
  - a. Street Ordinance
  - b. Administrative Code
  - c. Cape Porpoise Pier
  - d. Revision to Growth Area Map
  - e. Setback from Road/ROW cleanup, Clarification
  - f. Parking Standard revision 6.9 6.10 removal of lot coverage credit for semi-pervious materials
  - g. Removal of fees from Floodplain Management Ordinance
10. Authorization of Sewer Use (Wastewater) Ordinance revisions.
11. Other business.

12. Approve the February 8, 2018, Treasurer's Warrant.

13. Adjournment.

**Board of Selectmen Meeting  
Village Fire Station – 32 North Street  
February 8, 2018 – 6:00 PM**

Minutes of the Selectmen's Meeting of February 8, 2018

**Selectmen Attending:** Stuart Barwise, Sheila Matthews-Bull, Edward Hutchins

**Selectmen Absent:** Patrick A. Briggs, Allen Daggett

**Others:** Adam Brock, Jim Burrows, Michael Davis, Werner Gilliam, David James, Scott Latagne, Lee McCurdy, Crystal McCurdy, Arlene McMurray, Tracey O'Roak, David Powell, Breese Reagle, Laurie Smith, and Dick Stedman

**1. Call to Order.**

Vice-Chair Hutchins called the meeting to order at 6:02 PM.

**2. Approve the January 25, 2018, selectmen meeting minutes.**

**Motion** by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the January 25, 2018, selectmen meeting minutes. **Vote:** 3-0.

**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.).**

Videographers Michael Davis and David Powell talked about the improvements in their videography equipment such as the ability to Skype, etc.

**4. Capital Improvement Plan presentation.**

(See Exhibit A)

Assistant Director of Parks and Recreation Breese Reagle talked about the Parks and Recreation projects.

Town Manager Laurie Smith mentioned the possibility of using the McCabe property for sledding.

Public Works Director and Acting Wastewater Superintendent Michael Claus spoke about the Public Works and Wastewater projects.

Harbormaster Lee McCurdy talked about his plans for the Cape Porpoise Pier Bait Building.

Acting Fire Chief Scott Lantage and Fire Administrator Dick Stedman spoke about the changes in the Fire Department and their equipment plans, realizing the new Fire Chief may have other ideas.

Town Clerk Tracey O'Roak discussed her plans for record preservation and gave important dates pertaining to ordinance changes:

- February 22, 2018 – Public discussion on proposed ordinance changes at the Board of Selectmen Meeting. After that, they would go to the Town Attorney for review.
- March 8, 2018 – Suggested changes by the Town Attorney presented to the Board.
- March 22, 2018 – Final draft presentation to the Board with any last-minute changes.
- April 12, 2019 – Last Selectmen's Meeting to sign the Warrant.

Ms. Smith spoke about the Police Department plans for replacing cruisers.

Director of Planning and Development Werner Gilliam talked about the review of zoning and land use.

#### **5. Review proposed ordinance revisions for Town Meeting Warrant:**

##### **a. Street Ordinance**

(See Exhibit B)

##### **b. Administrative Code**

Ms. Smith discussed the proposed ordinance revisions along with organizational restructuring and changes to the Administrative Code. (See Exhibit C)

##### **c. Cape Porpoise Pier**

(See Exhibit D and Exhibit D-2)

##### **d. Revision to Growth Area Map**

Mr. Gilliam spoke about the revision to the Growth Area Map and the next three revisions. (See Exhibit E)

##### **e. Setback from Road/ROW cleanup, Clarification**

(See Exhibit E)

##### **f. Parking Standard revision 6.9 6.10 removal of lot coverage credit for semi-pervious materials.**

(See Exhibit E)

**g. Removal of fees from Floodplain Management Ordinance.**

(See Exhibit E)

**6. Set the 2018 fees for Goose Rocks Beach parking stickers.**

Current fees are:

Resident seasonal	\$5.00
Nonresident daily	\$15.00
Nonresident weekly	\$50.00
Nonresident seasonal	\$100.00

**Motion** by Selectman Matthews-Bull, seconded by Selectman Barwise, to set the 2018 fees for Goose Rocks Beach parking stickers the same as 2017. **Vote:** 3-0.

**7. Adopt the Goose Rocks Beach Parking Sticker Rules/Regulations.**

**Motion** by Selectman Matthews-Bull, seconded by Selectman Barwise, to adopt the Goose Rocks Beach Parking Sticker Rules/Regulations as presented. **Vote:** 3-0.

**8. Request authorization to sell Fire Department air bottles.**

Assistant Fire Chief Jim Burrows said the Fire Department has 60 plus air bottles that are no longer useful. He would like to sell them.

**Motion** by Selectman Barwise, seconded by Selectman Matthews-Bull, to permit the sale of the Fire Department air bottles. **Vote:** 3-0.

**9. Award the bid for a hydraulic pump and hoses for the fire department.**

Mr. Stedman announced it is the third year of the fire department's three-year program to upgrade their extrication equipment. He received three bids:

Dealer	Manufacturer	Item	Qty.	Net Price	Total
HSE Fire & Safety	Genesis	Hydraulic Pump Mach III Simo Pump With 5/5 HP Honda Engine	1		\$6,508.00
	Genesis	Hoses, 30' w/OSC	2	\$695.00	\$1,390.00
		<b>Shipping estimate</b>			160.00
		<b>HSE Total</b>			<b>\$8,058.00</b>

**Selectmen's Meeting****- 4 -****February 8, 2018**

<b>Dealer</b>	<b>Manufacturer</b>	<b>Item</b>	<b>Qty.</b>	<b>Net Price</b>	<b>Total</b>
Fire Tech & Safety	Amkus	Hydraulic Pump Mini Simo w/3 HP Honda Engine	1		\$7,995.00
	Amkus	Hoses, 30' w/adapters OSC connectors	2	\$1,080.00	\$2,160.00
		<b>Shipping estimate</b>			Not Provided
		<b>FTS Total</b>			<b>\$10,155.00</b>

Mr. Stedman recommended awarding the bid to HSE Fire & Safety.

**Motion** by Selectman Matthews-Bull, seconded by Selectman Barwise, to award the bid for the hydraulic pump and hoses at a cost of \$8,058 to HSE Fire & Safety. **Vote:** 3-0.

**10. Award the backhoe bid.**

Mr. Claus reported that he received three bids:

<b>Backhoe</b>	<b>Bid Price</b>	<b>Trade In</b>
John Deere 310 SL HL	\$119,000	\$31,000
Case 580 SN T4F	\$119,316.27	\$25,500
Caterpillar 420 F2 IT	\$125,700	\$30,000

He said his public works crew tried out each piece of equipment and liked the Case 580 the best. They would like to sell the 2009 backhoe instead of trading it in, because they think they can do better.

**Motion** by Selectman Matthews-Bull, seconded by Selectman Barwise to award the bid for the purchase of a Case 580 SN T4F backhoe to Beauregard Equipment at a cost of \$119,316.27, and to allow them to sell the 2009 backhoe independently. **Vote:** 3-0.

**11. Wastewater Ordinance revisions.**

Ms. Smith went over the changes that the previous Fire Chief Allan Moir had worked out with the attorney. (See Exhibit F).

**12. Other business.****a. Fire Chief selection process.**

Ms. Smith announced that the position of Fire Chief was advertised with an application deadline date of February 23. The selection team will consist of two

members from the current fire department, Police Chief Sanford, Selectman Barwise, and a Fire Chief from another town.

**13. Approve the February 8, 2018, Treasurer's Warrant.**

**Motion** by Selectman Barwise, seconded by Selectman Matthews-Bull, to adjourn the meeting. **Vote:** 3-0.

**14. Adjournment.**

**Motion** by Selectman Barwise, seconded by Selectman Matthews-Bull, to adjourn the meeting. **Vote:** 3-0.

The meeting adjourned at 7:02 PM.

Submitted by Arlene McMurray  
Administrative Assistant





EXHIBIT A - 2-8-2018  
MEMO

To: Board of Selectmen

Fr: Laurie Smith, Town Manager

Re: FY 19 Capital Improvement Plan

Dt: February 5, 2018

Attached please find the five-year capital improvement plan for FY 19 – 23. We began an annual CIP after I arrived as part of the budgeting process. It is difficult to make major financial decision unless you are aware of what other impacts you are likely to face in the short and long term. This will especially prove important as we weigh some large capital projects in the next five years.

There are three major capital expenses (over \$1.0 million) in the next five years. These include the reconstruction of a portion of Ocean Avenue, the replacement of the Cape Porpoise Pier and a possible Town Office/Fire Department project.

The Ocean Avenue project was originally identified a few years ago as part of a study by Woodward and Curran engineers. The portion of Ocean Avenue between Nonantum Hotel and Glen Creek Bridge is constructed on top of a seawall. The wall needs to be replaced in order to maintain the integrity of the road. Mike Claus hired Woodward and Curran to review the current status of the wall, redesign improvements to limit impacts on abutting homes and businesses and update the construction costs. The proposed project is \$1.1 million. Due to its current condition we are proposing the project be funded in FY 19, and this would likely be a bond project.

Over the past couple of years we have seen a continued degradation to the infrastructure under Cape Porpoise Pier. In FY 18 we budgeted funds to perform geotechnical and survey work to better understand the best course of action. In preparation for the FY 19 budget we have asked Baker Design Consultants to develop a cost estimate for the necessary replacement and repairs in Cape Porpoise. The current estimate is just shy of \$1.5 million, and we are currently looking at a construction in FY 21 in order to access State grant funds.

The last large project for consideration is a Town Hall/Fire Station project. This one is further down the road than the previous two; however, I can foresee that the current Town Hall will need replacement, if for no other reason than a

lack of parking for staff and the public. We also are examining the current fire station locations and equipment usage. As we scrutinize the future needs of the Fire Department we may find that alternate locations and buildings are needed to meet the demands of future service.

The Wastewater Department and Fire Department have made some changes to the 5-year plan from last year. The biggest changes in Fire are relative to the reduction in Fire Vehicles and the lengthening of the replacement date for each vehicle. We are also seeing the introduction of an increased reserve account for Fire SCBA replacements as they will reach the end of their life cycle in 2026. The new Fire Chief will of course revise this in the next year and provide their own personal input into the plan.

I look forward to discussing these projects with you on the 8<sup>th</sup> and look forward to your feedback.

# Capital Improvement Program

Department	Type	FY 19	FY 20	FY 21	FY 22	FY 23	Future
<b><u>Administration</u></b>							
Review of Town Zoning and Land Use	Admin	\$ 20,000					
Town Office Pavement Restoration	Bldg/Facilities	\$ 19,000					
Community Survey	Admin	\$ 5,000					
Records Preservation	Admin	\$ 5,000					
Records Preservation	Admin	\$ 5,000					
Document Management System	Equipment		\$ 5,000	\$ 50,000			
Records Preservation	Admin		\$ 5,000				
Records Preservation	Admin				\$ 5,000		
Records Preservation	Admin					\$ 5,000	
Town Office Building Project	Bldg/Facilities					\$ 1,000,000	\$ 30,000
Replace 2017 Codes Vehicle	Equipment						\$ 200,000
Records Preservation	Admin						\$ 100,000
Town Office Building Renovations	Bldg/Facilities						\$ 330,000
<b>subtotal - Administration</b>		\$ 49,000	\$ 5,000	\$ 55,000	\$ 5,000	\$ 1,005,000	\$ 330,000
<b><u>Communications</u></b>							
Replace Building Cooling System	Bldg/Facilities			\$ 30,000			\$ 20,000
Boiler Replacement	Bldg/Facilities						\$ 20,000
<b>subtotal - Communications</b>		\$ -	\$ -	\$ 30,000	\$ -		\$ 20,000
<b><u>Dock Square</u></b>							
Parking Lot Pavement Restoration	Infrastructure	\$ 30,000					
Union Square enhancements	Infrastructure	\$ 25,000					
Replace sidewalks / heating maintenance East Side (bridge to	Infrastructure		\$ 87,000				
Sidewalk replacement on West side of Dock square	infrastructure		\$ 26,500				
Wayfinding signs for Downtown	Bldg/Facilities						\$ 25,000
<b>subtotal - Dock Square</b>		\$ 55,000	\$ 113,500	\$ -	\$ -		\$ 25,000

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# Capital Improvement Program

Department	Type	FY 19	FY 20	FY 21	FY 22	FY 23	Future
<b>Fire</b>							
Firefighter PPE	Equipment	\$ 17,000					
SCBA replacement and air bottles	Equipment	\$ 36,045					
North Street Renovations - Chief's Office	Bldg/Facilities	\$ 14,500					
Wildes Dist, Fire Station - Door Safety Devices	Bldg/Facilities	\$ 14,000					
Firefighter PPE	Equipment		\$ 17,000				
Radio equipment	Equipment		\$ 5,000				
SCBA replacement and air bottles	Equipment		\$ 42,608				
Firefighter PPE	Equipment			\$ 17,000			
Radio equipment	Equipment			\$ 5,000			
SCBA replacement and air bottles	Equipment			\$ 43,932			
Replace base station, antenna & cable	Equipment			\$ 18,000			
SCBA replacement and air bottles	Equipment				\$ 44,168		
Radio equipment	Equipment				\$ 10,500		
Firefighter PPE	Equipment				\$ 17,000		
SCBA replacement and air bottles	Equipment					\$ 44,412	
Firefighter PPE	Equipment					\$ 17,000	
Replace Brush 35 1980 GMC	Equipment					\$ 60,000	
Replace Engine 12 - PV REPLACE (2027)	Equipment						\$ 635,000
Replace Brush 15 1984 GMC (2028)	Equipment						\$ 60,000
Replace Squad 11 REPLACE (2031)	Equipment						\$ 150,000
Engine 23 REPLACE (2034)	Equipment						\$ 900,000
Replace Tank 1 - GRB REPLACE (2038)	Equipment						\$ 300,000
Replace Ladder 34 - GRB REPLACE (2039)	Equipment						\$ 1,500,000
Rigid Inflatable Boat/engine/trailer - GRB	Equipment						\$ 18,000
Rigid Inflatable Boat/engine/trailer - WD	Equipment						\$ 18,000
SCBA Air Packs (29)	Equipment						\$ 190,000
Generator - WD	Equipment						\$ 7,500
Generator - Village	Equipment						\$ 20,000
Hydraulic rescue tool	Equipment						\$ 80,000
Village Fire Station	Bldg/Facilities						\$ 700,000
Wildes Dist, Fire Station	Bldg/Facilities						\$ 250,000
<b>subtotal - Fire</b>		<b>\$ 81,545</b>	<b>\$ 64,608</b>	<b>\$ 83,932</b>	<b>\$ 71,668</b>	<b>\$ 121,412</b>	<b>\$ 4,828,500</b>

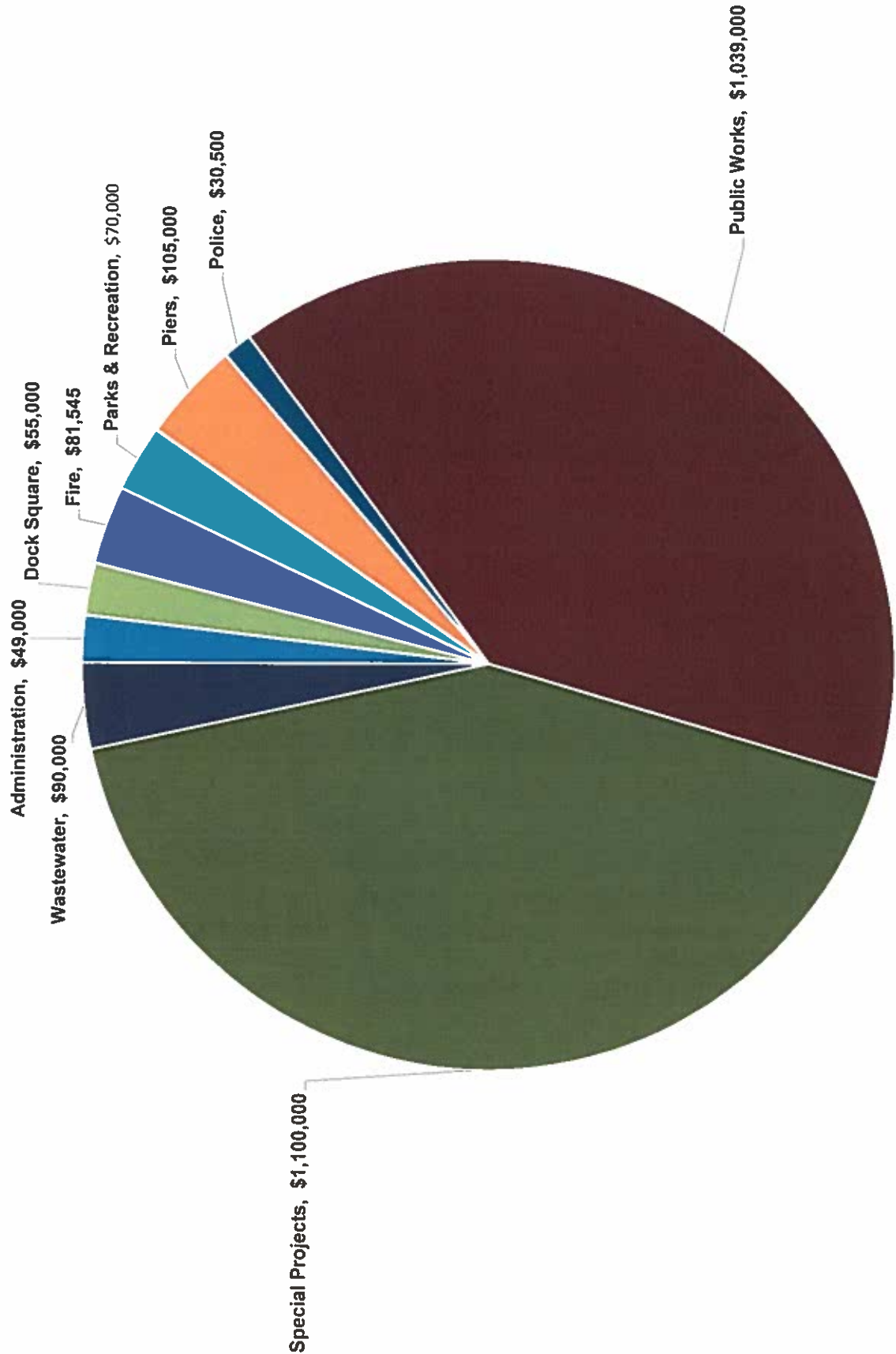
Road Name	Road Length (in miles)	Road Width	Sewered	2019	2020	2021	2022	2023
Acacia Road	0.089	18	Yes					
Arlington Street	0.176	20	Yes					
Arundel Road - North Street to GRB	2.226	22	No					
Arundel Road - River Road to North Street	0.503	22	No					
Atlantic Avenue	0.037	20	Yes					
Bailey Court	0.189	20	No					
Bartlett Avenue	0.077	20	Yes					
Beachwood Avenue	2.400	20	No					
Beacon Avenue	0.140	20	No	\$12,128				\$207,900
Belair Avenue	0.111	18	Yes					
Bellevue Avenue	0.022	16	Yes					
Bellewood Avenue	0.064	18	Yes					
Belvidere Avenue	0.116	18	Yes					
Birch Court	0.090	18	Yes					
Broadway Avenue	0.050	14	Yes		\$3,032			
Central Avenue	0.104	20	Yes					
Chestnut Street	0.084	30	Yes	\$18,300				
Church Street	0.128	26	Yes					
Clover Leaf Farm Road	0.097	16	No					
Community House Road	0.226	18	Yes					
Community House Way	0.100	18	Yes					
Crescent Avenue	0.175	16	Yes					
Cross Street	0.041	24	No					
Dorrance Road	0.090	14	Yes		\$5,457			
Dyke Road	0.660	22	Yes					
East Avenue	0.176	18	Yes					
Edgewood Avenue	0.116	18	Yes					\$9,044
Eel Bridge Lane	0.084	16	Yes					
Elm Street	0.122	20	Yes	\$5,821	\$10,568			
Fairfield Hill Road	0.300	20	No			\$1,000		
Fishers Lane	0.146	18	Yes			\$11,383		
Goose Rocks Road	4.000	22	No					
Grandview Avenue	0.133	22	Yes			\$12,673		
Gravelly Brook Road	0.700	18	No			\$4,000		
Greene Street	0.125	24	Yes	\$12,994				
Guinea Road - Biddeford Line to Whitten Hill Road	0.798	22	No					
Guinea Road - Goose Rocks Road to Whitten Hill Road	1.039	22	No	\$99,004				
Haverhill Avenue	0.144	16	Yes	\$9,979				
Hayward Avenue	0.053	14	Yes		\$3,214			
High Point Drive	0.246	20	Yes					
High Street	0.048	18	Yes			\$3,742		
Jefferys Way	0.057	18	Yes		\$34,000			
Josiah Curtis Lane	0.039	20	Yes					
Kings Highway - Batsons Creek to Sand Point Road	1.657	24	Yes				\$172,245	
Colony Ave	0.151	20	Yes	\$13,080				
Kings Highway - Sand Point Road to Little River	0.180	22	Yes					
Lansford Road	0.571	18	Yes				\$17,152	
Locke Street	0.174	16	Yes					
Magnolia Drive	0.220	16	Yes	\$15,246				
Main Street	0.634	24	Yes		\$65,904			



Road Name	Road Length (in miles)	Road Width	Sewered	2019	2020	2021	2022	2023
Maine Street - North Street to School Street	0.253	30	Yes		\$40,000			
Maine Street - Wildes District Road to School Street	0.340	22	Yes					
Spruce Lane (Formerly Mapleview Avenue)	0.163	20	No			\$3,898		
Mast Cove Lane	0.050	18	Yes					
Meserves Lane	0.076	14	Yes					
Mill Lane	0.044	16	Yes	\$3,049				
Mills Road - Beachwood Avenue to Biddeford Line	2.673	24	Yes	\$321,850				
Mills Road - Main Street to Beachwood Avenue	1.680	24	Yes					
Mount Kineo Road	0.424	18	No					
New Biddeford Road	0.867	26	Yes					
North Street	1.420	24	Yes	\$233,400				
Northwood Drive	0.698	18	No					
Norwood Lane	0.059	16	Yes			\$4,089		
Oak Ridge Road	1.669	22	No					
Oak Street	0.170	16	Yes					
Ocean Avenue - Chicks Creek Bridge to Kings Highway	0.449	24	Yes					
Ocean Avenue - Kings Highway to Wamby	1.261	24	Yes					
Ocean Avenue - Spring Street to Chicks Creek Bridge	0.520	22	Yes					
Ocean Avenue - Wamby to Turbats Creek Road	0.930	22	Yes					
Old Cape Road	1.228	22	No					
Old Fort Avenue	0.149	20	Yes					
Paddy Creek Hill Road	0.100	16	Yes	\$6,930				
Paddy Creek Road	0.100	16	Yes	\$6,930	\$12,578			
Pearl Street	0.121	24	Yes					
Pier Road	0.644	22	Yes				\$61,365	
Pleasant Street	0.125	18	Yes	\$9,745				
Port Farm Road	0.100	20	Yes	\$8,663				
Proctor Avenue	0.090	18	Yes					
River Road	0.613	22	No			\$58,411		
Saddle Way	0.070	20	Yes					
School Street	1.400	24	Yes					
Sherwood Drive	0.100	20	Yes					
South Main Street	0.726	22	Yes		\$69,179			
South Street	0.068	18	Yes		\$5,301			
Spouting Rock Avenue	0.050	12	No			\$5,569		
Spring Street	0.151	28	Yes				\$18,313	
Squier Lane	0.248	24	No				\$25,780	
Stone Road	0.978	22	No					
Stonewood Lane	0.131	22	No					
Summit Avenue	0.248	20	Yes					
Temple Street	0.058	30	Yes	\$7,536				
Towne Street	0.146	18	Yes					
Turbats Creek Road	0.700	18	Yes					
Union Street	0.089	20	Yes	\$7,710				
Wakefield Pasture Road	0.200	18	Yes			\$15,593		
Walkers Lane	0.329	22	No				\$31,350	
Ward Road	0.274	20	Yes					
Washington Court	0.141	28	Yes	\$17,100				
Wesmore Circle	0.100	14	Yes					
West Street	0.086	16	Yes					

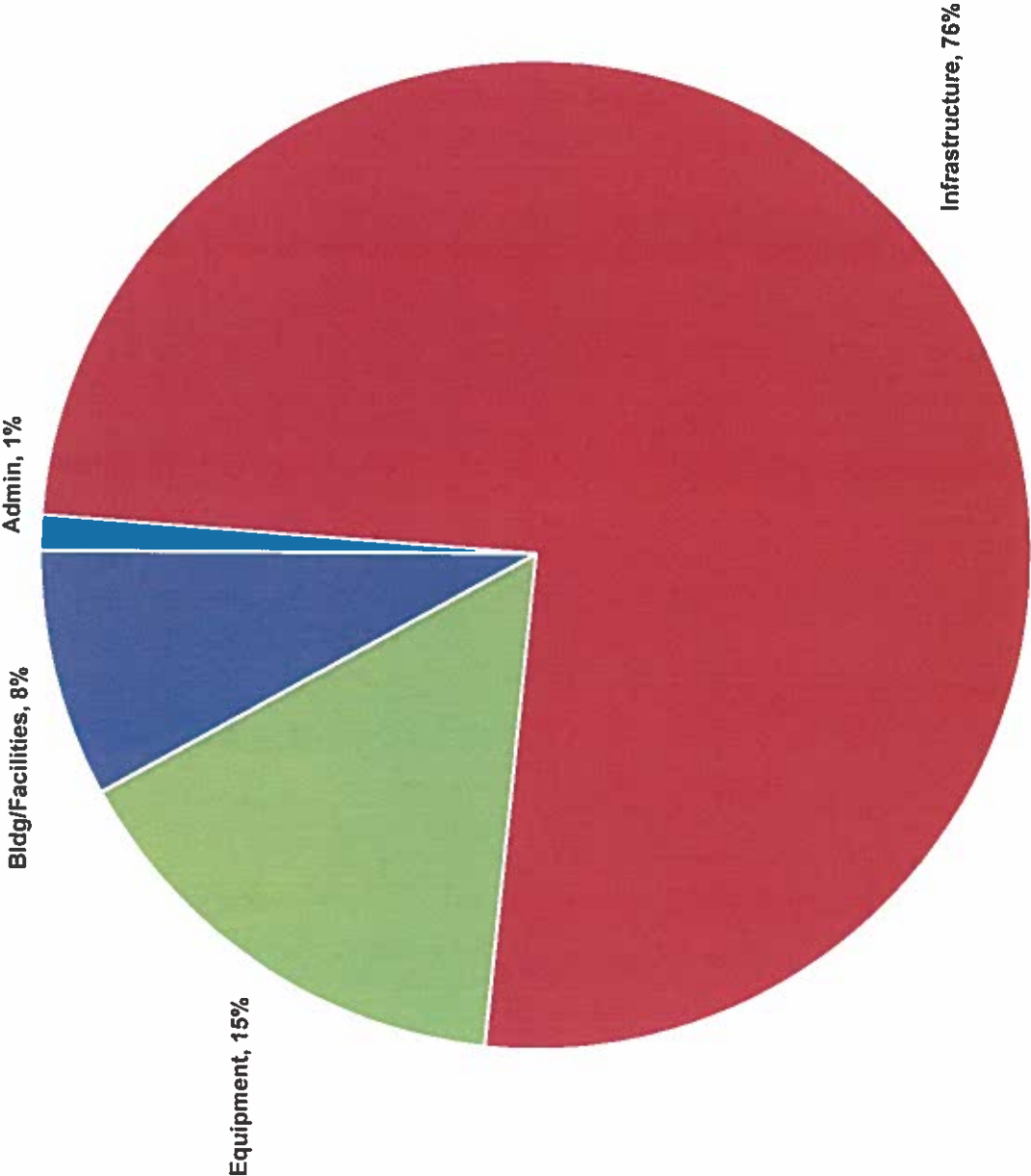
Road Name	Road Length (in miles)	Road Width	Sewered	2019	2020	2021	2022	2023
Whitten Hill Road	1.367	22	No					
Wildes District Road	1.800	18	Yes					
Wildwood Avenue	0.347	18	Yes					
Willey Road	0.415	22	No					
Windemere Drive	0.100	18	No					
Winslow Lane	0.120	20	Yes					
Winter Harbor Road	0.600	22	No					
Woodlawn Avenue	0.200	20	Yes					
Sidewalks and Paved Shoulders				\$92,736	\$40,952	\$83,412	\$66,705	\$0
Road Reconstruction and/or Paving				\$717,014	\$438,582	\$573,307	\$326,297	\$207,900
Total	48.166			\$809,750	\$479,534	\$656,719	\$393,002	\$207,900

**FY19 by Department**

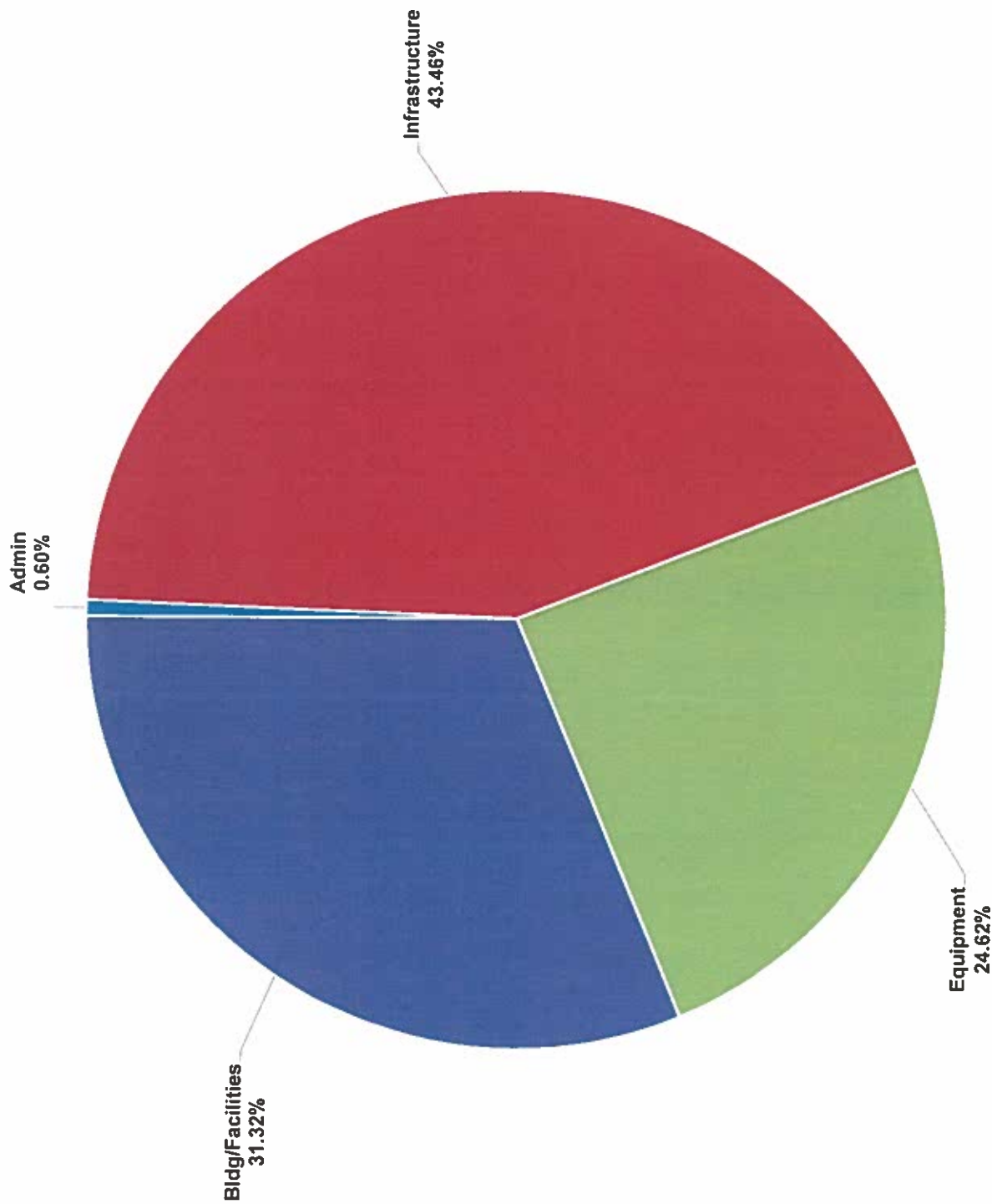




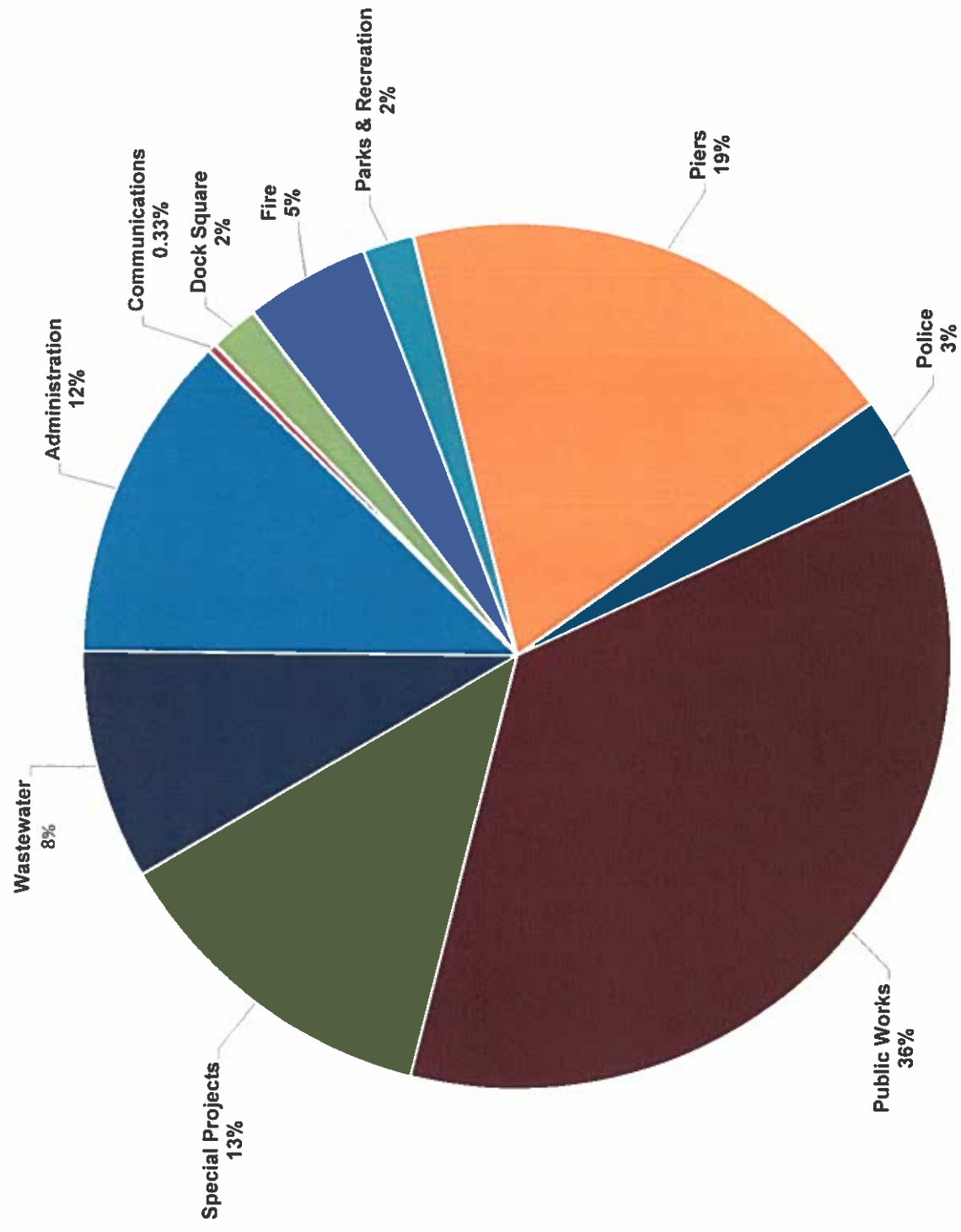
**FY19 by Type**



Five Year Plan by Type - FY 19 - FY 23



## Five Year Plan by Dept. - FY 19- FY 23





## TOWN OF KENNEBUNKPORT, MAINE

### STREET ORDINANCE

**PURPOSE:** The purpose of this ordinance is to provide each street, road and way (hereinafter referred to as street) both public and private, with one official and approved name and all residences and businesses thereon assigned numbers that will enable quick, easy identification and location of same by police, fire, emergency medical personnel and mercantile delivery services, as well as the U. S. Postal Service address. Use of a Post Office Box for mail delivery does not defeat the purpose of this Ordinance.

#### ARTICLE I - AUTHORITY

This Ordinance is adopted pursuant to, and consistent with, the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A, M.R.S.A. Section 3001. Date of Adoption: January 9, 1997. **Amended:**

#### ARTICLE II - NAMING SYSTEM

All roads that serve two or more structures shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. A road name assigned by the municipality shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

1. No two roads shall be given the same name (ex. Pine Road and Pine Lane)
2. No two roads shall have similar-sounding names (ex. Beech Lane and Peach Lane).
3. Each road shall have the same name throughout its entire length.

#### PRIVATELY OWNED STREETS

All privately owned streets serving two or more properties shall be named, either by the developer or abutting property owners. A developer, sub-dividing property owner or abutting property owners shall submit proposed street names with the development or sub-dividing plan, the proposed street names will be reviewed by the public safety committee, in accordance with Article 2 of this ordinance.

#### ARTICLE II - PUBLIC STREETS

~~All public streets shall be named; duplication and confusing similarities shall be avoided. Use of a different type of way, i.e., Avenue, Lane, Court, etc., with the same name will be considered a duplication. Also, like sounding names with a different spelling will be considered a confusing similarity.~~

## TOWN OF KENNEBUNKPORT, MAINE

### STREET ORDINANCE CONT'D

1. ~~All residences and businesses shall have a number assigned by the official(s) designated in Article V of this Ordinance. Numbers shall be assigned in anticipation of future growth and in crease in density in order to avoid numbers with alphabetical or other suffixes such as, 31A or 31B, or 31 Front and 31 Rear. The rule of thumb will be one number (each side) for each one hundred (100) feet of street. Two (2) adjacent residences/businesses fronting on the same street, may share a common driveway. However, the driveway will be assigned a sequential (odd or even) street number.~~
2. ~~An "in home" business will have the same street number as the residence.~~
3. ~~Streets will be defined as "running from" one street "to" another street, dead end or Town line. The "from" end will be known as the "origin" of the street, the "to" end will be the "terminus". The numbering shall start at the origin of a street, with odd numbers on the right and even numbers on the left, in ascending order to the terminus of the street. Two (2) Three (3) streets, River Road Woodlawn Avenue and Poets Lane, have odd numbers on the left and even on the right and are grandfathered.~~
4. ~~Multiple Two (2) family residences shall have a number for each unit. Apartment houses shall have a number for each front entryway with apartment numbers for each apartment accessed from that entryway.~~
5. ~~Each business unit shall have a unique number even if housed within the same building.~~
6. ~~All residences, businesses and other properties assigned a street number shall exhibit that number on or near the main front entrance of the building. If that entrance does not face the street to which the number is assigned, it shall be exhibited on the corner of the building nearest the main entrance and facing the street to which it applies. The number shall be a minimum of four (4) inches in height if placed within fifty (50) feet from the street and six (6) inches high if over fifty (50) feet from the street. If the building is over one hundred (100) feet from the street, or not readily visible from the street, the number shall be displayed on a post, monument or other structure next to the driveway where it enters the street. For residences/businesses receiving mail by means of a rural delivery box, the number on the box or support post will suffice provided it: 1) is located on the street to which the number is assigned; 2) is adjacent to, or directly opposite from, the driveway or front walkway to that residence/business; 3) has numbers a minimum of two (2) inches high; 4) is places on (A) both sides of the box; or, (B) on the front of the box; or, (C) on the post, above the box and facing the street. All numbers shall be of a contrasting color to their background so as to be easily recognizable. All buildings shall have their assigned number(s) affixed as delineated above no later than six (6) months after adoption of this Ordinance.~~

### ARTICLE IV - COMPLIANCE

**All owners of structures shall display and maintain in a conspicuous place on said structure, assigned numbers in the following manner:**



## TOWN OF KENNEBUNKPORT, MAINE

### STREET ORDINANCE CONT'D

2. If the Board delegates the responsibility to another official or committee, the Town Manager will rule on the first appeal and, if not resolved, the Board shall hear a final appeal. All appeals shall be filed within thirty (30) days of the denial and ruled upon within thirty (30) days of filing the appeal.

### ARTICLE VI - ADDITIONAL REQUIREMENTS

1. All named streets shall have a signpost erected at each end thereof, except that a dead end street will not require one on the dead end. A cul-de-sac or other turn around will be considered a dead end. All signs shall be of a uniform size, lettering and color as designated by the Town Manager.
2. Costs for erecting signs for all streets within a private development will be borne by the developer.
3. Appendix I of this Ordinance shall be a complete list of all streets in the Town of Kennebunkport as of the date of enactment of this Ordinance. Said list will contain a brief description, locating the street by reference to the origin and terminus of the street, list all intersecting streets and the point of intersection. Appendix I will also be maintained current with a record of changes/additions thereto and the date of the change/addition. ~~Appendix I will also be maintained on the Fire Computer located in the Police/Fire/EMS dispatching center.~~
- ~~4. A street will not be designated as an extension of another street. Any extension of an existing street on the highest numbered end will have the name of the street being extended and assigned sequential numbers, otherwise it will be given a new name.~~
- ~~5. There shall be no numerical names such as First Street, or alphabetical names such as "A" street. A street name shall not be preceded or appended by a compass direction.~~
4. Any circumstance, situation or question determined to not be covered in this Ordinance, shall be resolved by the Board and that resolution made part of this Ordinance.

### ARTICLE VII - NAME CHANGES

1. Except for the purpose of removing existing duplications and similarities, it is the intent of this Ordinance that a street not have its name changed. However, if a two-thirds majority of the residents and property owners on that street provide a compelling reason and petition the Board for a name change, the Board shall deliberate the request and render their decision no later than two (2) months after the first meeting held after receipt of the request. The Board's decision may be to grant or deny the request, or, if the change has Town-wide significance, to present the request to the voters of the Town of Kennebunkport at a Town Meeting, either annual or special.
2. Existing duplications and similarities will be reviewed by the Board, if the Board decided that a name should be changed, the procedure for naming streets outlined in Article III shall be used as a guide.
3. If a name change is approved, the local postmaster or office will be advised and requested to provide a change-over period which will recognize both the old and the new address.

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EXHIBIT C 2-8-2018

## MEMO

To: Board of Selectmen

Fr: Laurie Smith, Town Manager

Re: Ordinance revisions in accordance with organization changes

Dt: February 5, 2018

The Town of Kennebunkport is considered a small town, both in its character and year-round population of about 3,500. However; the Town has a variety of full time services, sophisticated seasonal and year-round residents, and a seasonal population that tops over 12,000 people. Since our last budget process, I have spent considerable time reviewing our strengths, weaknesses, and service delivery models. We have also lost a valuable member of our team who led two departments and we need to examine how we will meet the challenges of the future. One of those will be the probable retirement of 12 out of the 47 full time employees within the next **five** years, which equates to 25% of our workforce.

As I plan for future Town operations, I see there are benefits to examining our current structure and deliberating the pros and cons of a change. Currently the Town Manager oversees 10 directors, often times creating a "spinning plate" management. We are currently without department directors in Wastewater and Fire and hence it is a good time to review structure. Flexibility and adaptability will be important in meeting service needs in the future while maximizing use of our current staff resources

My proposal is to reorganize the Harbormaster/Pier Manager position under the Police Department and combine Highway and Wastewater into one department under Public Works. Although there will be challenges, which I will address through the budget process I believe this structure meets the issues I outlined above.

In order to accomplish these structural changes there are some ordinance changes required in the administrative code, the cape porpoise pier ordinance and the wastewater ordinance.



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## **ARTICLE II MUNICIPAL ADMINISTRATION**

### **2.1 TOWN MANAGER**

The Selectmen shall appoint a Town Manager who shall be responsible to them. In addition to such powers and duties as prescribed by statute for the Town Manager and such other responsibilities as specifically designed by the Board of Selectmen, the Town Manager shall:

- a. Act as the Chief Administrative and Executive Officer of the Town of Kennebunkport;
- b. Be responsible to the Board of Selectmen for the Administration of all departments and offices over which the Board has control;
- c. Execute all laws and ordinances of Kennebunkport;
- d. Serve in any office as the head of any department under the control of the Board of Selectmen when so directed by the Selectmen;
- e. Appoint, subject to confirmation by the Board of Selectmen, supervise and control heads of departments under control of the Selectmen when the department is not headed by the Town Manager under Paragraph d;
- f. Appoint, supervise and control all Town Officials which the Municipal Officers are required by statute to appoint, unless otherwise provided by ordinance ~~or this code~~ and except members of boards, commissions and committees; and appoint, supervise and control all other officials, including the Town Treasurer, the Road Commissioner and the Tax Collector, subordinates and assistants. The Town Manager may delegate this authority to a head of a department and report all appointments to the Board of Selectmen for confirmation;
- g. Act as purchasing agent of the Town as directed by the Selectmen;
- h. Attend all meetings of the Board of Selectmen, except during illness or vacation, or otherwise with prior approval of the Board of Selectmen;
- i. Attend municipal meetings and hearings as requested by the Board of Selectmen;
- j. Keep the Board of Selectmen informed as to the financial condition of the Town;

## **2.3 MUNICIPAL DEPARTMENTS**

The municipal administration shall be divided into the following departments:

- 2.3.1 Administrative Department**
  - Fire Department**
  - Health Department**
  - Parks & Recreation Department**
  - Planning & Development Department**
  - Police Department**
  - Public Works Department**
  - Town Clerk Department**
  - Wastewater Department**

## **2.4 ELECTRONIC MAIL POLICY**

Use of the electronic mail (e-mail) by members of any Kennebunkport Board or Committee should conform to the same standards of judgment, propriety and ethics as other forms of Board or Committee related communication. All Board and Committee members shall comply with the following guidelines when using e-mail in the conduct of Board or Committee business:

- a. Boards and Committees shall not use e-mail as a substitute for deliberations at meetings or for other communications or business properly confined to meetings.**
- b. Board and Committee members should be aware that e-mail and e-mail attachments received or prepared for use in Board or Committee business or containing information relating to Board or Committee business are public records which may be inspected by any person upon request, unless made confidential by Maine's Right to Know Law (1 M. R. S. A., Section 401 et seq).**
- c. Board or Committee members should avoid reference to confidential information about employees, personnel or other matters in e-mail communications because of the risk of improper disclosure. All Board and Committee members should comply with the same standards as Town employees with regard to confidential information.**

### **3.5.3 Inspections**

The Fire Inspectors shall maintain a list of all public buildings in the Town of Kennebunkport, shall inspect all such public buildings periodically and shall issue a permit of compliance in accordance with the statutes of the State of Maine and the ordinances of this Town. The Fire Inspector shall deny a permit when violations of such statutes or ordinances are found. The Fire Inspector shall submit to the Board of Selectmen copies of all permits and/or denials issued.

### **3.5.4 Authority**

The Fire Inspector shall have the authority to close a building to public use when that building is found to be in violation of fire and safety regulations, laws, or statutes of the State of Maine, or the ordinances of the Town of Kennebunkport, when in the judgment of the Fire Inspector there is a danger to the public.

### **3.5.5 Fees and Compensation**

The Town of Kennebunkport may charge a nominal fee to the owner of the building for such annual inspection. Such fees shall be made payable to the Town of Kennebunkport.

## **3.6 HARBOR MASTERS**

### **3.6.1 Cape Porpoise Harbormaster**

The Board of Selectmen shall annually appoint a Harbormaster for Cape Porpoise Harbor. The Harbormaster shall report directly to, and be supervised by, the Town-Manager ~~Police Chief~~, or his or her designee. The duties of the Cape Porpoise Harbormaster shall be the effective management of Cape Porpoise Harbor, Goose Rocks Beach and Turbat's Creek and for the enforcement of any municipal ordinance relating to harbors and any other duties specified by the Board of Selectmen or by Federal or State Statute. The Cape Porpoise Harbormaster may also serve as the Pier Manager upon appointment by the Town Manager.

### **3.6.2 Kennebunk River Harbormaster**

The Harbormaster for the Kennebunk River is appointed annually by the Boards of Selectmen of Kennebunk and Kennebunkport. Certain duties and responsibilities of this office are prescribed by Title 38, M.R.S.A. The Harbormaster has the additional duty to administer and enforce the provisions of the Kennebunk River Committee Ordinance with the

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EXHIBIT D 2-8-2018

## CAPE PORPOISE PIER ORDINANCE

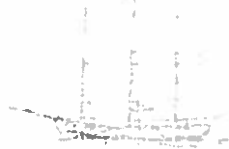
1. **Preamble:** The Inhabitants of Kennebunkport having determined that the operation of a fish pier and public landing is a public purpose and having determined that such a facility is needed in Cape Porpoise Harbor for the convenience and economic well-being of the Inhabitants of the Town of Kennebunkport, enact this ordinance to be known as the "Cape Porpoise Fish Pier Ordinance".
2. **Definitions:**
  - a. **Cape Porpoise Pier:** "Cape Porpoise Pier" means the existing pier on Bickford's Island in Cape Porpoise and the related real estate, fixtures, personal property, easements and other rights belonging to the Town of Kennebunkport and any replacement, improvement, extension or modification of said premises and facilities made hereafter.
  - b. **Town:** "Town" means the Town of Kennebunkport organized and existing as a municipal corporation under the laws of the State of Maine.
3. **Purposes:** The Cape Porpoise Pier shall be managed by the municipal officers of the Town, or their designee, primarily as a public fish pier for the berthing, servicing, loading, offloading, repair and other needs of commercial fishing vessels. To the extent compatible with its primary use as a public fish pier, and to the extent permitted by agreements between the Town and the State of Maine, the pier shall also be available for use by other vessels, by residents of the Town, and by members of the general public.
4. **Fee structure:** After notice and public hearing, the municipal officers shall establish a reasonable schedule of fees for the use of the Cape Porpoise Pier, its related facilities, and for services provided at the pier. In establishing the schedule of fees, the municipal officers shall consider the value of the services provided, the costs to the Town for administration, maintenance, salaries, equipment, debt service and repairs to the pier, the expenses incurred by the Town for piers, docks and harbors and the amounts collected by the Town in personal property taxes on boats. Copies of the schedule of fees as established by the municipal officers shall be available at the municipal office during normal business hours and shall be posted in the vicinity of the Cape Porpoise Pier.
5. **Regulations:** After notice and public hearing the municipal officers are authorized to adopt regulations governing the rules of operation of the Cape Porpoise Pier which rules shall be designed to ensure its primary use as a fish pier, to prevent obstruction, overcrowding and unnecessary delays, to prevent

personal injury or damage to vessels or property, to maintain safe and healthful conditions, to prevent vandalism and theft of property, to establish reasonable limits on the hours of operation, to prevent disturbance of the peace, to ensure that fees established are collected, and to govern such other matters as may be necessary or useful to the management and operation of the pier.

6. **Authority to contract:** The municipal officers are authorized to contract on such terms and conditions as are in the best interest of the Town with private persons or corporations for the provision of services to fishermen, vessels, residents of the Town and members of the public using the Cape Porpoise Pier and to contract for the operation of food take-out, ship store, retail and wholesale, lobster pounds and other incidental businesses on the Cape Porpoise Pier facilities. Prior to entering into any such contract, the municipal officers shall give notice of their intention to enter into such a contract and shall afford interested persons a reasonable opportunity to submit proposals for consideration.
7. **Cape Porpoise Pier Account:** All fees, rents, leasehold payments or other sums collected by the Town in connection with the operation of the Cape Porpoise Pier shall be kept in a separate account to be known as the Cape Porpoise Pier Account. The funds in said account shall be used by the municipal officers to supplement any other sums appropriated by the Town for the costs association with the Cape Porpoise Pier, including without limitation, expenses for administration, salaries, debt service, maintenance, equipment and repairs. Funds remaining in the Cape Porpoise Pier Account at the end of the fiscal year shall not lapse and such funds shall not be transferred to other accounts unless by vote of the Town at a regular or special town meeting.
8. **Authority to Retain Pier Manager:** The municipal officers are authorized to contract with or employ a Pier Manager and such other personnel as may be necessary to the operation of the Cape Porpoise Pier on such terms and conditions as are in the best interest of the Town. The municipal officers may delegate to the Pier Manager responsibility for the management and operation of the Cape Porpoise Pier under the general direction and supervision of the ~~municipal officers~~ Police Chief, or his or her designees, provided that the municipal officers shall not delegate the authority to establish fees under Section 4, to adopt regulations under Section 5 or to enter into contracts under Section 6 of this ordinance.
9. **Penalties:** Whoever violates the provisions of this ordinance or any regulation or rule established under this ordinance shall be punished by a fine of not more than \$100 for each such occurrence. If any violation continues for a period longer than 24 hours, each day that it continues shall be deemed a separate violation subject to the penalty herein provided. The right of any person to use the Cape Porpoise Fish Pier may be suspended by the municipal officers, after reasonable notice and hearing, for failure to pay any fees due or for violation of regulations adopted pursuant to this ordinance.

10. **Notice:** The notice requirements under Sections 4, 5 and 6 of this ordinance shall be met by positing in three public places within the Town and by publication in a newspaper of general circulation at least seven days prior to the hearing.

Adopted – April 14, 1982 at a Special Town Meeting



# TOWN OF KENNEBUNKPORT, MAINE

INCORPORATED 1653

MAINE'S FINEST RESORT

## **Proposed Ordinance Revisions June 2018**

- ***Revisions to Land Use Ordinance regarding Growth Area Map.*** When the Growth Area Map was created in 2010 showing properties that met the written definitions of Growth, Rural and Transitional, it did not consider the progression and expansion of public utilities such as sewer and water. This amendment allows the Growth Planning Committee to periodically review and update the map to reflect current infrastructure access, allowing properties to be reclassified from one type of rate of growth area to another. This will allow for properties to be treated equitably with other like properties related to the issuance of growth permits.
- ***Revisions to Land Use Ordinance clarifying setbacks related to lot lines and rights of way.*** This ordinance amendment removes confusing and contradictory language regarding setbacks from road rights of way. As a matter of practice, the code office has consistently interpreted structure setbacks to be measured from the edge of a road right of way. And while the ordinance supports that interpretation there has been confusion when in places setbacks refer to "street" and in other places refer to "right of way". Furthermore, there has been confusion surrounding pedestrian rights of way vs. road rights of way. This ordinance amendment clarifies lot setbacks are related to vehicular access rights of way, public and private, and should not be used for pedestrian rights of way nor should setbacks be measured to the actual constructed street or road.
- ***Revisions to Land Use Ordinance regarding lot coverage credit for semi pervious materials.*** Within the Shoreland Zone driveways are calculated towards a lot's overall lot coverage restriction. Several years ago, many coastal communities with the support of the Maine DEP allowed lot coverage reductions when semi-pervious materials such as grass pavers were used. After a trial period of a few years DEP reversed their position regarding this practice. It was found that some communities were not consistently enforcing the policy in addition to finding that many contractors were improperly installing the alternatives, which over time reduced their overall effectiveness.
- ***Revisions to Floodplain Management Ordinance.*** This ordinance amendment removes the floodplain permit fee from the ordinance and places it in a fee schedule set annually by the Board of Selectmen.

## Proposed Revision to LUO Regarding Growth Area Map

### 11.12 Growth Management Permit Required

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2. Growth management permits issued by the Code Enforcement Officer may be replaced by building permits according to their rankings. Growth management permits issued by the Code Enforcement Officer shall be separated into three groups: Growth Areas, Transitional Areas and Rural Areas. These Areas are identified within the Comprehensive Plan and further identified on a Map entitled: Kennebunkport Rate of Growth Areas Comprehensive Plan. June 2010. The Rate of Growth Area Map may be reviewed and updated periodically by the Growth Planning Committee in order to reflect current infrastructure development. As a result, parcels may be reclassified to reflect their actual access to municipal infrastructure such as sewer and water. The allocation of growth management permits shall be as follows: fifty percent (50%) available for Growth Areas, thirty percent (30%) available for Transitional Areas and the remaining twenty percent (20%) for Rural Areas. Decimals resulting from this formula shall be rounded up to the nearest whole number for decimals greater than 0.5 and down to the nearest whole number for decimals less than or equal to 0.5. If the rounding results in an unallocated growth management permit, that permit shall be allocated to the Growth Areas.



## Proposed Revisions to LUO to clarify setbacks related to lot lines and Rights of Way.

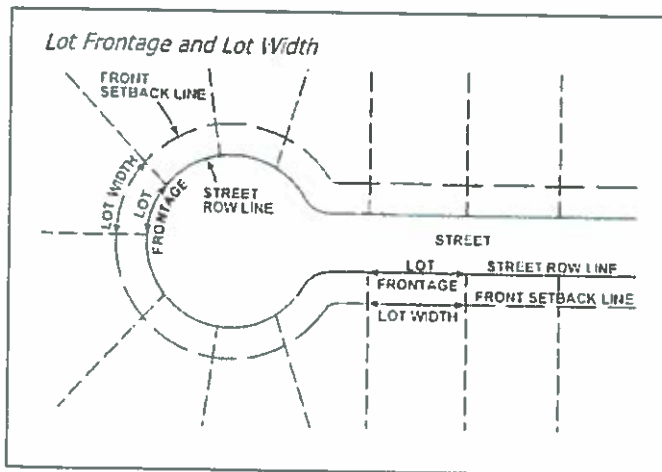
Frontage, Street: The horizontal distance measured in a straight line between the intersections of the side lot lines with the right-of-way of a street or road public or private.

Lot, Corner: A lot with at least two (2) contiguous sides abutting upon a street, road or right-of-way.

Lot Lines: The property lines bounding a lot as defined below:

- a. Front Lot Line: On an interior lot the line separating the lot from ~~the street or private road.~~ the right of way containing the street or private road providing vehicular access to the lot regardless of if the street or road has been built. On a corner or through lot, the line separating the lot from each ~~street or right-of-way.~~ right of way containing the street or private road providing vehicular access to the lot regardless of if the street or road has been built.

Lot Width: The width of any lot as measured wholly within the lot at the required front setback to the road or street right of way along a line parallel to the straight line connecting the intersections of the front lot line with the side lot lines.



Setback: The horizontal distance from a lot line or right of way containing the street or private road providing vehicular access to the lot regardless of if the street or road has been built, to the nearest part of a structure.

## **Proposed removal of reduction of lot coverage credit for semi-pervious materials**

### **6.9 Off-Street Parking and Loading – Non-Residential**

16. Parking spaces must be composed of sufficient impervious or semi-pervious material (e.g. asphalt, concrete, composites, gravel) to support a vehicle in all conditions. Semi-pervious materials such as “grass pavers” or similar materials can be used ~~and can qualify for a reduction in lot coverage up to 50% of the material’s total square footage.~~

### **6.10 Residential Parking Standards**

4. Parking spaces must be composed of sufficient impervious or semi-pervious material (e.g. asphalt, concrete, composites, gravel) to support a vehicle in all conditions. Semi-pervious materials such as “grass pavers” or similar materials can be used ~~and can qualify for a reduction in lot coverage up to 50% of the material’s total square footage.~~

## Proposed Revision to Kennebunkport Floodplain Management Ordinance

### ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

~~A non-refundable application fee of \$50.00 shall be paid to the Code Enforcement Officer and a copy of a receipt for the same shall accompany the application.~~

The Municipal Officers shall annually set the amount of application fees required by this Ordinance after providing opportunity for public comment and after considering actual costs of implementing this Ordinance.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

(11)

EXHIBIT F-28-2018

WASTEWATER ~~SEWER~~ USE ORDINANCE  
TOWN OF KENNEBUNKPORT  
KENNEBUNKPORT, MAINE

Adopted March 1985  
Amended 9/12/85  
8/14/86  
5/28/87  
6/11/91  
1/26/95  
3/09/95  
9/01/98  
10/09/03  
08/13/09

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## **SEWER-WASTEWATER USE ORDINANCE**

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### **ARTICLE I - PURPOSE, AUTHORITY, SCOPE AND INTENT**

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**Sec. 1.** This Ordinance shall be known and may be cited as the "Town of Kennebunkport Wastewater Sewer Use Ordinance" and will be referred to herein as "this Ordinance."

**Sec. 2.** The purpose of this Ordinance is to promote the health, comfort, public convenience and general welfare of the citizens of the Town of Kennebunkport by eliminating existing pollution, preventing further pollution and controlling sewerage systems through regulations and restrictions. This Ordinance shall restrict and regulate the accumulation, transportation, treatment and disposal of sewage in such a manner that the creation of any sewerage system, whether public or private, industrial or residential, shall not result in pollution, health hazards or other nuisances for the citizens of the Town of Kennebunkport.

**Sec. 3.** This Ordinance contains the rules and regulations adopted by the Municipal Officers to govern the Kennebunkport Sewer System under the authority granted in Title 30-A M.R.S.A. §§ 5410-5415, 3401-3409, 3421-3428, and 3442-3445 as amended; and in all other applicable state statutes. The Board of Selectmen, being the Municipal Officers of the Town of Kennebunkport, shall have the authority granted under these provisions to administer, enforce, amend or repeal this Ordinance, or any clause or provision thereof, as may be necessary or desirable, in the judgment of the Board of Selectmen, for the efficient operation of any sewerage system.

**Sec. 4.** This Ordinance shall completely supersede all other sewer ordinances enacted by the Town of Kennebunkport prior to the date of the enactment of this Ordinance, which other ordinances are hereby repealed, except as otherwise noted herein. Hereafter any person owning any building or structure within the Town of Kennebunkport which is the source of sewage and/or industrial waste or who proposes to erect such building or structure, shall conform to the requirements of this Ordinance.

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## ARTICLE II - DEFINITIONS

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Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

**"Abutting Property":** Any lot that is physically contiguous with the subject lot even if only at a point, and any lot which is located directly across the street or right of way from the subject lot such that the extension of the side lines of the subject touch or enclose the abutting property.

**"Apartment, Accessory."** A separate dwelling unit which is located within and subordinate to a single family detached dwelling, which dwelling was in existence on March 6, 1972, as permitted under the Town of Kennebunkport Land Use Ordinance.

~~"Assistant-Superintendent"~~ "Deputy Director of Public Works." Shall have all the duties and powers of the ~~Superintendent~~ Director of Public Works when the Superintendent is unavailable.

**"Bed and Breakfast."** A business establishment having, nine (9) or fewer guest rooms in which lodging is offered to guests for compensation and meals may be offered for compensation only to the lodgers.

**"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Celsius, expressed in milligrams per liter.

**"Board of Selectmen."** The duly elected Board of Selectmen of the Town of Kennebunkport.

**"Building."** Any structure arranged, designed, intended or used for the shelter, housing or enclosure of persons, animals, processes, equipment or property of any kind.

**"Building Drain."** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside walls of the building and conveys it to the building sewer. The building drain extends eight (8) feet outside the inner face of the building wall.

**"Building Sewer" or "Building Connection."** The extension from the building drain to the public sewer or other place of disposal. The building sewer is the responsibility of the owner of the building from the building to the sewer main in the street or from the building to the grinder pump chamber [AKT1].

**"Campground."** A business establishment operated as a recreational site for tents, trailers, recreational vehicles or other forms of temporary shelter.

**"Change of Use."** The change from an existing use to another use, including without limitation, the addition of a new use to an existing use.



**"Church."** A building or group of buildings arranged, designed, intended or used for the conduct of religious services, and accessory uses associated therewith.

**"Club."** Any voluntary association of persons organized for fraternal, social, religious, benevolent, recreational, literary, patriotic, scientific, or political purposes whose facilities are open to members but not the general public, and which is principally engaged in activities which are not customarily carried on for pecuniary gain.

**"Combined Sewer."** A sewer intended to receive both wastewater and storm or surface water.

**"Company."** Any industrial or commercial establishment with a liquid waste discharge.

**"Connection fee."** A charge established for the connection of any building or property to a sanitary, combined or interceptor sewer within the town. The purpose of the connection fee is to ensure that new users and current users with change of use or increased flows bear a reasonably proportionate share of the cost of capital expenditures necessary to replace and upgrade sewer facilities in order to maintain excess capacity within the system[AKT2].

**"Director of Public Works."** The Director of the Public Works Department for the Town of Kennebunkport, or his or her duly authorized deputy, agent, representative or inspector.

**"Dwelling."** Any building or structure or portion thereof containing one or more dwelling units, but not including a motel, hotel, inn, or similar unit.

~~(A) Single-Family Dwelling—A building designed or intended to be used exclusively for residential occupancy by one family only and containing only one (1) dwelling unit, or one dwelling with an accessory apartment as permitted by the Kennebunkport Land Use Ordinance. A single-family dwelling and any accessory apartment located therein shall be constructed on one continuous foundation and under one continuous roof; no part of the dwelling unit shall be located in a detached building or structure.~~

~~(B) Two-Family Dwelling—A building designed or remodeled to be used exclusively for residential occupancy by two (2) families living independently of one another and containing two (2) dwelling units. Each unit shall have not less than 650 square feet. The dwelling shall have only one (1) front entrance, and all other entrances shall be on the side or in the rear of the dwelling. An entrance leading to a foyer with entrances leading from the foyer to the two (2) dwelling units is permitted. One dwelling shall be subordinate in size. The subordinate unit shall not be permitted a Home Occupation. A two-family dwelling shall be constructed on one continuous foundation and under one continuous roof; no part of the dwelling unit shall be located in a detached building or structure.~~

~~(C) Multiplex Dwelling—A building designed or intended to be used exclusively for residential occupancy by three (3) or more families living independently of one another and containing three (3) or more dwelling units, including apartment buildings and~~



~~condominiums but excluding single-family dwellings with an accessory apartment permitted by the Kennebunkport Land Use Ordinance~~ [AKT3];

**"Dwelling Unit."** One or more habitable rooms arranged, designed or intended to be used, or used as a complete housekeeping unit for one or more individuals living together as a family with independent living, cooking, sleeping, bathing and sanitary facilities.,

**"Easement."** An acquired legal right for the specific use of land owned by others.

**"Family."** One or more persons occupying a dwelling unit and living together as a single housekeeping unit where all occupants use and access to all living and eating areas, bathroom and food preparation and serving areas.

~~**"Floatable Oil."** Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floating oil if it is properly pretreated and the wastewater does not interfere with the collection system~~ [AKT4].

**"Foundation."** The supporting substructure of a building or other structure including but not limited to basements, slabs, posts or frost walls.

**"Frontage on the Sewer"** shall exist if the public sewer line passes between the side lot lines of the property in question, as determined by drawing perpendicular lines across the roadway from the points of intersection of the property side lot lines.

**"Garbage."** Solid waste from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

**"Garbage, Properly Shredded."** The wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

**"Gas Station."** A business establishment selling fuel and related products for motor vehicles.

**"Hotel."** A building or group of buildings having ten (10) or more guest rooms in which lodging, or meals and lodging, are offered for compensation, including motels, tourist courts, motor lodges and cabins.

**"Industrial Wastes."** The liquid waste from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

**"Inn."** A business establishment having nine (9) or less guest rooms in which lodging is offered to guests for compensation and meals may be offered for compensation only to lodgers and to the general public [AKT5].

**"Lot."** An area of land in one ownership, or one leaseholder with ascertainable boundaries established by deed or other instrument of record, or a segment of land ownership defined by lot boundary lines on a subdivision plan approved by the Planning Board and recorded in the York Country Registry of Deeds.

**"Lot Frontage."** The horizontal distance measured in a straight line connecting the intersection of the front lot line with the side lot lines.

**"Lot Lines."** The property lines bounding a lot as defined below:

- a. **Front Lot Line:** On an interior lot the line separating the lot from the street or private road. On a corner or through lot, the line separating the lot from each street or right-of-way.
- b. **Rear Lot Line:** The lot line opposite the front lot line. On a lot point at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
- c. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

**"Motel."** See Hotel.

**"Natural Outlet."** Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**"Owner."** The person or persons, natural or corporate, in whom for the time being title is vested in real property situated in the Town.

**"Person."** Any individual, firm, company, association, society, corporation or group.

**"pH."** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**"Public Sewer."** A common sewer in which all owners of abutting properties have equal rights and is controlled by public authority. The term "public sewer" shall include the Town of Kennebunkport Wastewater Treatment Plant and Public Sewer System the main line only, not the house services.

**"Pollutant"** shall include but is not limited to dredged spoil, solid waste, junk, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt, and industrial, municipal, domestic, commercial, or agricultural waste of any kind.

**"Restaurant."** An establishment where food and drink are prepared and served to the public and where no food or beverages are served directly to the occupants of motor vehicles.

**"Roomer."** A person residing in and paying rent for a room in a single-family dwelling whether or not the person eats meals on the premises.

**"Sanitary Sewer."** A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

**"Selectmen."** The duly elected members of the Town of Kennebunkport Board of Selectmen.

**"Sewage."** A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments.

**"Sewage Works."** Facilities for collecting, pumping, treating, and disposing of sewage.

**"Sewer."** A pipe or conduit for carrying sewage.

**"Sewer Extension."** Any addition to the public sewers of the Town of Kennebunkport whether located in a public way or on private property and whether constructed at public or private expense, provided that the term "sewer extension" shall not include building sewers and connections governed by Article V.

**"Sewer Unit." The source of sewage classified by land use and activity calculated to determine sewer connection fees and service charges** [AKT6].

**"Shall."** is mandatory; "may" is permissive.

**"Slug."** Any discharge of water, sewage, or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than two (2) times the average twenty-four (24) hour concentration of flows during normal operation.

**"Storm Drain." or "Storm Sewer."** A sewer, which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than, unpolluted cooling water.

**~~"Superintendent." The Superintendent of the Water Pollution Control Facilities of the Town of Kennebunkport or his duly authorized deputy, agent, representative or inspector.~~**

**"Suspended Solids."** Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, which are removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Waste and Wastewater" published by the American Public Health Association and referred to as non-filterable residue.

**"Town."** The Town of Kennebunkport, County of York, State of Maine.

**"Watercourse."** A channel in which a flow of water occurs, either continuously or intermittently.

**"Water Pollution Control Facility."** The arrangement of devices and structures used for treating sewage and sludge (Wastewater Treatment Plant).

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### ARTICLE III - USE OF PUBLIC SEWERS REQUIRED

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**Sec. 1.** It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other waste constituting a hazard to health. Exceptions may be granted by the Selectmen to an owner or lessee acting in the normal course of farm or garden operations.

**Sec. 2.** It shall be unlawful for any person to discharge to any natural outlet in any area under the jurisdiction of the Town any sewage or other polluted water, except where suitable treatment has been provided in accordance with this Ordinance and/or any other applicable laws, rules or regulations.

**Sec. 3.** It shall be unlawful for any person to construct or use any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, if at the time such person is required by Section 4 of this Article III to connect toilet facilities in or on his property with a public sanitary sewer.

**Sec. 4.** Every building intended for human habitation, occupancy, employment, recreation or any other purpose situated within the Town, shall be provided with suitable and sufficient sanitary facilities for the use of the occupants thereof. Said facilities in character, number and method of installation shall comply with all applicable laws, rules and regulations including, but not limited to ordinances of the Town, health laws of the State of Maine and rules and regulations of the State Bureau of Health so far as the same are compatible and not inconsistent. In the event any such laws, rules, and regulations are inconsistent, the stricter provision (s) shall apply.

**Sec. 5.** The owner of any house, building or other structures used for human occupancy, employment, recreation or other purpose, which is situated within the Town and on land that has frontage abutting street, alley or right-of-way containing a public sanitary sewer of the Town, provided any part of the foundation thereof is within two hundred (200) feet of such public sanitary sewer, or is otherwise required by the State Plumbing Code for the State of Maine to do so, is hereby required at the property owner's own expense to connect the suitable sanitary facilities as described in Article III, Section 4 above, directly with such public sanitary sewer in accordance with this Ordinance within ninety (90) days after date of official notice to do so. The requirement set forth in this section shall be subject to the availability of sewer capacity as determined by the Sewer-SuperintendentPublic Works Director, or Selectmen, as the case may be according to the terms of this Ordinance.

**Sec. 6.** Notwithstanding any other provision of this Ordinance, a determination by the ~~Sewer Superintendent~~Public Works Director that a grinder pump would be necessary for the particular property owner to connect to the public sewer shall constitute an unnecessary hardship, and that property owner shall be relieved of any obligation to connect to the public sewer. This exemption shall NOT apply if:

- A. The grinder pump is supplied to the property owner by the Town; or
- B. The existing septic system for that property is malfunctioning, in which case connection to the public sewer shall be required notwithstanding the need and associated cost of installing a grinder pump or a solids handling pump, unless a variance is obtained under Article XVII.

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#### **ARTICLE IV - PRIVATE WASTEWATER DISPOSAL**

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**Sec. 1.** Where a public sanitary sewer is not available under the provisions of Article III, Section 4, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article and the State of Maine Plumbing Code, Part II Subsurface Wastewater Disposal Regulations, as amended.

**Sec. 2.** Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain a written permit signed by the licensed plumbing inspector. The application for such permit shall be made on a form furnished by the Town, which shall comply with the requirements of the Division of Health Engineering, Maine Department of Human Services, which the applicant shall supplement with any plans, specifications and other information as deemed necessary by the plumbing inspector. A permit and inspection fee in accordance with State of Maine Plumbing Code, Chapter 241, shall be paid at the time the application is filed.

**Sec. 3.** A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the plumbing inspector. The plumbing inspector shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the plumbing inspector when the work is ready for final inspection and before any underground portions are covered.

**Sec. 4.** The type, capacities, locations, and the layout of a private wastewater disposal system shall comply with the State of Maine Plumbing Code – Subsurface Wastewater Disposal Regulations as amended, and the Minimum Lot Size Law.

**Sec. 5.** At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Article III, Section 4 of this Ordinance, a direct connection from the building sewer to the public sewer shall be made within ninety (90) days. Upon the expiration of said 90 - day period, the property owner shall cease to use any septic tanks, cesspools and similar private wastewater disposal facilities and said facilities shall be cleaned of

sludge and filled with clean bank run gravel or dirt, or completely removed, within thirty (30) days of abandonment. The requirement set forth in this section shall be subject to the availability of sewer capacity as determined by the ~~Sewer Superintendent~~Public Works Director, or Selectmen, as the case may be according to the terms of this Ordinance.

**Sec. 6.** The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.

**Sec. 7.** The Town's Health Officer, Building Inspector, or Plumbing Inspector shall construe no statement contained in this Article to interfere with any additional requirements that may be imposed.

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## ARTICLE V - BUILDING SEWERS AND CONNECTIONS

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**Sec. 1.** No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the ~~Superintendent~~Public Works Director. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the ~~Superintendent~~Public Works Director at least forty-five (45) days prior to the proposed change or connection and shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, Subchapter 1, Subsection 361, as amended.

**Sec. 2.** There shall be two (2) classes of building sewer permits: (a) for residential and (b) commercial service, for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the ~~Sewer Superintendent~~Public Works Director. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the ~~Superintendent~~Public Works Director. A permit and inspection fee of one dollar (\$~~2~~4.00) per gallon based on the Design Flows Tables 501.1 and 501.2 in the Maine Subsurface Wastewater Disposal Rules residential or commercial building sewer permit shall be paid to the Town at the time the application is filed.

**Sec. 3.** A sewer connection application shall be applied for and the fees shall be paid for, whenever a homeowner applies for a building permit that will increase the flows from that structure into the collection system.

**Sec. 4.** All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**Sec. 5.** A separate and independent building sewer shall be provided for every building requiring a sewer connection, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear



building and the whole considered as one building sewer. A deed restriction shall be placed on both properties stating that they have joint ownership in the sewer connection and will maintain it jointly; and the owners of both properties shall be jointly and severally liable for any cost or expense of installation and connection as provided by Section 3 of this Article V.

Sec. 6. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the ~~Superintendent~~Public Works Director, to meet all requirements of this Ordinance. The applicant shall pay for all cost for examination and testing.

Sec. 7. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of the buildings and plumbing code or other applicable rules and regulations of the Town. ~~In the absence of building and plumbing code provisions or in amplification thereof, the specifications set forth in "Wastewater Collection System" prepared for the Town by Woodard & Curran Inc. (July 1991) shall also apply.~~

Sec. 8. Whenever possible, the building sewer shall be brought from the building at an elevation above the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a grinder pump or a solids handling pump and discharged to the building sewer.

Sec. 9. No person shall connect any roof downspout, exterior foundation drain, area drain, or other source of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the ~~Superintendent~~Public Works Director for purposes of disposal of polluted surface drainage.

Sec. 10. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. ~~In the absence of building and plumbing code provisions or in amplification thereof, the specifications set forth in "Wastewater Collection System" prepared for the Town by Woodard & Curran Inc. (July 1991) shall apply.~~ The connection of the building sewer into the public sewer shall be made at the curb fitting if provided or at the "Y" branch if such branch is available at a suitable location. On direction of the ~~Superintendent~~Public Works Director, where no "Y" branch is available, a neat hole shall be cut, by machine, into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of forty-five (45) degrees with an approved saddle or clamp-type fitting. Such connection shall be completely watertight at the location specified by the ~~Superintendent~~Public Works Director or his Designee ("The Inspector") and shall be completed under the supervision and in the presence of the Inspector, and as directed by and to the satisfaction of the Inspector.

Sec. 11. The applicant for the building sewer permit shall notify the ~~Superintendent~~Public Works Director twenty-four (24) hours before the building sewer is ready for inspection and connection to the public sewer. All inspections shall be performed during regular working hours. Any inspections requested after the regular working hours or on weekends will be assessed an additional inspection fee of one and one-half (1.5) times the Inspector's normal rate and any other fees that may apply.

**Sec. 12.** All excavation for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways, and/or other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

**Sec. 13.** When any building or other structure previously served by a connection to any public sewer or drain is demolished, destroyed, abandoned or altered so that any drain or portion of an abandoned plumbing system which is directly or indirectly connected to any public sewer or drain is no longer used and is not connected to the drainage system of the building or structure, the open end of such which discharged, directly or indirectly, into a public sewer or drain shall be promptly closed and sealed to the satisfaction of the SuperintendentPublic Works Director, so that no water or wastes not otherwise permitted to enter the public sewer or drain shall be so discharged therein. The SuperintendentPublic Works Director shall be notified of such abandonment or discontinuance, and of the closing and sealing of such drain, and shall be afforded an opportunity to see such work performed. All of said work shall be done by the person or party demolishing the building or structure or who alters the drainage of the premises so to make such closing and sealing necessary. In the event such person fails to perform said work, the work shall be done by the owner, lessee or tenant of the premises to the satisfaction of the SuperintendentPublic Works Director, all without expense to the Town.

**Sec. 14.** Unless exempted under subparagraph (B) below, every person seeking to, or required to, make connection with the public sewer system shall pay the charge under this section. Such charge is in addition to any other charge imposed by this Ordinance.

- A. The connection fee for each sewer unit charge-charge imposed under Article XIII shall be \$3,500<sup>[AKT7]</sup>. For those uses to be assigned a special charge under that Article, the connection charge-fee<sup>[AKT8]</sup> shall be established by the Selectmen. Any person seeking to make connection shall fill out an appropriate form provided by the SuperintendentPublic Works Director. When the form has been approved and the fee paid, the SuperintendentPublic Works Director shall notify the Building Inspector. No building permit or occupancy permit may be issued until the fee has been paid.

~~(B) Any building or structure in existence or for which a building permit has been obtained prior to July 1, 1986, is exempted from the charge under this Section 13 for the initial building or structure connection to the Public Sewer System, except as provided in subparagraph (C) below.~~

- B. ~~After July 1, 1986, for~~ For any change of use within a building, or expansion or alteration to a building, which results in an increase in the sewer unit charge imposed under Article XIII, a connection charge-fee is due for each additional sewer unit change.
- C. All charges-connection fees generated by this section shall be placed in a non-lapsing fund, to be known as the "Water Pollution Control Facility Fund," to be used for improvements to or expansion of or replacement of the existing treatment plant and facilities.



Sec. 15. After the building sewer is connected to ~~collection system~~ the public sewer the owner of the building sewer shall maintain the building sewer from the building to the ~~sewer main~~ public sewer. [EJG9]

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## ARTICLE VI - SEWER EXTENSIONS

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**Sec. 1. Sewer Extensions within Public Way at Public Expense.** Sewer extensions to be located within public ways and individual building sewers to five (5) feet from the edge of the pavement ~~the property line~~ may be constructed by the Town at public expense if the voters of the Town acting at an annual or special town meeting authorize such an extension and appropriate the necessary funds therefore. Under this arrangement, each property owner shall pay for and install the building sewer from the public sewer to his or her residence or place of business in accordance with the requirements of Article V. Property owners may request that an article authorizing such a sewer extension and appropriating the necessary funds therefore be included in the warrant of the next annual town meeting by filing a written petition signed by a majority of the benefiting property owners with the Selectmen at least ninety (90) days prior to the annual meeting. Prior town meeting approval is required before the project may be built at public expense.

**Sec. 2. Sewer Extensions within Public Way at Private Expense.** If the Town does not elect to construct a sewer extension within a public way at public expense, or upon proper application, any property owner, builder or developer may offer to make an unconditional gift to the Town of a sewer extension to be constructed within a public way at the property owner's own expense under a private contract. The property owner, builder, or developer offering to make such an unconditional gift to the Town shall follow the requirements outlined below:

**(A) Submission Requirements:**

The applicant will submit an application provided by the ~~Sewer-Wastewater~~ Department to the ~~Superintendent~~ Public Works Director along with the following materials:

1. An application fee in an amount equal to the greater of Five dollars (\$5.00) per linear foot of pipe for the proposed sewer extension, or Five hundred dollars (\$500.00) per sewer unit charge which will be assessed under Article XIII, Sec. 2 against the buildings which the applicant intends to construct, develop or provide with sewer service in connection with the proposed sewer extension. These fees shall also include any sewer

units that are on abutting properties that will be able to connect to this extension. Such application fees shall be placed in a separate non-lapsing account to be used by the Town for the purpose of paying the costs of publishing legal notices, holding public hearings, reviewing sewer extension applications and studying the impacts thereof in accordance with the provisions of this Article.

2. Conceptual drawings and specifications for the project. Project drawings and specification must be submitted electronically and on paper copies.
3. A survey showing the location of the property and the proposed sewer extension. This information shall be submitted as a paper drawing and electronically in the DWG format for use with AutoCAD. The digital transfer of any subdivision plan data shall be delivered on the Town's chosen Horizontal Datum: Maine State Plane Coordinate System: Maine West Zone FIPS Zone 1802, North American Datum 1983; Units: US Survey Feet.

~~—The preferable vertical datum is North American Vertical Datum 1988 (NAVD88). However, if only National Geodetic Vertical Datum 1929 (NGVD29) is possible, this is —permissible. The choice of vertical datum must be indicated on the digital submission.~~—The Ellipsoid is GRS 80 (Geodetic Reference System 1980).

—Data shall have survey grade positional accuracy. Data could be developed using either Real Time Kinematic (RTK) GPS, survey-grade Static GPS data collection or traditional methods of occupying known, high-precision surveyed monuments. The datum, survey methods, and type of survey equipment used shall be identified.

4. A list of all the property owners and mailing addresses that are within two hundred (200) feet of the proposed sewer extension property boundaries. This list shall be submitted on paper and electronically and be able to be used with MS Word format.
5. Proof of the ability to secure an irrevocable letter of credit or post cash or other cash equivalent in a form acceptable to the Board of Selectmen in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of the project. The letter of credit or the cash security will remain in effect until after the guaranty has expired.
6. Any other information the Town may require on a case-by-case basis.

If any easements, rights, title, or interests to other properties are required for the construction of the sewer extension, the property owner, builder, developer or applicant must have acquired them before the Town will make any review.

**(B) Review of Extension Application:**

The ~~Superintendent~~Public Works Director shall immediately give the completed application to the Secretary of the Planning Board who shall refer it to the Planning Board. The

Planning Board shall schedule a public hearing to be held within sixty (60) days of receipt of a completed application as determined by the ~~Superintendent~~Public Works Director.

At least ten (10) days prior to the hearing date, the Secretary to the Planning Board shall publish a notice of the hearing in a newspaper of general circulation in the Town. The notice shall identify generally the route of the proposed extension, the name of the applicant, and the time and place of the public hearing.

Notice of the hearing shall be sent by the Town by certified mail to the owners of all property within two hundred (200) feet of the property boundaries of the project at least seven (7) days in advance of the hearing. The owners of abutting property shall be considered to be those shown on the tax lists as those against whom taxes are assessed. The Planning Board shall maintain as a part of the record for each case a completed list of all property owners so notified. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate the action of the Planning Board.

At the hearing, the applicant, ~~Superintendent~~Public Works Director, and any other interested person may be heard. The public hearing may be continued to a later date at the discretion of the Planning Board.

With the approval of the Town Manager, the Planning Board may arrange for a study of the likely impacts of the proposed sewer extension. Such study shall address but not be limited to the following issues:

1. Whether there are reasonable alternative methods of sewage disposal at the site or sites to be served by the proposed extension;
2. Whether the proposed extension will result in significant benefit or harm to environmental quality;
3. Whether the proposed extension will provide economic benefits or will significantly increase costs to the Town;
4. Whether the proposed extension will tend to significantly increase residential, commercial or industrial development in the area to be served by the extension and whether such increase is compatible with the Town's Comprehensive Plan; and
5. Such other issues as the Planning Board may direct.

Within forty-five (45) days of the close of the public hearing or receipt of the results of the Planning Board's study, whichever is later, the Planning Board shall issue a written recommendation to the Board of Selectmen as to whether the sewer extension project should be built and whether the proposed unconditional gift of such extension to the Town should be accepted or refused and shall state the reasons for its recommendation.

With the approval of the Town Manager, the ~~Sewer-Superintendent~~Public Works Director may arrange for a study of the likely impacts of the proposed sewer extension. Such study may address but not be limited to the following issues:

1. Whether the proposed extension will significantly increase or decrease user fees within the Town;
2. Whether the proposed extension will be compatible with future or planned extensions of the sewer system within the Town;
3. Whether the increase in sewage resulting from the proposed extension can be adequately handled by the existing treatment plant, pumping stations and other facilities;
4. Such other issues as the ~~Superintendent~~Public Works Director may direct.

Within forty-five (45) days of the close of the Planning Board's public hearing or receipt of the results of the ~~Superintendent~~Public Works Director's study, whichever is later, the ~~Superintendent~~Public Works Director shall issue a written recommendation to the Board of Selectmen as to whether the sewer extension project should be built and whether the proposed unconditional gift of such extension to the Town should be accepted or refused and shall state the reasons for its recommendation.

The studies requested by the Planning Board and/or the ~~Sewer-Superintendent~~Public Works Director shall be paid for from the non-lapsing account established under this Section or by such other monies as may be properly authorized. In the event that the costs associated with any of the studies exceed (80%) eighty percent of the application fees, the applicant will be assessed additional fees to cover the cost of doing the studies.

Following the receipt of the Planning Board's and ~~Superintendent~~Public Works Director's recommendations, the Board of Selectmen shall approve or deny the project.

**(C) Acceptance of Unconditional Gift by Town Meeting:**

All sewer extensions, including any pumping stations, constructed at the property owner's or applicant's expense, together with a sewer easement in a form satisfactory to the Selectmen, must be offered to the Town as an unconditional gift.

Following the Selectmen's approval of the project but prior to the Selectmen's insertion of an article in the warrant, the property owner, builder or developer must submit plans and specifications for the proposed sewer extension to the ~~Sewer-Superintendent~~Public Works Director for his review, including a complete set of drawings on paper and on a computer disk in the Auto-Cad format (DWG), showing the equipment as proposed to be installed. The ~~Superintendent~~Public Works Director must approve said plans and specifications before any work is commenced and before an article can be placed in the warrant.

Following the ~~Superintendent~~Public Works Director's approval of the plans, specifications and drawings, the Selectmen shall insert an article in the warrant of the next annual or special town meeting to see if the Town will vote to accept the proposed unconditional gift of the sewer extension that will be in the Town's road way. A special town meeting may be called to address this one item if the applicant agrees to bear the cost of the meeting. The recommendations of the Planning Board and ~~Sewer-Superintendent~~Public Works Director may be set forth as an informational item beneath the article in the warrant calling the annual or special town meeting.

The article included in the warrant shall require as a condition to acceptance of the proposed gift that the applicant shall furnish the Town with an irrevocable letter of credit or cash or cash equivalent in a form acceptable to the Board of Selectmen to ensure proper completion of the project. The guarantee shall be in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of the project and shall remain in effect until after the contractor's warranty period has expired or until any adjustments are made by the ~~Sewer-Superintendent~~Public Works Director as referenced in Section E below. The amount of the guarantee shall be increased if the cost of the project, as determined by final bids, is significantly higher than the estimated costs furnished to the Planning Board. The Town Manager shall order such adjustment to be made if needed to provide security equal to one hundred twenty-five (125%) of the cost of the project. The article included in the warrant shall also provide that acceptance of a sewer extension to be constructed at private expense shall be subject to prior approval of the contractor and the terms of the construction contract by the Selectmen.

**(D) Construction and Inspection after Approval by Town Meeting:**

If the Town votes to accept the proposed gift of a sewer extension to be constructed in a public way under private contract, the applicant must obtain all permits required under existing ordinances and state law, including a permit from the Board of Selectmen. All construction shall at least meet the minimum design and construction specifications provided by the Town, which shall be given to the property owner, builder or developer at the time a permit is obtained. No construction or work on the sewer extension project may begin until (1) the ~~Superintendent~~Public Works Director has approved the plans and specifications submitted by the property owner, builder or developer, and (2) the unconditional gift of the sewer extension has been accepted by the Town meeting.

Each building sewer must be installed and inspected as required in Article V and the fees required under Article V shall be paid. The installation of the sewer extension shall be subject to periodic inspection by the ~~Superintendent~~Public Works Director or his authorized representatives, who shall include a full time inspector if the ~~Superintendent~~Public Works Director determines it to be in the Town's best interests. The expenses for said inspection shall be paid for by the owner, builder or developer. The ~~Superintendent~~Public Works Director's decisions shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass all tests required in Article V before it is to be used.



It is the responsibility of the applicant to ensure compliance with all of the applicable requirements of the Maine Department of Environmental Protection (DEP), the federal Environmental Protection Agency (EPA) and the Town.

**(E) Town Acquisition of All Sewer Extensions:**

Within (30) thirty days after the installation, inspection of the project and the connection of 90% of the intended sewer units as described in Section 2(D) above, the owner shall convey title to said sewer extension to the Town, together with a perpetual sewer easement and maintenance easement. Said sewers and pump stations, after conveyance to the Town, shall be guaranteed by the property owner, builder, or developer against defects in materials or workmanship for twelve (12) months after acceptance by the Town, provided, however, that after completion of construction of the sewer line extension and acceptance thereof by the Town, but prior to the expiration of the twelve (12) month warranty period, the ~~Sewer Superintendent~~Public Works Director shall have discretion to release to the owner up to ninety percent (90%) of the guarantee amount upon the ~~Sewer Superintendent~~Public Works Director's determination that the sewer extension has been properly constructed, is free of defects in materials or workmanship and is operationally sound. The guarantee shall be in a form and in an amount acceptable to the Town Manager, who may act in consultation with the Selectmen, the ~~Sewer Superintendent~~Public Works Director, the Town's attorney, and any other appropriate persons.

**Sec. 3. Sewer Extensions Located on Private Property at Private Expense.** Any property owner may request permission of the Town to construct at the property owner's own expense a sewer extension on private property serving two (2) or more buildings. The property owner, builder, or developer shall offer to make an unconditional gift to the Town of a sewer extension to be constructed on private property at the property owner's own expense under a private contract. The property owner, builder, or developer offering to make such an unconditional gift to the Town shall follow the requirements outlined in Section 2(A) and (B) above.

Following the Selectmen's approval of the project, the property owner, builder or developer must submit plans and specifications for the proposed sewer extension to the ~~Sewer Superintendent~~Public Works Director for his review, including a complete set of drawings on paper and on computer disk in the Auto-Cad format (DWG), showing the equipment as proposed to be installed. The ~~Sewer Superintendent~~Public Works Director must approve said plans and specifications before any work is commenced.

Digital transfer of any subdivision plan data shall be delivered on the Town's chosen Horizontal Datum: Maine State Plane Coordinate System: Maine West Zone FIPS Zone 1802, North American Datum 1983; Units: US Survey Feet.

The preferable vertical datum is North American Vertical Datum 1988 (NAVD88). ~~However, if only National Geodetic Vertical Datum 1929 (NGVD29) is possible, this is permissible. The choice of vertical datum must be indicated on the digital submission.~~ The Ellipsoid is GRS 80 (Geodetic Reference System 1980).

Data shall have survey grade positional accuracy. Data could be developed using either Real Time Kinematic (RTK) GPS, survey-grade Static GPS data collection or traditional methods of occupying known, high-precision surveyed monuments. The datum, survey methods, and type of survey equipment used shall be identified.

Construction of a sewer extension on private property at private expense, however, need not be delayed until after a Town meeting vote to accept the proposed unconditional gift of the extension. Although the property owner, builder or developer must offer the sewer extension to the Town as an unconditional gift, if the unconditional gift is rejected the sewer extension will remain the property of the property owner and not the Town.

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## ARTICLE VII - USE OF PUBLIC SEWERS

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**Sec. 1.** No person shall discharge or cause to be discharged any storm water surface waters, groundwater, roof run off, substance drainage, uncontaminated cooling water, or unpolluted commercial or industrial process waters to any public sanitary sewer.

**Sec. 2.** Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm water sewers, or to a natural outlet approved by the Maine DEP and the ~~Superintendent~~Public Works Director. Industrial cooling water or unpolluted process water may be discharged, on approval of the Maine DEP and the ~~Superintendent~~Public Works Director, to a storm sewer or natural outlet.

**Sec. 3.** No person shall discharge or cause to be discharged any of the following described waters or waste to any public sewers:

- A. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas, which will create a fire or explosive hazard in the wastewater facilities.
- B. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or in interaction with other wastes, to injure or interfere with any sewer treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
- C. Any water or waste having a pH lower than 6.~~50~~, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- D. Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to ashes, sand, mud, straw, shavings, metal, glass, rags, bones, feathers, tar, plastics, wood, underground garbage, fibers, whole blood, paunch,

manure, hair and fleshings, entrails, paper, dishes, cups, milk containers, or other substances which are whole or ground by garbage grinders.

- E. Any waste or pollutants including oxygen-demanding pollutants (BOD, etc.) which released in quantities of flow or concentrations or both constitute a "slug" as defined in Article II.
- F. Any heated water or pollutants in amounts which will inhibit or interfere with biological activity in the waste water treatment works but in no case heated water or pollutants in such quantities that the temperature at the wastewater treatment works influent exceeds 104 degrees Fahrenheit (40 degrees Celsius); unless the wastewater treatment works is designed to accommodate such heat.

**Sec. 4.** No person shall discharge or cause to be discharged the following described substances, materials, water, or waste if it appears likely in the opinion of the SuperintendentPublic Works Director that such waste may harm the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving streams, or may otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the SuperintendentPublic Works Director shall consider such factors as the quantities of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of sewage treatment process, capacity of the wastewater treatment plant, degree of treat ability of waste in the wastewater treatment plant, and other relevant factors.

Substances prohibited are:

- A. Any liquid or vapor having a temperature higher than one hundred four (104) degrees Fahrenheit (40 degrees Celsius).
- B. Wastewater containing petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin.
- C. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not.
- D. Garbage grinders are prohibited for the commercial users.
- E. Any water or waste containing strong acid, iron, pickling waste, or concentrated plating solutions, whether neutralized or not.
- F. Any waste or water containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or waste exerting an excessive chlorine residual to such a degree that any such material in the composite sewage at the wastewater treatment plant exceeds the limits established by the SuperintendentPublic Works Director for such materials.
- G. Any water or waste containing phenols or other taste or odor-producing substances, in such concentrations exceeding limit which may be established by the



SuperintendentPublic Works Director as necessary, after treatment of the composite sewage, to meet the requirement of the State, federal, or other public agencies having jurisdiction over such discharge to any receiving waters.

- H. Any radioactive waste or isotopes of such half-life or concentration as may exceed limits established by the SuperintendentPublic Works Director in compliance with applicable State or Federal regulations.
- I. Any water or waste having a pH in excess of 8.05.
- J. Materials, which exert or cause:
  - 1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - 2. Excessive discoloration, such as, but not limited to, dye waste and vegetable tanning solutions.
  - 3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works.
  - 4. Unusual volume of flow or concentration of wastes constituting a "slug" as defined in Article II.
- K. Waters or waste containing substances which are not amenable to proper treatment or reduction by the Town's wastewater treatment process, or which would result in impermissible levels of phosphates and nitrates being discharged in the wastewater treatment plant effluent.
- L. Overflow by draining from cesspools or receptacles storing organic waste (other than septic tank disposal at the Town's treatment plant in accordance with Town procedures).
- M. Steam exhausts, boiler blowoffs, sediment traps, or pipes carrying hot circulating water.

**Sec. 5.** If any water or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the SuperintendentPublic Works Director may have detrimental effect upon the sewage works, processes, equipment, or receiving water, or which otherwise create a hazard to life or constitute a public nuisance, the SuperintendentPublic Works Director may:

- A. Reject the water;
- B. Require pretreatment to an acceptable condition for discharge to the public sewers;

C. Require control over the quantities and rates of discharge; and/or

D. Require payment to cover the cost of handling and treating the waste not covered by existing taxes or sewer charges, pursuant to the provisions of Section 12 of this Article VII.

When considering the above alternatives, the SuperintendentPublic Works Director shall give consideration to the economic impact of each alternative on the discharger. If the SuperintendentPublic Works Director permits the pretreatment or equalization of waste flows, the design and installation of the pretreatment or equipment shall be subject to the review and approval of the SuperintendentPublic Works Director, and subject to the requirements of all applicable codes, ordinances, laws, and the municipal discharge permit.

**Sec. 6.** Grease, oil and sand interceptors shall be provided when in the opinion of the SuperintendentPublic Works Director, they are necessary for the proper handling of the liquid waste containing floatable grease or for any flammable waste, sand, other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the SuperintendentPublic Works Director, and shall be located as to be readily and easily accessible for cleaning and inspection. All new construction and the remodeling of any old construction shall conform to the requirements of the Maine State plumbingPlumbing Code and the State of Maine Subsurface Wastewater Disposal Rules for grease and oil interceptors. The minimum size for an external grease trap shall be at least one thousand (1,000) gallons of liquid capacity.

With the approval of the superintendentPublic Works Director an automatic / mechanical (self cleaning) grease removal unit may be used instead of the external grease trap. The automatic grease removal unit must be sized in accordance with the manufacturer's written recommendations and the water temperature of the influent, as it enters the unit can not exceed one hundred fifty (150) degrees F.

Dishwasher wastewater shall not be discharged into a automatic grease removal unit, except that the wastewater from the pre-rinse station shall discharge to the grease removal unit.

In maintaining these interceptors, the owner (s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which are subject to review by the SuperintendentPublic Works Director. Any removal and hauling of the collected materials not performed by the owner (s) or the owner (s)' agent (s) must be performed by currently licensed waste disposal firms.

**Sec. 7.** Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**Sec. 8.** When required by the SuperintendentPublic Works Director, the owner of any property serviced by a building sewer carrying commercial, industrial waste shall install a suitable manhole together with such necessary meters and other appurtenances in the building sewer to facilitate

observation, sampling and measurement of the waste. Such manhole, if required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the SuperintendentPublic Works Director. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**Sec. 9.** The SuperintendentPublic Works Director may require a user of the sewer services to provide information needed to determine compliance with this Ordinance. These requirements may include:

- A. Description of wastewaters discharged, together with peak rate and volume over a specified time period.
- B. Chemical analyses of wastewaters.
- C. Information on raw materials, processes, and products affecting wastewater volume and quality.
- D. Quantity and disposition of specific liquid, sludge, oil, solvents, or other materials important to sewer use control.
- E. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
- F. Details of wastewater pretreatment facilities.
- G. Details of systems to prevent and control the losses of materials though spills to the municipal sewer.

**Sec. 10.** All measurements, tests, and analyses of the characteristics of water and pollutants to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association or other methods approved by the U.S. EPA and the Me. DEP, and shall be determined at the structure as required in Article VII, Section 8, or upon suitable samples taken at said structure. In the event that no special structure has been required, suitable samples shall be taken at the downstream manhole in the public sewer nearest to the point or origin. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the wastewater facilities and to determine the existence of any hazard to life, limb, or property.

- A. All industries discharging into a public sewer shall perform such monitoring of their discharges as the SuperintendentPublic Works Director and/or other duly authorized employees of the Town may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the SuperintendentPublic Works Director. Such records shall be made available upon request by the SuperintendentPublic Works Director to other agencies having jurisdiction over discharges.

**Sec. 11.** The municipality shall develop and the ~~Superintendent~~Public Works Director shall enforce pretreatment regulations for existing and new sources of pollution that are discharging or proposed to be discharged into the municipally owned wastewater treatment facilities as set forth in Title 40, Chapter 1, Part 128 and Part 403 of the Final Rules of the United States Environmental Protection Agency.

**Sec. 12.** Nothing in this Article shall be construed to prevent any agreement between the Town and any industrial concern whereby industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore, by the industrial concern; provided that such agreements do not contravene any requirement of existing Federal or State laws and/or regulations, and are compatible with any User Charge and Industrial Cost Recovery System in effect.

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## ARTICLE VIII - SEWER CAPACITY ALLOCATIONS

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**Sec. 1.** Renovation to the Kennebunkport Water pollution Control Facility which were completed in the spring of 1998 have increased its capacity to an amount in excess of 2,000 pounds of BOD5 per day. However until such time as the facility additions are operated to its capacity, the actual capacity added by these renovations will be unknown. Therefore, upon the completion of these renovations, as evidenced by the Town Manager's receipt of a letter from the Facility's ~~Superintendent~~Public Works Director stating the renovations are completed, persons may then apply for sewer units which will be allocated on a first come / first served basis until such time as the sewer units capable of generating a total of two hundred (200) pounds of BOD 5 per day (based upon the typical load production of 0.7085 \* pound of BOD 5 per day) shall be allocated. At that time, no further sewer units shall be allocated until the Town studies the remaining capacity, if any, and determines how it shall be allocated. A sewer permit or letter of adequate capacity issued under the allocation formula repealed by the amendment remains valid unless it lapses or becomes invalid in accordance with one or more of the provisions of Article IX of this Ordinance.

**Sec. 2.** The Town reserves the right to reject any and all application for sewer connection permits if, in the best judgment of the ~~Sewer-Superintendent~~Public Works Director and / or the Board of Selectman, such denials are necessary to protect the health, safety and welfare or the citizens of the Town of Kennebunkport. This provision shall apply regardless of whether lots were previously determined to be "vacant "by the Town, or whether the property owner has purchased a stub or incurred any other expense in anticipation of connecting to the sewer system.

**Sec. 3.** With respect to any sources to which capacity is allocated, that capacity shall be forfeited or reduced as follows:

- A. Capacity shall be forfeited in its entirety if a letter of adequate capacity or a permit lapses or becomes invalid in accordance with one or more of the provisions of Article IX of this Ordinance.

- B. In parallel with the provisions of Article IX, capacity shall be reduced if the project as ultimately approved or constructed contains fewer units than the number set forth in the preceding section.

**Sec. 4.** Neither the allocation of the sewer capacity to a lot nor the placement of a sewer stub for a lot shall be construed to mean that the lot is buildable. The determination as to whether a lot is buildable shall be based on any applicable ordinances and regulations.

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## **ARTICLE IX - LAPSE OF SEWER PERMIT AND ENTITLEMENT TO SEWER CAPACITY**

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A sewer permit issued under the terms of this Ordinance, or a letter from the ~~Sewer Superintendent~~Public Works Director as part of any other municipal review process stating that adequate sewer capacity exists for a proposed project ("letter of adequate capacity"), shall lapse, become invalid, and be of no further force or effect, if any one or more of the following occurs:

- A. The sewer permit or letter of adequate capacity expires by its own terms.
- B. A project approved by the Planning Board loses its approval for any reason, including the failure to timely commence or complete construction as required by applicable regulations or ordinances.
- C. The building permit (s) for a particular structure or project expires or becomes invalid for any reason, including the failure to timely commence or complete construction as required by the terms of the permit itself or by applicable regulations or ordinances.
- D. A project pending before the Planning Board is transferred to another owner of record, and the new owner fails to obtain a determination by the Planning Board that the new owner has adequate financial and technical capacity to complete the project and/or the new owner fails to provide the performance guarantees required by the Planning Board.
- E. The applicant fails to comply with applicable time periods and deadlines for processing the application and fails to get an extension of time prior to the expiration of those time periods and deadlines.
- F. The application is withdrawn by the applicant or by the Planning Board.

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## **ARTICLE X - PROTECTION FROM DAMAGE**

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Sec. 1. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenances, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of criminal mischief as set forth in Maine Revised Statutes Annotated, Title 17-A, Chapter 33, Subsection 806 as amended as well as be subject to civil liability for reasonable costs to repair or replace the damaged structure or equipment including, without limitation, the Town's reasonable costs and attorney's fees.

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## ARTICLE XI - POWER AND AUTHORITY OF INSPECTORS

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Sec. 1. The SuperintendentPublic Works Director, and other duly authorized representatives of the Town having proper credentials and identification, shall be permitted to enter all properties at all reasonable times upon reasonable notice for the purposes of inspection, observation, measurement, sampling, and testing in accordance with this Ordinance. The SuperintendentPublic Works Director and Town representative (s) shall have no authority to inquire about any commercial process, including metallurgical, chemical, oil, refining, ceramic, paper, or other process beyond that point having a direct bearing on the kind and source of discharge to the wastewater facilities. Such information shall be kept confidential upon the company's establishing, to the satisfaction of the SuperintendentPublic Works Director, that the revelation to the public of the information in question might result in an advantage to competitors.

Sec. 2. The SuperintendentPublic Works Director and other duly authorized representatives of the Town having proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duty negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewerage works lying within said easement. All entry and subsequent work, if any, or property within said easement shall be done in full accordance with the terms of the negotiated easement pertaining to the private property involved.

Sec. 3. While performing the necessary work on private properties referred to in Article XI, Section 1 above, the SuperintendentPublic Works Director or authorized representative (s) of the Town shall observe all the safety rules applicable to the premises established by the company. The Town shall hold the company harmless from any liability for injury or death to Town employees performing such work; and the Town shall indemnify the company against loss or damage to the company's property caused by Town employees and against liability claims for personal injury or property damage against the company arising out of any sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article V, Section 8 of this Ordinance.

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## ARTICLE XII - PENALTIES

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**Sec. 1.** Any person found to be violating any provision of this Ordinance, except Article X, shall be served by the ~~Sewer Superintendent~~Public Works Director with written notice stating the nature of the failure or violation and providing a reasonable time limit for the satisfactory correction or cessation thereof. The offender shall within the period of time stated in such notice permanently cease or correct all such failures or violations.

**Sec. 2.** Any violation which continues beyond the time limit set forth in a written notice to cease or correct the violation shall constitute a civil violation punishable by a fine of not less more than one hundred dollars (\$100.00) nor more than \$2,500 for each violation. Each day a violation continues shall be considered a separate offense. Fines, costs, and attorney's fees may be recovered as provided under 30-A M.R.S.A. § 4452.

**Sec. 3.** Any person violating any of these rules and regulations shall become liable to the Town for any expense, loss or damage caused the Town by reason of such violation, including but not limited to costs and reasonable attorneys' fees to enforce this Ordinance.

**Sec. 4.** Notwithstanding any of the foregoing provisions, the Town may institute any appropriate action including injunction or other proceeding to prevent, restrain, or abate a violation hereof.

**Sec. 5.** No permit for expansion of an existing facility shall be issued if there are outstanding sewer permit or connection fees unless and until satisfactory arrangement for payment of the same has been made with the Board of Selectmen.

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### ARTICLE XIII - SEWER SERVICE CHARGE

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**Sec. 1.** The source of a portion of the revenues for retiring debt service, capital expenditures, operation and maintenance of the public sewer system of the Town shall be a sewer service charge assigned to owners of property located within the limits of the Town whose property, residence, or place of business is capable of being tied into the sewer system pursuant to Article III, section 5 of this Ordinance. A portion of the funds collected pursuant to this Article shall be placed in a separate reserve fund for operation and maintenance, including replacement, of the public sewer system. The contribution to the reserve fund shall be determined by the Selectman on a year to year basis.

**Sec. 2.** Sewer service charge rates shall be determined by the ~~Selectman~~Board of Selectmen on a year to year basis. The sewer service charge will be computed and billed at regular intervals though the calendar year, as established by the ~~Selectman~~Board of Selectmen. In general, charges will be calculated based on the following criteria:

- A. The total cost annually of operating and maintaining the sewer system.
- B. Forty percent (40%) of the cost annually necessary to retire the debt service.

C. The following schedule of sewer unit charges<sup>[AKT10]</sup>:

Minimum charge	1 <u>Sewer</u> Unit
Single Family Dwelling <del>Unit or Condominium Unit</del> <sup>[AKT11]</sup>	1 <u>Sewer</u> Unit
Multi-family Dwelling <u>Unit</u> or Condominium <u>Dwelling</u> Unit	1 <u>Sewer</u> Unit <u>per DU</u> *
School students every 20	1 <u>Sewer</u> Unit
Motel/Hotel/ <u>Inn/Bed and Breakfast</u> Units <sup>[AKT12]</sup> ( <u>Every two rooms with</u> Double Occupancy)	1 <u>Sewer</u> Unit
Motel/Hotel/ <u>Inn/Bed and Breakfast</u> Units ( <u>Every four rooms with</u> Single Occupancy)	1 <u>Sewer</u> Unit
Restaurant Seats ( <u>every ten seats</u> )	1 <u>Sewer</u> Unit
Tourist-House Rooms ( <u>Every two</u> Double Occupancy <u>rooms</u> )	1 <u>Sewer</u> Unit
Tourist-House Rooms ( <u>Every four</u> Single Occupancy <u>rooms</u> )	1 <u>Sewer</u> Unit
Yacht or Country Club Members ( <u>Every fifty members</u> )	1 <u>Sewer</u> Unit
Church or Club Members ( <u>Every 100 members</u> )	1 <u>Sewer</u> Unit
Commercial Employees ( <u>Every zero to five employees</u> )	1 <u>Sewer</u> Unit
Commercial Employees <u>Every five to ten employees</u>	1.5 <u>Sewer</u> Unit
Industry Employees ( <u>Every zero to ten employees</u> )	1.5 <u>Sewer</u> Unit
Gas Station	3 <u>Sewer</u> Units
Laundromat Machines ( <u>Every two machines</u> )	1 <u>Sewer</u> Unit
Campground (sewer hookups)	1 <u>Sewer</u> Unit
Septic Waste	\$.10 per gallon

**Sec. 3.** The sewer service charges assigned to any property owner who contributes a significant quantity of industrial waste to the public sewers, or who contributes a combination of sewage and industrial waste to the public sewer, shall be determined on a block rate structure based on water

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\* Dwelling Unit



consumption. The property owners to be charged in this manner will be determined by the Selectmen on a year-to-year basis.

**Sec. 4.** A special sewer service charge shall be assigned to any commercial, industrial firm or organization who, by virtue of the volume, strength or unusual characteristics of their waste alone, would overload or upset the capacity or efficiency of the public sewer system or a part thereof if such waste entered the public sewer or whose waste disposal situation is such that it would be in the public interest to waive the requirements of Section 1, 2, and 3 of this Article. The Selectman, after appropriate study and advice from the SuperintendentPublic Works Director, shall assign a special sewer service charge to such an entity by separate agreement with said entity. The applicable portions of the preceding section, as well as the equitable rights of the public, shall be the basis for such an arrangement.

**Sec. 5.** The SuperintendentPublic Works Director reserves the right, from time to time, to change sewer service charges originally or previously assigned to any property owner.

**Sec. 6.** Each sewer service charge levied pursuant to these rules and regulation is hereby made a lien on the premises. If said charge is not paid within thirty (30) days after it becomes due and payable, it shall be certified to the Town Treasurer Manager who shall record notice of said lien with interest and penalties allowed by law in the York County Registry of Deeds.

**Sec. 7.** The charges and assessments levied pursuant to this Article XIII shall be used consistently with the Clean Water Act, 33 U.S.C. e 1251 et seq., as amended, and all other applicable federal regulations.

**Sec. 8.** When a Sewer Connection Application is processed and a permit is issued, the owner of the property for which the application was issued will be billed for the units that were approved. If the application was approved during the billing year, the sewer charge will be pro rated for the rest of that year; any year thereafter the owner will receive a bill for all the units that were approved for a full year. The sewer bill will be assessed regardless of whether the units are tied into the collection system or not.

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#### ARTICLE XIV LICENSING OF PERSONS AUTHORIZED TO MAKE CONNECTION TO THE PUBLIC SEWERS

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**Sec. 1.** Plumbers and drain layers of established reputation and experience, as determined by the SuperintendentPublic Works Director, will be licensed by the Town as A Drain Layer authorized to perform work, subject to compliance with the following requirements:

- A. Applicants for licenses, after approval by the SuperintendentPublic Works Director, shall file with the SuperintendentPublic Works Director a Certificate of Insurance in the sum of \$ 1,000,000 / 1,000,000 to cover Public Liability and a Certificate of Insurance in the sum of \$ 500,000 covering Property Damage. In addition, a Certificate of

Insurance covering Workman's Compensation shall be filed, all of which shall remain in full force and effect for a period of at least one year from the date of approval. Said Insurance shall indemnify the Selectmen and the Town of Kennebunkport against any all claims, liability or action for damage, incurred in or in any way connected with the performance of work by the Drain Layer, and for or by reason of any acts or omission of said Drain Layer in the performance of his work, including acts of negligence.

- B. Applicants for licenses will be approved or disapproved within a period of thirty-one (31) days after filing the application.

**Sec. 2.** All licenses expire one year from the date of issuance thereof and no licenses are transferable.

**Sec. 3.** The SuperintendentPublic Works Director reserves the right to revoke any license if any provision or requirement of said license is violated.

**Sec. 4.** Each licensee shall give personal attention to all installations, shall ensure that work is performed in a workmanlike manner, and shall employ only competent workers.

**Sec. 5.** All licensees are required to give a full written report to the SuperintendentPublic Works Director within twenty-four (24) hours in the event any prohibited substances are found in a sewer or house drain during the course of the work.

**Sec. 6.** Notification that work has been completed and certification that all conditions of this Ordinance have been complied with shall be filed in writing with the SuperintendentPublic Works Director within twenty-four (24) hours after the completion of the work authorized by each permit.

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## ARTICLE XV - SEPTIC WASTE

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The following regulations shall govern the disposal of septic waste at the treatment facilities:

- A. Septic waste from the Town of Kennebunkport, or from any other municipality with written authorization from the Selectmen, will be accepted.
- B. A permit must be procured from the SuperintendentPublic Works Director or the SuperintendentPublic Works Director's authorized representative prior to receiving any septic waste for subsequent disposal at the Town's treatment facilities.
- C. The application for said permit shall be signed by the property owner or the property owner's duly authorized representative and shall indicate the source of the septic waste.

- D. Any waste which the SuperintendentPublic Works Director or any agent of the SuperintendentPublic Works Director deems suspicious shall be tested, at the waste hauler's expense, to ascertain that the waste meets the specifications for sludge composition and is free of detrimental chemicals.
- E. The waste hauler shall be responsible for the removal and proper disposal of the contaminated waste and any other materials that may have contaminated.
- F. The waste hauler shall be duly licensed in accordance with the laws of the State of Maine , and shall provide a copy of the license to the Sewer SuperintendentPublic Works Director.

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## ARTICLE XVI - VALIDITY

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**Sec. 1.** All rules, regulations, or other ordinances in conflict herewith are repealed.

**Sec. 2.** The invalidity of any section, clause, sentence, or provision of these rules and regulations shall not affect the validity of any other part of these rules and regulations, which can be given effect without such invalid part or parts.

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## ARTICLE XVII - APPEALS

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**Sec. 1.** The Selectmen shall have the following powers and duties to be exercised only upon written appeal by a party aggrieved by a decision of the SuperintendentPublic Works Director, Plumbing Inspector and/or Town Health Officer, insofar as such decision arises from requirements of this Ordinance:

- A. To determine whether the decisions of these authorities are in conformity with the provisions of this Ordinance, and to interpret the meaning of this Ordinance in a case of uncertainty.
- B. To grant variances from the terms of this Ordinance where there is no substantial departure from the intent of this Ordinance and where necessary to avoid undue hardship. A projected expenditure of an amount exceeding fifteen (15) percent of the assessed value of the buildings on the land to be served by the public sewer shall be considered as prima facie evidence of undue hardship.

- C. To permit an exception to this Ordinance only when the terms of the exception have been specifically set forth in this Ordinance.

**Sec. 2.** The Selectman shall schedule a hearing on each appeal under this Ordinance within sixty (60) days of receipt of a completed application. At least ten (10) days prior to the hearing the Town Clerk shall cause to be advertised in a newspaper of general circulation in the Town a notice of such appeal identifying the property involved, the nature of the appeal and the starting time and place of the public hearing on the appeal. Owners of properties within two hundred (200) feet of the property for which the appeal is made shall be notified by mail. Failure of any such owner to receive this notice shall not invalidate the proceeding herein prescribed.

The Selectmen shall not continue a hearing on an appeal to a future date except for good cause or by agreement of the appellant. Upon conclusion of the hearing and a determination by the Selectmen, written notice of the Selectmen's decision shall be sent forthwith to the appellant and to the municipal employee or officer concerned. Failure of the Selectmen to issue such notice within thirty (30) days of the date the hearing concludes shall constitute a denial of said appeal.

**Sec. 3.** The procedure for instituting an appeal shall be as follows:

- A. Any person including any municipal department head aggrieved by a decision of the ~~Superintendent~~Public Works Director, the Town Health Officer, and/or the Plumbing Inspector, which decision arises from interpretation or application of this Ordinance, may appeal such decision to the Selectmen.
- B. Any such appeal must be filed with the Town Clerk within thirty (30) days of the date of the decision of the ~~Superintendent~~Public Works Director, Health Officer, and/or Plumbing Inspector. Said appeal shall be filed upon forms to be approved by the Selectmen. The appellant shall set forth the grounds for appeal and shall refer to the specific provision of this Ordinance involved. Following the receipt of any appeal, the Town Clerk shall notify forthwith the employee or officer concerned and the Chairperson of the Board of Selectmen. The appellant shall pay to the Town Treasurer a fee of Twenty-five (\$25.00) plus the cost of advertising and mailing notices. The appellant shall supply the names and address of all the property owners that have property within two hundred feet of the property that the appeal is for.
- C. An aggrieved party may appeal any decision of the Selectmen to Superior Court as provided by the laws of the State of Maine.

**Sec. 4.** After a decision on an appeal has been made by the Selectmen, a new appeal of similar import shall not be entertained by the Selectmen until one year shall have elapsed from the date of said decision, except that the Selectmen may entertain a new appeal if the Chairperson determines that, owing to a mistake of law or misunderstanding of fact, an injustice was done, or if the Chairperson determines that a change has taken place in some essential aspect of the appeal.

## ARTICLE XVIII - EFFECTIVE DATE

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**Sec. 1.** This Ordinance shall be in full force and effect upon adoption by the Selectman.

Passed and adopted by the Selectmen of the Town of Kennebunkport, County of York, State of Maine on the 13 day of August, 2009, by the following votes:

Ayes \_\_\_\_\_ Namely \_\_\_\_\_

Nays \_\_\_\_\_ Namely \_\_\_\_\_

Signed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Clerk



# Agenda Item Divider



# Ad Hoc Senior Advisory Committee

Report to  
Kennebunkport Board of  
Selectmen  
22 February 2018

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1. **Vision Statement**

Our vision is for Kennebunkport to foster an age-friendly community that allows people, regardless of their age, to stay active and connected, and to thrive while aging in place.

2. **Selectmen's Charge to the Committee**

On January 12, 2017, the Board of Selectmen established an ad-hoc committee – The Senior Advisory Committee – to serve for a one-year period until January 31, 2018 or until their tasks have been completed, whichever is sooner. [On December 28, 2017, the Selectmen approved the extension of the committee's term of service from January 31, 2018 to March 31, 2018.]

3. **Composition of Committee/Membership Profile**

Committee Volunteer Members:

Bill Leffler, Chair

Susan Boak, Vice-Chair

Susan Gesing, Secretary

Dean Auriemma

Penelope Gruen

Loretta McDonnell

The six members of the committee have been residents of Kennebunkport for 3-23 years. They represent a wide age range: 50, 57, 71, 72, 78 and 88 with a median age of 71.5 years.

Their careers and other experiences include nursing, financial planning, systems engineering, teaching, religious scholarship, career consulting, sales management, marketing, entrepreneurship, real estate management, educational consulting, strategic planning, business ownership, business research, emergency medical services and school administration.

4. **Summary of Committee's Completed Tasks**

In the preparation of this report and its recommendations, the committee accomplished the following:

- Convened in March 2017 and met twice a month for most months through February 2018.
- Reviewed the Board of Selectmen's charge for the committee and took the following actions on the categories of the charge, each of which appears below in italics.
  - a. *Establish a liaison with other agencies and town departments, which have relevant concerns.* Committee members met with or interviewed the following:
    - \* Alison Kenneway, Director of Public Health and General Assistance
    - \* Carol Cook, Director of Parks and Rec.

- \* Mary-Lou Boucouvalas, Graves Librarian
  - \* Mary Giknis, Cape Porpoise Librarian
  - \* Kennebunkport Health Council – private group affiliated with town nurse
  - \* Dick Stedman, Fire Administrator, Kennebunkport Fire Department
  - \* Michael Claus, Director of Public Works
  - \* Werner Gilliam, Code Enforcement Officer, Town Planner
- b. *Gather information from seniors and interested entities working on behalf of seniors so that the committee may advise the Board of Selectmen.* In addition to analyzing survey data, we had meetings and/conversations with a number of people.
- \* Conducted a survey of Kennebunkport property owners 65 or older to determine needs/concerns. (See Section 7 of this report and Appendix A.)
  - \* Interviewed Pat Schwebler at the Center at Lower Village.
- \* Communicated with Richard Elkin, founder of Nauset Neighbors, providing transportation to six Cape Cod communities.
- \* Interviewed Mike Sullivan, Director of York Parks and Rec. and Janice Marshall Colby – head of programming for York Senior Center.
  - \* Attended a meeting (four members) of the Tri State Learning Collaborative on Aging Summit.
  - \* Attended (as a team) a Kennebunk Council on Aging meeting featuring Patricia Oh, Maine Age Friendly Communities consultant; subsequently one member conducted a lengthy follow up email conversation with her.
  - \* Communicated with Jess Maurer, Executive Director of the Maine Association of Area Agencies on Aging.
  - \* Talked with Alana Nucci, Habitat for Humanity, regarding weatherization and partnering agencies: York County Community Agency (YCCA) and Efficiency Maine.
  - \* Interviewed Maine 211 representative to understand the types of services and referrals offered to Kennebunkport’s older residents.
  - \* Interviewed Debby Paradis, transportation person at York County Community Action Program to understand the limited transportation options available to Kennebunkport residents.
  - \* Talked with Holly Vanderzee and others from Harpswell Aging at Home regarding home heating assistance programs.
  - \* Compiled information on WHO/AARP age-friendly communities.
- c. *Identify resources needed by resident seniors through partnering with other organizations and agencies, such as medical services, home maintenance, recreation, and senior housing.*

This should be a goal of a possible future standing committee.

- d. *Implement an educational effort to inform seniors regarding available services provided by the Town, State, and other agencies.*

This could be a goal of a possible future standing committee.

- e. *Identify senior needs within our community that are currently not addressed by Town or other agency services.*
- (a) *Needs will be separated into immediate concerns, and potential future issues.*
- (b) *The committee will also address the difference between services not available, and those for which seniors may need financial assistance.*

See Section 8 of this report for list of Services Not Adequately Addressed by Town or Other Agency Services.

- f. *Development of a volunteer base, which may assist in the delivery of services needed.*

This should be encouraged by a possible future standing committee.

## 5. **Kennebunkport's Demographic Profile**

Kennebunkport is a coastal town in York County Maine. Its population from the 2010 federal census was 3474. Approximately 25% of the population was over the age of 65 although only 2.4% was above the age of 85.

Kennebunkport and the neighboring towns of Kennebunk and Arundel comprise school district RSU21. Kennebunkport is the smallest member of RSU21 by both population and geographic size, as shown in Table 5.1 below.

**Table 5.1 Comparison of Kennebunkport, Kennebunk, Arundel**

Town	Geographic Size (square mi)	Population 2010	# older than 65	65-74 Young Old	75-84 Old	85+ Old Old
Kennebunkport	20.5	3474	857 25%	511 14.7%	264 7.6%	82 2.4%
Kennebunk	35	10798	2369 22%	1153 13.7%	753 6.9%	462 4.3%
Arundel	24	4022	489 12%	304 7.6%	140 3.5%	45 1.1%

The following discussion is attributed to Lawrence Frolik, a professor at the University of Pittsburgh School of Law and an expert on housing options for the aging. In a classic article laying out the parameters affecting housing needs of the aging he points out that younger individuals often look upon retirement as a homogenous age period; that is everyone over sixty-five is about the same. This is inaccurate. Gerontologists like to classify old age into three periods:

- The young old, from 65-74, recently retired and for the most part in good health, tend to be controlled by their desires and interests rather than by physical concerns.
- The old, from 75-84, are more influenced by health, safety and frailty issues.
- The old, old, 85+ are most likely to need assistance to live independently.

Interwoven with the variations in physical need of these three groups are the limitations imposed by dwindling disposable income and the increasing need for community as spouses and friends pass away. As a result of ...[the] special needs of the very old, many who purchase a retirement house when they are in their late sixties, find that in their eighties they may need to move again, this time to congregate housing or an assisted living facility.<sup>1</sup>

For Kennebunkport, our largest groups of retired older adults are in the younger of the two categories and still actively volunteer. We do not like to be categorized, although generalizations are needed for planning purposes. We are a caring, social community and this should be considered as survey needs are addressed.

## **6. Current Community Assets**

- Public Health Department – One full time and one half time nurse for medical assistance and supplies, general assistance, and coordination of services among town departments
- Parks and Recreation Department – Existing programs geared at seniors, possible use of new 2700 square foot facility for senior programs, a micro bus (15 person)
- KEMS – trained in Geriatric Emergency Medical Services (GEMS)
- Fire Department – Assistance to town nurse for safety checks in crises/emergencies
- Police Department – House security checks for people away, welfare visits
- Department of Public Works – Clearing of roads and sidewalks, trash/recycling program, road maintenance and construction
- Active, caring volunteers on town boards and in community organizations
- Many social opportunities for older adults “as social as I want to be” (survey response)
- RSU 21 – Facilities for community use, potential volunteers
- Center at Lower Village – Social and health programs, FISH – driving to medical appointments
- Graves Library – Possible uses of new space, current programs geared towards older adults, new computer/business center, tax preparation support
- Cape Porpoise Library – Book deliveries, to shut ins, informal activities, reading room
- Kennebunkport Conservation Trust – Space and programs
- Kennebunk Residents Association – Communication
- Local churches – Outreach for all ages
- Community Outreach Services – Food pantry, fuel assistance, holiday food baskets
- Kennebunkport Health Council – Stuff the bus, potential programs
- 211 Maine –Toll free service with trained call specialists who can help 24/7

## **7. Summary of Survey**

At one of the committee’s first meetings on April 4, 2017, there was general consensus that as a first step, committee members needed to educate themselves so that they would have a common body of knowledge upon which to base future planning. Areas to research were identified and would include:

- Concerns/needs of Kennebunkport seniors

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<sup>1</sup> Frolik, Lawrence A. “Three Stages of Old Age.” *Cooperative Aging*, Mar. 2009, [www.cooperativeaging.com/2009/03/three-stages-of-old-age.html](http://www.cooperativeaging.com/2009/03/three-stages-of-old-age.html)

- Demographics on Kennebunkport older adults
- Resources currently available to these residents
- General information about needs and concerns of seniors.

Most members of the committee attended an April forum sponsored by the Kennebunk Council on Aging in which Patricia Oh, a Maine Age-Friendly Communities consultant, spoke. She spoke of the benefits of a survey of older adults needs and concerns as a starting place for town committees focused on seniors. While there was also interest in holding focus groups to determine concerns, the committee agreed that the first priority was to conduct a survey of Kennebunkport homeowners 65 and older.

The age groups were separated into three categories: 65-74, 75-84 and 85+ to be consistent with classifications used by gerontologists. A one-page survey used by another Maine community, and favored by Patricia Oh for its simplicity, was customized to represent the needs of Kennebunkport. The survey was mailed with the tax bills and extra copies were printed for town offices and libraries. It was also available on-line.

The survey focused on six key areas, asking questions to solicit information from residents:

1. ABOUT YOU – basic demographic information including full and part time residence, years in town, male/female, and zone.
2. ABOUT YOUR HOUSING SITUATION – more questions about living arrangements, home maintenance, aging in place, and winter safety.
3. TRANSPORTATION – how do you get around and how do you feel about driving after dark.
4. AT HOME IN YOUR COMMUNITY – seven questions touching on communication, socialization, volunteering, Internet use, and safety using public spaces.
5. HEALTH AND WELLNESS – four questions about using the services of the town nurse, food insecurity and exercise.
6. AS YOU AGE – where do you want to live and how will you get around?

The survey also provided opportunities for residents to add comments and even essays for further feedback.

The committee received 335 completed surveys from a total of about 1000 full time residents – a 33% return. (Number of residents was taken from the 2010 Census updated by deaths to 2015.) Another 100 or so seasonal residents also replied. Over 90% of completed surveys were returned with tax payments.

Committee member, Susan Boak, entered survey results into Excel. She created PowerPoint slides with charts to explain the data.

## **7.1 Survey Highlights**

**DEMOGRAPHICS:** About 77% of the responses were from full time residents. More than half of respondents have lived in town in excess of 21 years. Females outnumbered males slightly: 54% to 46%. The age spread was consistent with Census data. Town zones were well

represented with Village Residential, Cape Porpoise, and Goose Rocks comprising about 70% of the entries.

HOUSING: in Kennebunkport, those 65 and older are predominately homeowners (98%). The most common household size is two; the makeup is shown in the figures below.



Figure 7-1 Number in Household

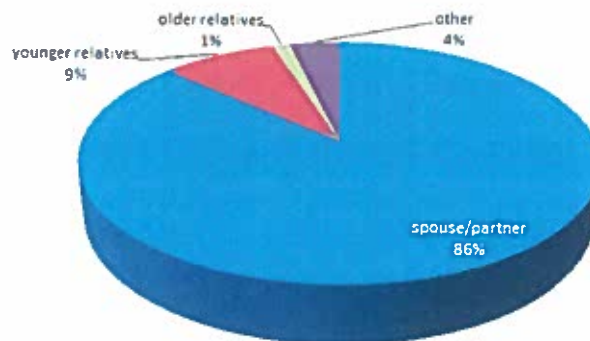


Figure 7-2 Living Arrangements if not Alone

About 9% of respondents report difficulty taking care of home maintenance for the following reasons:

- No longer able to do the work (43%)
- Can't afford to pay for services (38%)
- Difficulty finding service providers (19%)

Residents were familiar with the concept of aging safely in place and 83% felt their home did not need modification, at least at this time. Of the 15% acknowledging the need, first floor living topped the list; see Figure 7-3 below. There seems to be a reluctance to perform modifications ahead of time. One resident opined, *"I will take care of it when I need to."*

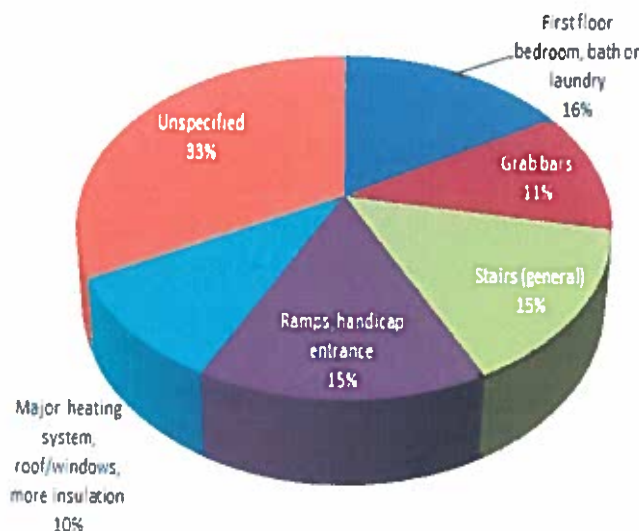


Figure 7-3 Planned modifications for Aging Safely in Place

When asked if their homes were warm and safe enough in winter, about 4% indicated there were some issues with heat, typically a lack of insulation and the high cost of fuel. This was most

common in Cape Porpoise, Farm and Forest, and Village Residential zones which have older homes, mobile homes and reconditioned cottages.

About 6% of residents indicated shoveling their walks and steps was a problem.

**TRANSPORTATION:** Overwhelmingly, 96%, residents report driving their own car. Those who don't, report that family, including spouse, drive them. Once you can't drive, options become much more restricted. The living arrangement for those who can't drive is shown in Figure 7-4; it is shocking to note that over 70% live alone. To continue to age in place, residents need availability of transportation services.

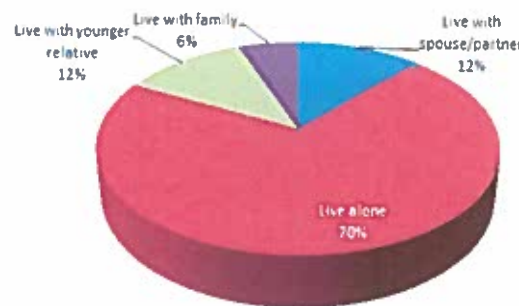


Figure 7-4 Living Arrangement of those who Do Not Drive and are Driven by Spouse/Family

Residents were queried about whether they were comfortable driving at night. About 27% self-reported some qualifications. Of those who reported qualifications, some don't drive at night at all (16%), others prefer to drive in familiar areas (33%), others would drive only as a last resort (41%), and 10% report both familiar areas and last resort.

**AT HOME IN YOUR COMMUNITY:** Most frequently, folks find out what is happening by reading the Newspaper and by talking to family and friends. The ages from 65-74 report the Internet as an information source just behind family and friends; 93% use the Internet daily or several times a week, 5% do not have Internet connection. Internet use falls off with age: from 75-84 about 82% use the Internet daily or several times a week, at 85+, the number falls to 51%.

The most reliable way to reach older adults is through the newspaper. Younger members of this group may also be reached reliably through the Internet. It is hard to quantify the "buzz" created by common knowledge of family and friends.

Kennebunkport is a very social community. Over 80% of residents report getting out of the house at least five times per week if not daily. When asked if as social as you want to be, an incredible 83% responded yes. The biggest reason for not being social was not having anyone to go with.

Volunteering is alive and well in Kennebunkport. The most common response was helping others on my own, followed by service organizations and church. Clearly Kennebunkport is a caring community.

Residents were queried about their use of public spaces and if there was difficulty using them. They were also asked if there were public spaces in town where they did not feel safe walking.



About 10% of residents reported issues with walking safety, naming granite outcroppings, the combination of narrow roads and speeding cars, and lack of sidewalks as contributing factors.

**HEALTH AND WELLNESS:** Most of the town, about 70%, seems to be aware we have a town nurse whose services are free to and much lauded by residents. About 37% report having used these services. The town nurse also serves as the general assistance officer and gateway to needed programs for low-income residents.

There does not appear to be much food insecurity in town (only 2 instances, but still too many) and there are existing programs to handle this.

The most common form of exercise for older adults is walking, followed by gardening.

**AS YOU AGE:** It's practically unanimous: 90% wish to age in their current home and the same 90% want to "drive as long as I can".

Full survey data results may be found in appendix A to this report.

## **8. Services Not Adequately Addressed**

(by Town or Other Agency Services—From Section 4-e, page 5)

- \* Transportation for any older adult needs other than medical (provided in a limited way by FISH.) Social and shopping transportation is not available except by family and friends.
- \* Assistance with finding or paying for contractors for home repairs and shoveling
- \* Coordination among Town and community providers of services to older adults.
- \* Communication about existing services for older adults.

## **9. Committee Recommendations to Board of Selectmen**

Based on the survey of older adults and other information gathered, the ad hoc committee recommends the creation of a standing committee (Senior Advisory Committee) to oversee the process of making Kennebunkport more age friendly though engaging the community, continuing to identify needs of older residents and coordinating or initiating programs to help them age successfully in this community.

The following are suggested actions for a standing committee to consider.

- Strengthen relationships, through the Town Manager, with each Town department to discuss survey data as it relates to their departments, suggesting new programs or services and helping in publicizing all programs.
- Give serious consideration to becoming a WHO/AARP age friendly community. Study the eight domains for livability that influence the quality of life of older adults (from The Maine Guide – Building Livable Age-Friendly Communities: [www.who.int/ageing/projects/age-friendly-cities-communities/en/](http://www.who.int/ageing/projects/age-friendly-cities-communities/en/)); identify what is going well in each domain, determine areas of concern and how they could be addressed; implement responses.

- Assess, beyond the survey, the qualitative needs of residents. Increase community involvement by holding focus groups, listening sessions, and forums.
- Encourage the options for providing transportation services for older residents, including FISH, volunteer groups and local, county and state programs.
- Understand the ways the town and various town organizations communicate and provide useful information to older residents and also how they promote their programs for older adults. Recommend improvements to increase likelihood that residents are aware of what is offered.
- Respond to the needs of older adults by encouraging other organizations to provide workshops and appropriate programs.
- Encourage formation of a volunteer network to facilitate the aging in place for older adults with tasks associated with home maintenance and seasonal transitions.
- Promote coordination of services for older adults amongst town organizations.

## 10. **Conclusion**

The Ad Hoc Senior Advisory Committee has met 21 times since it was organized last year. Our research and discussions around issues impacting older adults in Kennebunkport (about 30% of our population) were wide ranging, varied and in depth. Our work included interviews with a number of Town employees involved with seniors and consultations with representatives of agencies, organizations and facilities serving this demographic in York County and beyond. As a result of this effort, the committee has put together this report, as well as an appendix with supplementary information, to present to the Selectmen.

Our work concludes with eight recommendations. They deal with improving relationships and communication among those offering and providing services, encouraging a volunteer effort to assist seniors when needed, exploring ways to provide transportation services for those who no longer drive, considering affiliation with the WHO/AARP Age Friendly Communities network, and continuously striving to make Kennebunkport an even more age friendly community.

To accomplish these goals, the committee is recommending that the Selectmen establish a permanent Senior Advisory Committee to address these concerns in a formal fashion.



# Agenda Item Divider





## TOWN OF KENNEBUNKPORT, MAINE

— INCORPORATED 1653 —

February 16<sup>th</sup>, 2018

Memo: 25 Mills Road Setback Violation

From: Werner Gilliam, CFM Director of Planning and Development

To: Board of Selectmen

It was brought to my attention that the structure located at 25 Mills Road appears to violate zoning setbacks, specifically a 34x34 shop/garage that was permitted on September 7<sup>th</sup>, 1990. I have reviewed the file along with numerous surveys and offer up the following observations.

On September 7<sup>th</sup>, 1990 a building permit was issued to Raymond Mosher for the construction of a 34x34 shop onto the back of his existing home. The home as it existed prior to this permit was constructed in 1920 and is not subject to this setback review other than to note that it predated Kennebunkport zoning requirements. Based on dimensions shown on the hand drawn plot plan the lot appears to be 100 ft. in width. This is consistent with numerous mortgage inspections and a recently completed boundary survey. It is not known whether any boundary markers existed in 1990. A review of the deed makes no reference to property markers nor does it provide any meaningful dimensions. It appears that the builder interpreted the property boundaries using assumed areas of occupation. This is what was presented for the permit application which was approved resulting in the construction of the shop/garage. On March 17<sup>th</sup>, 1999 the property in its current configuration was sold to Brian Rapp and Claire Hanley. A mortgage was obtained for the property by Rapp and Hanley. It is not known if a mortgage inspection was done for that sale.

On February 19<sup>th</sup>, 2014 the property in the same configuration was sold to JJWZ LLC. A mortgage inspection was performed by Livingston -Hughes which certified that the structure in its entirety did not violate town zoning requirements, it did note however that parcel lines shown were lines of occupation and that a boundary survey may yield different results.

A mortgage was issued to JJWZ LLC in reliance on this mortgage inspection. In December 2017 a boundary survey was performed by Paul Gadbois which revealed several concerns. The northerly property line was discovered to be 10' from the dwelling as opposed to the 18' as represented on the 1990 building permit and on the Livingston- Hughes mortgage inspection. Zoning requirements at the time the permit

6 Elm Street, P.O. Box 566, Kennebunkport, Maine 04046  
Tel: (207) 967-4243 Fax: (207) 967-8470

## TOWN OF KENNEBUNKPORT, MAINE

—INCORPORATED 1653—

was issued required a 15' sideline setback. The survey also revealed a tidal wetland area which today requires a 75' setback. After reviewing the Shoreland Zoning Map in effect in 1990 it appears that this property was not considered to be in the Shoreland Zone. As such I do not believe that Shoreland Zoning setbacks would have or should have been applied in 1990 for the garage addition.

Based on the information that I have reviewed I do not believe that the setback violation was performed knowingly or intentionally. I do not have any concerns with the garage addition remaining in its current location and do not feel that it would benefit the town or its residents by having this setback issue corrected. I have no objections with the Board of Selectmen authorizing the Town attorney to proceed with the stipulated judgement as presented.

STATE OF MAINE  
COUNTY OF YORK

DISTRICT COURT  
LOCATION: BIDDEFORD  
CIVIL ACTION  
DOCKET NO.

THE INHABITANTS OF THE )  
TOWN OF KENNEBUNKPORT, a )  
municipal corporation organized )  
under the laws of the State of )  
Maine, )

Plaintiff )

v. )

JJWZ, LLC, a Maine Limited )  
Liability Company with a place )  
of business in Arundel, Maine )

Defendant )

**LAND USE CITATION  
AND COMPLAINT  
Pursuant to M.R.Civ.P. 80K**

NOW COMES the Plaintiff, the Town of Kennebunkport and makes the following complaint against the Defendant, JJWZ, LLC, pursuant to Rule 80K of the Maine Rules of Civil Procedure:

1. **LOCATION OF VIOLATION:**  
25 Mills Road  
Kennebunkport, Maine

- 1A. **NAME AND ADDRESSES OF DEFENDANT:**  
JJWZ, LLC  
c/o Stephen Y. Hodsdon, Esq.  
56 Portland Road  
Kennebunk, ME 04043

- 1B. **RECORD OWNER:**  
JJWZ, LLC by virtue of a warranty deed from Brian J. Rapp and Claire O. Hanley dated February 7, 2014 and recorded in the York County Registry of Deeds in Book 16778, Page 841.

2. **HISTORY OF VIOLATION:**  
On September 7, 1990, Raymond Mosher, a prior owner of the JJWZ, LLC property, obtained a building permit to add an addition to his house at 25 Mills Road in Kennebunkport, Maine. The project description was as follows: "build 34' x 34' shop onto back of existing house for trap repairs and building and storage."

3. **DESCRIPTION OF VIOLATION/SUMMARY OF LAW VIOLATED:**

Violation of Article 4, Section 4.9-Zone Regulations of the Kennebunkport Zoning Ordinance. Article 4, Section 4.9 (both in 1990 and currently) requires that all structures on a lot located within the Cape Porpoise East Zone be set back a minimum of 15 feet from the lot's sidelines. The 1990 building permit application represented in a sketch (see Exhibit "A" attached hereto) that the proposed addition would be located 18 feet distant from the lot's Northerly sideline. It appears that the applicant located the lot's boundary lines using assumed areas of occupation. The addition was constructed and the property, in its present configuration, was sold in 1999. In 2014 the property was resold to JJWZ, LLC. A Mortgage Loan Inspection Plan (see Exhibit "B") was prepared by Livingston-Hughes Surveyors which certified that the structures on the property did not violate town zoning requirements although the MLIP did note that the boundary lines were based upon lines of occupation and that a boundary survey might yield different results. A mortgage loan was made by Katahdin Trust to JJWZ, LLC in reliance upon this MLIP. Subsequently JJWZ, LLC hired Surveyor Paul Gadbois to undertake a full boundary survey which was completed on December 6, 2017 (see Exhibit "C"). The Gadbois Survey disclosed that the building addition constructed pursuant to the 1990 building permit is located 10 feet from the lot's Northerly boundary line as opposed to the 18 feet represented on the 1990 building permit application and the 15 foot setback requirement set forth in Article 4, Section 4.9 of the Kennebunkport Zoning Ordinance. Said setback violations were further confirmed by a MLIP performed by Middle Branch LLC (see Exhibit "D").

4. **PENALTIES FOR VIOLATION:**

Penalties are as governed by 30-A M.R.S.A. §4452.

5. **DATE OF COURT APPEARANCE:**

\_\_\_\_\_, \_\_\_\_ 2018 at \_\_\_\_\_ a.m./p.m. at the Biddeford District Court.

NOTE: IF YOU DO NOT APPEAR IN COURT ON THE DATE SPECIFIED ABOVE, A JUDGMENT BY DEFAULT MAY BE RENDERED AGAINST YOU.

6. **NAME OF COMPLAINANT/TITLE:**

Werner Gilliam, Director of Planning and Development, Town of Kennebunkport.

7. **SIGNATURE OF COMPLAINANT:**

**INHABITANTS OF THE TOWN OF  
KENNEBUNKPORT, MAINE**

Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
By: Werner Gilliam

Its: Director of Planning and Development

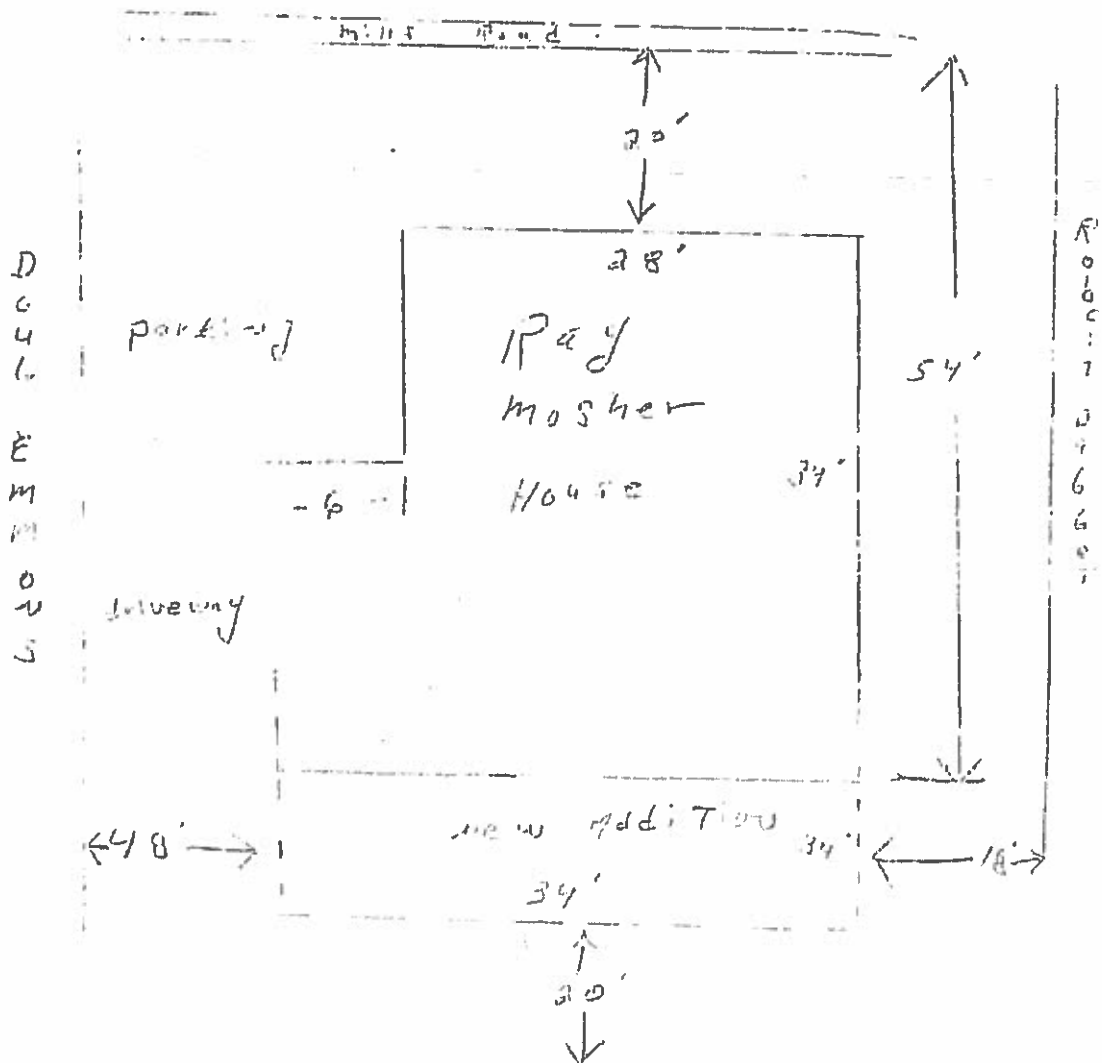


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# THIS IS NOT A BOUNDARY SURVEY

This copyrighted document expires 05-11-14. Reproduction and/or dissemination after this date is unauthorized.

MORTGAGE INSPECTION OF DEED BOOK 2827 PAGE 199 COUNTY York  
 PLAN BOOK 07 PAGE 26 LOT

ADDRESS 25 Mills Road, Kennebunkport, Maine

Job Number 770-71

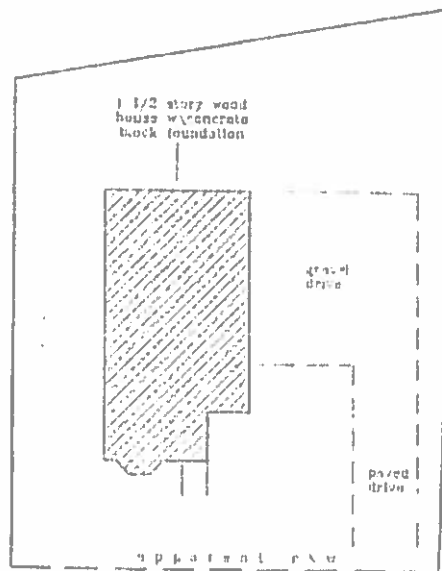
Inspection Date 02-11-14

Scale 1" = 30'

Buyer JWZ, LLC

Sellers Brian J Rapp & Claire O Hanley

## EXHIBIT



NOTE: Lines of occupation are shown. A boundary survey may yield different results.

I HEREBY CERTIFY TO Stephen A. H. J. Hughes, Esq., the lender,  
 and its title insurer.

Statements found did not conflict with the deed description.

The dwelling shown is in no way a violation of zoning requirements.

As delineated on the Federal Emergency Management Agency Community Panel 220170-00976.

The structure does not fall within the special flood hazard zone.

The lot is shown within the special flood hazard zone.

A wetlands study has not been performed.

APPARENT EASEMENTS AND RIGHTS OF WAY ARE SHOWN. OTHER ENCUMBRANCES RECORDED OR NOT MAY EXIST. THIS SKETCH WILL NOT REVEAL ANYTHING DEED COMPLIANT IF ANY.

**Livingston-Hughes**

Professional Land Surveyors

88 Guinea Road

Kennebunkport, Maine 04040

207-557-9161 phone 207-557-1010 fax

www.livingstonhughes.com

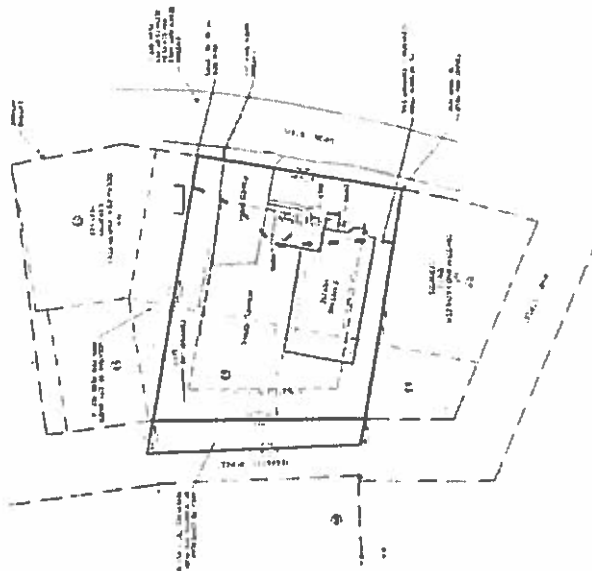
THIS SKETCH IS FOR MORTGAGE PURPOSES ONLY

**EXHIBIT**

C

[illegible]

1. **What is the purpose of the study?**  
 2. **What are the research objectives?**  
 3. **What is the research design?**  
 4. **What are the variables?**  
 5. **What is the sample size?**  
 6. **What are the data sources?**  
 7. **What are the data collection methods?**  
 8. **What are the data analysis methods?**  
 9. **What are the results?**  
 10. **What are the conclusions?**  
 11. **What are the limitations?**  
 12. **What are the recommendations?**



1999-2000

*Al. P. 100*



⑤

PAUL P. GADBOIS  
SINGERSON SLAYERING  
LAWYER  
• 1970-72 2nd, 3rd, 4th, 5th  
1973-1974

STANDARD BOUNDARY SURVEY  
ACCORDING TO  
23 JULY 1973  
# 121012/121012/121012 121012

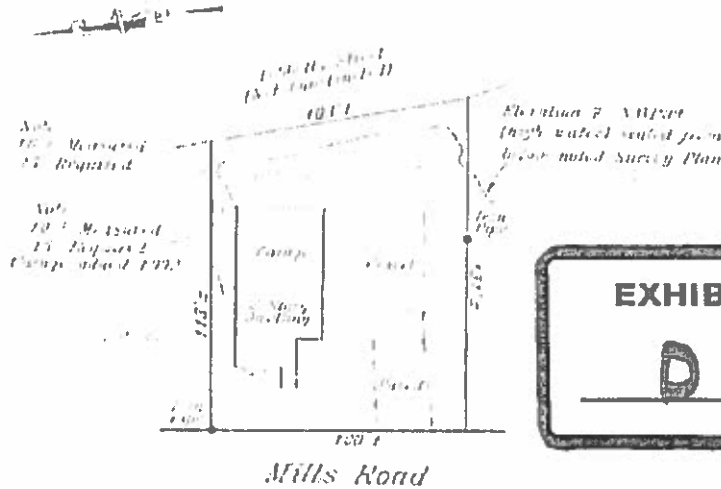
RECORDS DIVISION  
JAN 1 1962  
U.S. DEPT. OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

# For Mortgage Lender Use Only

Small text block containing legal disclaimers and instructions regarding the use of the survey for mortgage purposes.

## This Inspection Shall Not Be Used For Construction Purposes

Address: 10 Mills Road  
Hamden, Conn.  
 Inspection Date: December 12, 1977  
 State: CT



EXHIBIT

D

See also for appurtenances  
 Property appears to be duly zoned  
 Location of boundary survey is shown on map

Applicant: Middle Branch, LLC Sponsoring Party: Middle Branch, LLC  
 Owner: Middle Branch, LLC Attorney: Middle Branch, LLC  
 Lender: Hamden Savings Bank File No: 12-1222 Field Book: 12-12

### Title References

Deed Book: 1677 Page: 27  
 Plan Book: 7 Page: 22 Lot: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Middle Branch, LLC  
 Professional Land Surveyors

### Municipal References

Map: 22 Block: 2 Lot: 2  
 The owner has not been notified of the survey  
 The owner has not been notified of the survey  
 The owner has not been notified of the survey

This document is valid only for the  
 Surveyors and not for the  
 20 days after inspection of the  
 Not For Recording

This is Not a Boundary Survey

STATE OF MAINE  
COUNTY OF YORK

DISTRICT COURT  
LOCATION: BIDDEFORD  
CIVIL ACTION  
DOCKET NO.

THE INHABITANTS OF THE )  
TOWN OF KENNEBUNKPORT, a )  
municipal corporation organized )  
under the laws of the State of )  
Maine, )

Plaintiff )

v. )

JJWZ, LLC, a Maine Limited )  
Liability Company with a place )  
of business in Arundel, Maine )

Defendant )

### **STIPULATED JUDGMENT**

This matter came before the Court on the Plaintiff's Complaint for relief under Rule 80K of the Maine Rules of Civil Procedure. By the consent of the parties it is hereby ordered and adjudged that the Defendant has committed a violation of the Kennebunkport Land Use Ordinance ("Ordinance" or "LUO") by reason of a violation of the Town's minimum sideline setback requirements applicable to properties situated in the Cape Porpoise East Zone, on Defendant's property located at 25 Mills Road, Kennebunkport, Maine (Tax Map 22, Block 8, Lot 2). The parties in the above-captioned matter hereby STIPULATE AND AGREE to the entry of Judgment as follows:

1. Defendant JJWZ, LLC is the owner of the land and buildings described in a deed from Brian J. Rapp and Claire O. Hanley dated February 7, 2014 and recorded in the York County Registry of Deeds in Book 16778, Page 841, identified on Kennebunkport

Assessor's Tax Map 22, Block 8, Lot 2. The property, comprised of a residential lot with frontage along Mills Road, is hereinafter referred to as "the subject property".

2. This matter has been filed pursuant to the provisions of Article 11 of the Kennebunkport Land Use Ordinance and M.R.Civ.P. Rule 80K for enforcement of land use laws and ordinances upon the discovery of an apparent non-conformity in the location of an addition to the residence as constructed on the property.

3. All parties consent to the filing of the Complaint in this matter pursuant to Title 30-A M.R.S. §4452 and M.R.Civ.P. Rule 80K and waive any requirements of service of process, formal citation, and any other jurisdictional issues. It is the intent of the parties to fully vest this Court with jurisdiction over the matters contained herein.

4. The subject property is located in the Cape Porpoise East Zone, which has applicable side setback requirements of fifteen (15) feet as prescribed by LUO Article 4, Section 4.9.

5. In 1990, Raymond Mosher, a predecessor in title to the subject property, obtained a building permit to construct a 34' x 34' addition to the rear (easterly side) of the existing residence. The proposed addition was shown on a sketch attached to the 1990 building permit application, which sketch shows that the proposed addition would be placed 18 feet distant from the subject property's northerly side line. See **Exhibit A** attached hereto. It is unclear whether any inspection or field measurements were taken at the time to support the location of the proposed addition on the subject property.

6. The addition was constructed and the subject property, in its present configuration, was sold in 1999. In 2014, the subject property was sold again to the Defendant.

7. A mortgage loan inspection plan ("MLIP") of the subject property, prepared by Livingston-Hughes Surveyors on February 11, 2014, a copy of the same which is attached hereto as **Exhibit B**, certified that "[t]he dwelling setbacks do not violate town zoning requirements," but went on to note that the boundary lines depicted were based

on “[l]ines of occupation . . . [and] . . . [a] boundary survey may yield different results.” In 2014, a mortgage loan was made by Katahdin Trust to the Defendant in reliance upon the MLIP shown as **Exhibit B**.

8. Subsequently, Defendant hired a surveyor to undertake a full boundary survey of the subject property, which survey dated December 6, 2017 is attached hereto as **Exhibit C**. That survey shows that the building addition constructed pursuant to the 1990 building permit is actually located approximately ten (10) feet from the lot’s northerly side line, not the eighteen (18) feet represented on the 1990 building permit application, and is in violation of the fifteen (15) foot side setback requirement set forth in LUO, Article 4, Section 4.9. This side setback violation was further confirmed by another MLIP performed for Defendant by Middle Branch, LLC on December 18, 2017, a copy of which is attached hereto as **Exhibit D**.

9. During the entire period of Defendant’s ownership of the subject property up until the December 2017 survey and MLIP was performed, Defendant has used the subject property without knowledge of the non-conformity.

10. The parties stipulate that the residence on the JJWZ, LLC property, as renovated in 1990, violates the provisions of Article 4.9 of the Kennebunkport Zoning Ordinance in that the addition on the subject property is located ten (10) feet from the Northerly sideline of the property, rather than the required fifteen (15) feet.

11. The Plaintiff Town has investigated and finds that the afore-mentioned setback violation was inadvertent, and was not the result of a willful, pre-meditated act of bad faith or gross negligence on the part of Defendant, a predecessor in title to the Defendant, or an agent of any of them. The Plaintiff Town further finds that the violation does not pose any significant health, safety or welfare problem and it would not serve the public interest to require the addition to the residence to be relocated or removed for purposes of eliminating the setback violation because the impacts of allowing the mislocated addition to remain in its existing location will not be substantially different



from or greater than the impact and effects of a structure which conforms to the applicable setback requirements.

12. This Stipulated Judgment does not authorize any expansion, enlargement, alteration or relocation of the residence (as enlarged) on the subject property that does not comply with applicable setback provisions of the Ordinance. It is the intent of this Stipulated Judgment that the portions of the existing structure that violate the setback provisions of the Ordinance may be repaired in their current location, but shall not otherwise be enlarged, altered or relocated without conforming to existing Ordinance provisions.

13. Plaintiff agrees, and hereby does relinquish, its right to any further prosecution of the Defendant, the Defendant's successors and assigns, for the aforesaid setback violation of the Kennebunkport Land Use Ordinance; provided, however, that if the Defendant, its successors or assigns, shall breach or otherwise fail to meet the terms of this Stipulated Judgment, Plaintiff may institute appropriate Court proceedings to enforce the provisions of the Kennebunkport Land Use Ordinance and/or this Stipulated Judgment, and shall be entitled to applicable remedies, as well as injunctive relief.

14. The Defendant agrees to pay the Plaintiff a civil penalty in the amount of \$\_\_\_\_\_, as well as the reasonable attorney's fees incurred by the Plaintiff in connection with the resolution of this matter (which are estimated to be no more than \$1,000.00). Said payment shall be made to the Plaintiff within thirty (30) days of entry of this Stipulated Judgment.

15. This Stipulated Judgment shall be binding upon the Defendant, its successors and assigns, and shall be duly recorded in the York County Registry of Deeds.

The Clerk is specifically directed pursuant to M.R.Civ.P. 79(a) to enter this Stipulated Judgment on the Civil Docket by notation incorporating it by reference.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2018

\_\_\_\_\_  
**Judge, Maine District Court**



# Agenda Item Divider



6

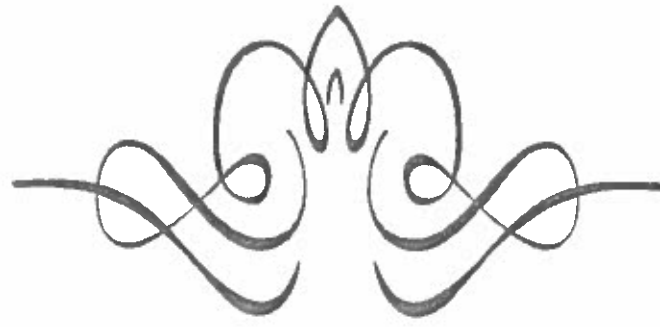
## Restricted Vehicle Weight on Posted Roadways

The Town of Kennebunkport has authorized the closing of certain town ways to any non-exempt vehicle or combination of vehicles registered for a gross weight of over 23,000 pounds. The following roads will be closed to such traffic commencing on March 1, 2018 and will remain closed until at least April 27, 2018, unless postings are removed by the Town of Kennebunkport. Any violation of the rules is a traffic infraction punishable by a fine of not less than \$250. Home Heating Fuel Delivery Trucks and Municipal Solid Waste Collection Trucks are exempt from Posted Road regulations. The posting shall remain in force except when the way is solidly frozen. The highway is considered solidly frozen only when the air temperature is 32 degrees F. or below and no water is showing in the cracks in the road. Both conditions must be met.

The Town of Kennebunkport will be posting restricted vehicle weight signs on the following roads:

- \* *Arundel Road from Goff Brook to Goose Rocks Road*
- \* *River Road from Goff Brook to North Street*
- \* *Beachwood Avenue from North Street to Route 9*
- \* *Walkers Lane from North Street to Beachwood Avenue*
- \* *Old Cape Road from Beachwood Avenue to Route 9*
- \* *Goose Rocks Road from Log Cabin Road to Route 9*
- \* *Stone Road from Beachwood Avenue to Goose Rocks Road*
- \* *Guinea Road from Goose Rocks Road to Biddeford Line*
- \* *Whitten Hill Road from Goose Rocks Road to Guinea Road*
- \* *Maine Street from Elm Street to Wildes District Road*
- \* *Pier Road*
- \* *New Biddeford Road from Route 9 to Kings Highway*
- \* *Winter Harbor Road from Route 9 to New Biddeford Road*
- \* *Dyke Road*
- \* *Wildes District Road*
- \* *Ocean Avenue*
- \* *Langsford Road*
- \* *Ward Road*
- \* *Northwood Drive*
- \* *Oak Ridge Road*
- \* *West Street, Oak Street, Locke Street, Others if needed*

Please feel free to contact the Highway Department at 967-5728 if you have any questions or concerns.



# Agenda Item Divider



7



TOWN OF KENNEBUNKPORT, MAINE

OFFICE OF THE TOWN CLERK

To: William McKay II  
37 Mt Kineo Rd  
Kennebunkport Me 04046

In accordance with the Waterfront Ordinance and the Cape Porpoise Pier Rules And Regulations the following violations will be presented to the Board of Selectmen on **Thursday, February 22, 2018 at 6:00 pm**, at the North St Fire Station.

Section 6 Subsection 2 of the Pier Rules and Regulations.  
Between 12/1/17 and 12/18/17 lobster gear was left on the pier beyond the 72 hour grace period. This resulted with a \$210.00 fine.

Section 5 Subsection h and i of the Pier Rules and Regulations.  
On 1/21/18-1/22/18 diesel fuel was knowingly left on the punt float in open containers.

Unreported damage to the pier.  
On 1/19/18 the ladder on the face of the pier was knowingly damaged and never reported.

The Board of Selectmen will review the violations and consider a course of action that could result in fines or lose of Pier privileges or both.

Harbormasters recommendation: Due to hard ship, I recommend we put the two storage violations on file for one year on the agreed terms that no additional violations are accrued within that year. Any violations received in that year and the past violations will be reinstated. Recommendation for damaged ladder is to pay for materials and labor est. \$150.00.

Lee McCurdy  
Harbormaster  
207-967-5040

2-13-18



Published on *Town of Kennebunkport, ME* (<https://www.kennebunkportme.gov>)

[Home](#) > Cape Porpoise Pier Ordinance

## Cape Porpoise Pier Ordinance

1. **Preamble:** The Inhabitants of Kennebunkport having determined that the operation of a fish pier and public landing is a public purpose and having determined that such a facility is needed in Cape Porpoise Harbor for the convenience and economic well-being of the Inhabitants of the Town of Kennebunkport, enact this ordinance to be known as the "Cape Porpoise Fish Pier Ordinance".
2. **Definitions:**
  1. **Cape Porpoise Pier:** "Cape Porpoise Pier" means the existing pier on Bickford's Island in Cape Porpoise and the related real estate, fixtures, personal property, easements and other rights belonging to the Town of Kennebunkport and any replacement, improvement, extension or modification of said premises and facilities made hereafter.
  2. **Town:** "Town" means the Town of Kennebunkport organized and existing as a municipal corporation under the laws of the State of Maine.
3. **Purposes:** The Cape Porpoise Pier shall be managed by the municipal officers of the Town, or their designee, primarily as a public fish pier for the berthing, servicing, loading, offloading, repair and other needs of commercial fishing vessels. To the extent compatible with its primary use as a public fish pier, and to the extent permitted by agreements between the Town and the State of Maine, the pier shall also be available for use by other vessels, by residents of the Town, and by members of the general public.
4. **Fee structure:** After notice and public hearing, the municipal officers shall establish a reasonable schedule of fees for the use of the Cape Porpoise Pier, its related facilities, and for services provided at the pier. In establishing the schedule of fees, the municipal officers shall consider the value of the services provided, the costs to the Town for administration, maintenance, salaries, equipment, debt service and repairs to the pier, the expenses incurred by the Town for piers, docks and harbors and the amounts collected by the Town in personal property taxes on boats. Copies of the schedule of fees as established by the municipal officers shall be available at the municipal office during normal business hours and shall be posted in the vicinity of the Cape Porpoise Pier.
5. **Regulations:** After notice and public hearing the municipal officers are authorized to adopt regulations governing the rules of operation of the Cape Porpoise Pier which rules shall be designed to ensure its primary use as a fish pier, to prevent obstruction, overcrowding and unnecessary delays, to prevent personal injury or damage to vessels or property, to maintain safe and healthful conditions, to prevent vandalism and theft of property, to establish reasonable limits on the hours of operation, to prevent disturbance of the peace, to ensure that fees established are collected, and to govern such other matters as may be necessary or useful to the management and operation of the pier.
6. **Authority to contract:** The municipal officers are authorized to contract on such terms and conditions as are in the best interest of the Town with private persons or corporation for the provision of services to fishermen, vessels, residents of the Town and members of the public using the Cape Porpoise Pier and to contract for the operation of food take-out, ship store,



retail and wholesale, lobster pounds and other incidental businesses on the Cape Porpoise Pier facilities. Prior to entering into any such contract, the municipal officers shall give notice of their intention to enter into such a contract and shall afford interested persons a reasonable opportunity to submit proposals for consideration.

7. **Cape Porpoise Pier Account:** All fees, rents leasehold payments of other sums collected by the Town in connection with the operation of the Cape Porpoise Pier shall be kept in a separate account to be known as the Cape Porpoise Pier Account. The funds in said account shall be used by the municipal officers to supplement any other sums appropriated by the Town for the costs association with the Cape Porpoise Pier, including without limitation, expenses for administration, salaries, debt service, maintenance, equipment and repairs. Funds remaining in the Cape Porpoise Pier Account at the end of the fiscal year shall not lapse and such funds shall not be transferred to other accounts unless by vote of the Town at a regular or special town meeting.
8. **Authority to Retain Pier Manager:** The municipal officers are authorized to contract with or employ a Pier Manager and such other personnel as may be necessary to the operation of the Cape Porpoise Pier on such terms and conditions as are in the best interest of the Town. The municipal officers may delegate to the Pier Manager responsibility for the management and operation of the Cape Porpoise Pier under the general direction and supervision of the municipal officers, provided that the municipal officers shall not delegate the authority to establish fees under S4, to adopt regulations under S5 or to enter into contracts under S6 of this ordinance.
9. **Penalties:** Whoever violates the provisions of this ordinance or any regulation or rule established under this ordinance shall be punished by a fine of not more than \$100 for each such occurrence. If any violation continues for a period longer than 24 hours, each day that it continues shall be deemed a separate violation subject to the penalty herein provided. The right of any person to use the Cape Porpoise Fish Pier may be suspended by the municipal officers, after reasonable notice and hearing, for failure to pay any fees due or for violation of regulations adopted pursuant to this ordinance.
10. **Notice:** The notice requirements under SS4, 5 and 6 of this ordinance shall be met by posting in three public places within the Town and by publication in a newspaper of general circulation at least seven days prior to the hearing.

***Adopted – April 14, 1982 at a Special Town Meeting***

**Source URL:** <https://www.kennebunkportme.gov/town-clerk/pages/cape-porpoise-pier-ordinance>

**Town of Kennebunkport**  
**Cape Porpoise Pier Rules and Regulation**

**1. Authority**

These rules and regulations are adopted by the Board of Selectmen pursuant to the Administrative Code, Article I – 1.2.9(n) and the Cape Porpoise Pier Ordinance Section 5 – Regulations.

**2. Purpose**

The Inhabitants of Kennebunkport have authorized the Board of Selectmen to operate a fish pier in Cape Porpoise Harbor for the convenience and economic well-being of the Town. The Selectmen have been charged with establishing rules and regulations governing the use and operation of the Cape Porpoise Pier in order to ensure its primary use as a fish pier while maintaining public access to the water.

**3. Enforcement**

The Pier Manager, Harbormaster, and all law enforcement officers have the authority to enforce these rules and regulations.

**4. Definitions**

- a. **Commercial Fisherman:** one who makes the majority of their income from lobstering and/or fin fishing, not to include tuna fishing.
- b. **Dealer:** a licensed wholesale or retail lobster dealer who buys and sells lobsters.
- c. **Commercial:** concerned with or engaged in commerce related to fishing with the intention of making a profit.

**5. General Provisions:**

- a. Non-compliance with pier rules and regulations may result in fines and/or the loss of pier privileges.
- b. The Pier operating hours will be from 8:00 am until 4:00 excepting Town holidays. The Pier Manager is allowed approved time off.
- c. Service vehicles are allowed on the pier, provided the vehicle is not left unattended.
- d. There will be no recreational swimming or diving from the pier.
- e. There is a 10 pm curfew for all non-commercial use of the pier.
- f. All refuse must be deposited in the containers supplied for this purpose, and all waste oil must be deposited off property.

- g. The discharge, disposal, or dumping of oil, dead fish, or parts, rubbish, refuse, or debris from the Fish Pier, Vessel or other sources into or on the tidewaters or shores is strictly prohibited.
- h. There will be no drain oil left in trash containers or on pier premises.
- i. There will be no above-ground fuel or gasoline tanks left on pier complex, including the parking lot.
- j. There will be no dressing of fish at the pier.
- k. Hand fishing, sightseeing and buying fish and lobsters for personal consumption are permitted.
- l. The drinking of alcoholic beverages is prohibited at the fish pier, when off restaurant premises.
- m. It shall be the responsibility of each Captain to comply with these regulations and further be responsible for the clean-up of the area immediately after loading/unloading.

6. Pier Rules:

a. Storage:

- i. There will be no dead storage on wharf, ramps, or floats, or adjacent owned town property. Dead storage shall include, but not be limited to: lobster traps, barrels, rope, buoys, nets, lobster crates, mooring gear, boat gear, wood, metal, fiberglass, and any other personnel or marine related gear.
- ii. Gear may be left no longer than 72 hours (3 days), unless it is related to major storm damage, then a grace period may be extended by the Pier Committee.
- iii. A fine of \$3.00 per unit will be levied against the owner of gear left beyond the 72 hours, 3 day grace period. At the end of 6 days, if the fine has not been paid and gear removed, the fine will be doubled and the violator will be reviewed by the Pier Committee, and forwarded to the Selectmen with their recommendations.

b. Punt Floats:

- i. Boats up to and including 14' in length will be allowed at the punt float.
- ii. Mooring permit numbers must be affixed to all punts using the punt float. Any punts without proper demarcation will be removed.
- iii. Any derelict punts left unattended for 48 hours are subject to removal at owner's expense.
- iv. No bait will be taken down the punt ramp.

- c. Bait Shed:
  - i. The bait shed will be kept clean in good repair.
  - ii. Each person holding space in the bait shed will be responsible for keeping his or her own area clean. Those not in compliance will be brought before the Town Manager and Pier Committee and then forwarded to the Board of Selectmen for disciplinary action.
  - iii. The bait shed will be used strictly for bait.
  - iv. The bait space maximum limit will be determined based upon available space by the Pier Manager.
- d. There will be no overnight docking except by permission of the Pier Manager. The pier manager may authorize overnight dockage for up to 48 hours.
- e. No vessel may be left unattended under the hoist of the pier for a period of more than  $\frac{1}{4}$  (one-quarter) hour. In no event, shall any vessel not actively using said facilities for loading or unloading remain there, when any other vessel requires the use of said facilities for said purposes.

#### 7. Pier Member Fees

Pier members shall pay applicable fees for access and use of the pier. Use of pier facilities be dependent upon the categories of use. Commercial Pier membership will include access to the punt float, bait shed, fuel, fresh water, and use of pier and cranes. Recreational Pier members will have access to fuel, fresh water, and punt float.

The Pier Committee will review the fees on a regular basis and recommend annual Cost of Living Adjustment increases to the Board of Selectmen. The Selectmen will determine the annual fees prior to the annual billing cycle.

Pier users / members will pay their annual pier dues for the first boat. Any additional boats will be charged at \$5.00 /ft.

Commercial pier users who have a debilitating illness may apply for a waiver fee (\$100) each year the illness prevents them from fishing. The application will be submitted to the Pier Committee for review and approval.

Pier Members will be billed each year, and bills will be due and payable within 30 days. After 60 days, all unpaid bills will be forwarded to the Board of Selectmen for dispensation. Pier members with accounts 60 days or

greater past due may be removed from the Pier Member schedule and all member privileges will be revoked.

8. Fuel

For the convenience of Pier Members the Town of Kennebunkport sells fuel at the Cape Porpoise Pier. Pier members may apply for a key to charge fuel at their convenience. Due to the limited number of keys, commercial fishermen will have first priority. The Pier Manager will assign keys. Pier Members may charge fuel for up to 15 days. Any member who has not paid in full will be restricted from any future fuel charges immediately. Fuel privileges will be restored if the member pays within 30 days. After three past due fuel incidents the Pier Member will lose all future fuel charge privileges. Pier Members may use a credit card to charge fuel with a surcharge applied to the purchase.

9. Parking / Traffic

- a. Parking in the pier parking area shall be permitted for the following uses, in order of priority: (1) individuals paying pier dues to the Town; (2) users of the Cape Porpoise Pier for its primary use as a public fish pier, such as fishermen, vendors and others conducting business or performing services associated with the Pier; (3) users (including staff) of any businesses leased by the Town and located on Town-owned property on the Cape Porpoise Pier for the operation of businesses incidental to a public fish pier such as food take-out, restaurant, ship store, retail and wholesale, and lobster pounds; and (4) members of the general public who wish to access the Pier for sightseeing or recreation; and (5) other users by permission of the Town.
- b. No vehicle may stop, stand or park in the Pier parking area between the dates of May 15 and September 15 for the purpose of launching a kayak, canoe or other hand-carry boat or flotation device. The Town may assign personnel to permit, manage and direct the parking of vehicles in the Pier parking area.
- c. Vehicles illegally parked, or not parked within designated areas are subject to being towed at the owner's expense.
- d. There will be no overnight parking allowed except for pier members on multiple day fishing trips.

# **WATERFRONT ORDINANCE**

## **1. GENERAL PROVISIONS**

### **1.1 TITLE**

This ordinance shall be known as the "Waterfront Ordinance of the Town of Kennebunkport, Maine". It shall be referred to herein as the "Ordinance".

### **1.2 AUTHORITY**

This ordinance is adopted pursuant to the authority granted by Title 38 M.R.S.A., Chapter 1, as amended, Title 30-A M.R.S.A., §§ 3001, 3007, 3009 and 4452, as amended and the Home Rule provisions of the Constitution of the State of Maine with additions and deletions.

### **1.3 PURPOSE**

Kennebunkport's waterfront is a limited and valuable resource. The demands on this resource have been increasing for both commercial and recreational uses; therefore, this Ordinance is adopted for the following purposes:

- 1.3.1** Ensure that there will always be adequate and usable mooring space for the Kennebunkport Commercial Fishing Fleet.
- 1.3.2** Preserve the working waterfront, which includes commercial fishing, marine related businesses and recreational boating.
- 1.3.3** Provide Ordinance guidelines and authority for the Harbormaster to administer mooring space and to resolve any conflicts.
- 1.3.4** Address dangerous and unsuitable mooring placements.
- 1.3.5** Ensure consistency with the policies set by the state of Maine and the US Army Corps of Engineers.
- 1.3.6** Plan, establish and maintain the arrangement and utilization of Mooring areas, public landings, boat ramps, harbor channels and other related properties in Kennebunkport Waters.

### **1.4 APPLICABILITY**

The provisions of this ordinance shall apply to all tidal water areas located within the municipal boundaries of Kennebunkport, Maine, with the exception of the Kennebunk River, hereinafter referred to as Kennebunkport Waters.

**1.5 SEVERABILITY**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unenforceable by any Court, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

**1.6 CONFLICT**

Whenever any section, subsection, sentence, cause, phrase or portion of this ordinance is deemed to be in conflict with any existing state law and/or federal rule(s), then the stricter provision shall apply, unless preempted by federal law.

**1.7 EFFECTIVE DATE**

This ordinance shall become effective immediately upon adoption.

**2. DEFINITIONS**

For the purpose of interpreting this Ordinance, the following terms, phrases and words shall be defined as set forth below.

**COMMERCIAL FISHERIES BUSINESS:** An enterprise, as defined in Title 12 M.R.S. Section 6001(6-A), which is directly or indirectly concerned with the commercial harvest of wild or aquacultured marine organisms, whose primary source of income is derived from these activities. "Commercial fisheries business" includes, but is not limited to:

- A. Licensed commercial fishermen, aquaculturists and fishermen's cooperatives;
- B. Persons providing direct services to commercial fishermen, aquaculturists or fishermen's cooperatives, as long as provision of these direct services requires the use of working waterfront property; and
- C. Municipal and private piers and wharves operated to provide waterfront access to commercial fishermen, aquaculturists or fishermen's cooperatives.

**COMMERCIAL FISHING VESSEL:** A vessel used in furtherance of the purposes of a commercial fisheries business, including vessels rigged to engage in the commercial harvest, processing or transport of wild or aquacultured marine organisms as well as supporting vessels such as lobster, crab and shellfish cars.

**FEE:** A charge for the use of Town owned waterfront facilities; all fees described herein are set by the Board of Selectmen annually and will be effective upon adoption by the Board of Selectmen at a public meeting.

**FINE:** A civil penalty for a violation of this Ordinance; all fines are set by the Board of Selectmen annually and will be effective upon adoption by the Board of Selectmen at a public meeting.

**HARBOR MASTER:** A person appointed pursuant to Title 38 M.R.S.A. § 1 and this Ordinance; all references to the Harbor Master shall include any Deputy Harbor Master.

**KENNEBUNKPORT WATERS:** Has the meaning defined by Section 1.4.

**MOORING:** The Means of securing a vessel to a particular location in Kennebunkport Waters, other than temporarily by anchor for a period of no more than 72 hours. Dock, pier, wharf or float tie-ups are not moorings. There are three classes of moorings, Commercial, Recreational and Transient, which are defined below.

**Commercial:** A Mooring issued to and utilized by a Commercial Fisheries Business for the purpose of mooring a Commercial Fishing Vessel.

**Recreational:** A Mooring other than a commercial mooring that is permitted for the purpose of mooring a specific Vessel.

**Transient:** A Mooring set aside for temporary (7 days or less) use by Vessels cruising along the coast.

**MOORING PERMIT:** An annual permit that is issued by the Harbor Master to a Mooring Permittee, authorizing the placement of a specific class of Mooring at a specific Mooring Site and which expires on May 31 of the year following its issue.

**MOORING PERMITTEE:** A person granted a Mooring Permit.

**MOORING PERMIT WAITING LIST:** A list of persons desiring a Mooring Permit as described in Section 4.3.2.

**MOORING RELOCATION WAITING LIST:** A list of Mooring Permittees desiring relocation of a Mooring Site as described in Section 4.3.2.

**MOORING SITE:** A specific location assigned by the Kennebunkport Harbor Master for placement of a Mooring, defined by GPS coordinates where practicable.

**PERSON:** An individual, a corporation, a firm, partnership, an association or any other entity.



**SHIP CHANNELS:** Ship channels as described herein and depicted on the NOAA nautical chart and other such channels designated by the Harbor Master which shall be kept open for the passage of watercraft. These channels are maintained by the US Army Corps of Engineers and are depicted on the Corps Condition Survey for Cape Porpoise and the Kennebunk River.

**SHOREFRONT OWNER:** A person who owns Kennebunkport shorefront property with a minimum 100 feet of shore frontage on Kennebunkport Waters who can demonstrate that a Mooring Site fronting their property is both practicable and safe.

**VESSEL:** Any type of watercraft, including a ship, boat, barge, float or craft, other than a seaplane, used or capable of being used as a means of transportation on water. For purposes of this Ordinance, floating docks including commercial work floats and lobster, crab and shellfish cars are vessels.

**VESSEL OWNER:** The person who can demonstrate the controlling interest in a Vessel and who is named on the boat registration or the person identified as the managing owner on the U.S.C.G. Certificate of Documentation.

### **3. HARBOR MASTER**

#### **3.1 APPOINTMENT AND COMPENSATION**

Pursuant to the Kennebunkport Administrative Code, Article III, the Board of Selectmen shall annually appoint a Harbor Master who shall be subject to all the duties and liabilities of that office as prescribed by state law, regulations adopted by the municipal officers and municipal ordinances. Pursuant to the Kennebunkport Administrative Code, Article II, the Town Manager shall establish compensation and may remove the Harbor Master for cause after notice and hearing and appoint another instead.

#### **3.2 POWERS AND DUTIES**

##### **3.2.1 Removal of Vessels**

The Harbor Master, upon complaint from the master, owner or agent of any Vessel, shall cause any other Vessel or Vessels obstructing the free movement or safe anchorage of that Vessel to be removed to a position as designated by the Harbor Master and may, without any complaint being made, cause any Vessels anchoring within the ship channels to be removed to such anchorage as the Harbor Master may designate. If that Vessel has no crew on board or if the master or other person in charge neglects or refuses to move such Vessel as directed by the Harbor Master, the Harbor Master may put a suitable crew on board and move that Vessel to a suitable berth at a wharf or anchorage at the expense and risk of the owner(s) of the Vessel and shall charge a Vessel Removal Fee plus expenses, to be paid to the Town of Kennebunkport by the master or owner of that Vessel.

Once a Vessel has been removed by the Harbor Master the owner of record shall be notified in writing and mailed a notice via US Mail certified return receipt. Such notice shall give the owner 30 calendar days to relocate the Vessel to a suitable location and pay a Vessel Removal Fee as set by the Board of Selectmen. Should the Vessel not be relocated within the set time period a fine of up to \$100 per day may be assessed until the Vessel is relocated. After 60 calendar days the Vessel may be declared abandoned. Abandoned Vessels may be disposed of at the direction of the Harbor Master.

### **3.2.2 Mooring Removal or Replacement**

In case of neglect or refusal of the Mooring Permittee to remove a Mooring or to replace it by one of a different character when so directed by the Harbor Master, the Harbor Master shall cause the entire Mooring to be removed or shall make such change in the character of the Mooring as required and shall charge a Mooring Removal/Replacement Fee, plus expenses, to be paid to the Town of Kennebunkport by the Mooring Permittee for either of those services rendered. Before removing a Mooring, the Harbor Master shall notify the Mooring Permittee by first class mail, at the address on the current Mooring Application, of the action desired, the fact that the Mooring will be removed, and the amount of the Mooring Removal/Replacement Fee. If the matter is not settled to the Harbor Master's satisfaction within 14 days, the Harbor Master may take any action provided for in this section.

The Harbor Master is authorized to remove any unmarked and/or unauthorized moorings. The Harbor Master may remove the mooring immediately and shall charge a Mooring Removal Fee, plus expenses to be paid to the Town of Kennebunkport by the owner of the unmarked and/or unauthorized mooring.

### **3.2.3 Training**

The Harbor Master shall complete training as required by Title 38 M.R.S.A. §1-A, as amended. In addition the Harbormaster shall be required to attend the annual Harbormaster training by the Maine Harbormasters Association.

## **4. MOORINGS**

### **4.1 ANCHORAGES**

No person shall place or allow to anchor or to lay any Vessel in any position in Kennebunkport Waters for more than 72 hours unless written permission has been granted by the Harbormaster. The Harbormaster may designate a specific area available as a general anchoring area.

## **4.2 DESIGNATION OF MOORING SITES**

The Harbor Master shall designate Mooring Sites in accordance with Title 38 M.R.S.A., § 3, as amended. Mooring Sites shall be permitted for the sole use of the Vessel indicated on the application. Any change in the Vessel using the Mooring Site must be in accordance with this ordinance and state law and have the written approval of the Harbor Master.

The Harbor Master shall have the authority to determine the total number of allowed moorings based on available Mooring Sites. The Harbor Master may consult with the Board of Selectmen and any other appropriate authority to determine mooring areas and their capacity. Commercial Moorings shall comprise at least 60% of the total number of Mooring Sites within Cape Porpoise Harbor. If an existing Commercial Mooring becomes available within Cape Porpoise Harbor, it may not be assigned for use as a Recreational or Transient Mooring if such assignment would cause the number of Commercial Moorings to constitute less than 60% of the total number of available mooring sites within Cape Porpoise Harbor. Mooring Sites outside of Cape Porpoise Harbor may be designated commercial, recreational, or transient at the discretion of the Harbor Master.

The Harbor Master may change the location of assigned Mooring Sites when the crowded condition of the harbor, the need to conform with Title 38 M.R.S.A., §§ 3, 7-A, or other conditions render the change desirable.

## **4.3 MOORING PERMIT**

### **4.3.1 Application**

Application for a Mooring Permit shall be made annually and shall contain the information set forth on the application. The applicant must demonstrate that the applicant is the Vessel Owner of the Vessel associated with the Mooring. An application will not be processed unless it is complete, the payment of required fees, including excise taxes or other taxes or charges owed to the Town of Kennebunkport, or its agent, are made prior to May 1st and there be a current Mooring Inspection Certification on file with the Harbor Master. At the time of each annual review of Mooring Permits, existing Mooring Permittees shall be given priority over other applications for a Mooring.

The Harbor Master shall deny any application where incorrect information is submitted, where outstanding Kennebunkport pier use fees or fuel fees are owed to the Town, or where an applicant is not in compliance with this ordinance.

#### **4.3.2 Waiting List**

The Harbor Master shall maintain a Mooring Permit Waiting List and a Mooring Relocation Waiting List each of which shall be available for inspection at the Harbor Master's office. The operation of all waiting lists shall conform to Title 38 M.R.S.A., § 7-A as amended.

All persons desiring mooring space in Kennebunkport Waters shall place their name and the type of mooring desired on the Mooring Permit Waiting List. All Mooring Permittees desiring a different Mooring Site shall place their names and their desired mooring location on the Mooring Relocation Waiting List. A fee may be charged to be placed on the Mooring Permit Waiting List which shall be applied against the mooring permit fee as a credit the year the mooring is placed. The Mooring Permit Waiting List will be operated on a first come first serve basis, priority being given as stated below:

1. Commercial fishing vessel owners.
2. Shorefront property owners.
3. Recreational vessel owners.
4. Transient moorings to be operated by the Town of Kennebunkport.
5. Transient moorings to be operated by any other person. The Mooring Relocation Waiting List will be operated on a first come first serve basis. The Harbor Master shall attempt to accommodate any request for a relocated Mooring Site when, in the Harbor Master's discretion, conditions do not render the relocation undesirable, and the relocation is consistent with Section 4.2.

#### **4.3.3 To Whom Issued**

A Recreational Mooring Permit shall only be issued to the Vessel Owner and a Commercial Mooring Permit shall only be issued to an officer or principal of the Commercial Fisheries Business. A Transient Mooring Permit shall be issued to the person who will maintain and operate the Transient Mooring.

#### **4.3.4 Conversion**

A Mooring shall not be converted from the class of Mooring originally permitted if such conversion would be inconsistent with Section 4.2.

#### 4.4 MOORING IDENTIFICATION

All Moorings shall have the number of the Mooring Permittee indicated on the float or buoy above the water line for the purposes of identification. Such number and name shall be displayed in at least three (3) inch letters and be legible at all times. Mooring buoys shall be white with a single blue horizontal band clearly visible above the water line.

#### 4.5 PLACEMENT OF MOORINGS

No person shall place a Mooring of any type within the boundaries of Kennebunkport Waters without a Mooring Permit issued by the Town of Kennebunkport's Harbor Master.

#### 4.6 SIZE AND CONSTRUCTION

All Moorings shall be of a suitable size and construction for the Vessel. Mushroom or pyramid anchors are recommended, unless the owner can demonstrate holding power adequate for his boat. Blocks are permitted however they may only be granite; concrete or cement blocks are not allowed. The weight of the Mooring anchor shall conform to the requirements of either the chart or formulas below. Chain size shall conform to the chart below, regardless of whether the weight conforms to the chart or formulas below.

Length of Boat (Feet)	Weight of Mooring Anchor (Pounds)	Chain Size (Minimum)
20' Or Less	500	1/2"
20' To 30'	1000	1"
30' To 40'	1500	1 1/4"
40' To 60'	2000	1 1/2"

Mooring weight: To determine the minimum weight of a mushroom or pyramid anchor, multiply the length on deck (ft.) by the beam (ft.) by 1.5. The product is the minimum mooring weight in pounds.

Example: Boat length 31 ft., beam 10 ft.  
 $31 \times 10 \times 1.5 = 465$  lbs. minimum weight.  
Round up to the next even mooring size.

Shallow water (restricted) moorings: are set in less than less than 6 feet of water at high tide for boats twenty (20) feet or less. Minimum Requirements shall be length x beam = anchor weight for mushroom or pyramid anchors (minimum weight 50 pounds).

Dead weight anchors length x beam x 1.5 x 2 = dead weight.

#### **4.7 INSPECTION OF MOORINGS**

The Board of Selectmen shall have the authority to approve regulations to establish a program requiring the inspection of moorings.

#### **4.8 DENIAL**

The Harbor Master may deny the replacement or use of a Mooring if in the judgment of the Harbor Master, the Vessel is:

**4.8.1** Structurally unsafe;

**4.8.2** Emitting obnoxious fumes, oils, or any other substance detrimental to the safety or comfort of others, including any pollution of its waters, shores and flats;

**4.8.3** Of inappropriate size for the Mooring; or

**4.8.4** Causing damage to Town owned waterfront facilities.

#### **4.9 NON-USE OF MOORINGS**

If a Mooring Permittee fails to use the assigned Mooring Site or Mooring for the Vessel listed on the current Mooring Permit during the term (June 1 to May 31) of that permit, the Mooring Permit shall not be renewed. A Mooring Permittee may appeal such non-renewal to the Board of Selectmen pursuant to Section 10 of this Ordinance.

#### **4.10 MOORING ASSIGNMENTS**

**4.10.1** There shall be no transfer of a Mooring Permit or an assigned Mooring Site and no renting of a Recreational or Commercial Mooring, except for good cause with the prior written approval of the Harbor Master and, if otherwise required by law, the Army Corps of Engineers, or as otherwise noted in this ordinance. Municipal and Commercial Transient moorings are permitted to be rented.

**4.10.2** A Mooring Permittee shall promptly notify the Harbor Master of a proposed change of Vessel on a Recreational or Commercial Mooring. Such change of Vessel shall be permitted only with the prior written approval of the Harbor Master.

**4.10.3** Any assigned Mooring Site used for commercial fishing purposes may be transferred only at the request or death of the Permittee, and only to a member of the Permittee's family and only if the mooring assignment will continue to be used for commercial purposes. For the purpose of this section, "member of the permittee's family" means a Permittee's parent, child, or sibling, by birth or by adoption including a relation of the half blood or an assignee's spouse.

**4.10.4** As of the effective date of this Ordinance a vessel may only be assigned to a single mooring site.

## **5. FEES AND FINES**

The Board of Selectmen shall establish and provide for the collection of Fees including but not limited to Fees for Mooring Permits and the Mooring Permit Waiting List, and may establish and provide for the collection of Fees for the inspection of moorings. The Board of Selectmen may establish and provide for the collection of Fines for violations of this Ordinance. Such Fees may be a flat amount or vary according to the size of the Vessel. Fines may be a flat amount or vary according to the infraction or violation. The Vessel Removal Fee and Mooring Removal/Replacement Fee shall be consistent with Title 38 M.R.S.A. §§ 4.5. A schedule of the Fees and Fines established under this section shall be available at the Town Office and from the Harbor Master. Fees and Fines shall be set by the Board of Selectmen annually and will be effective upon adoption by the Board of Selectmen at a public meeting. If a Fee and Fine is not paid in the prescribed time, after billing, the Mooring Permit will be void and the Mooring Site reassigned to the next eligible individual on the Mooring Permit Waiting List.

## **6. ABANDONMENT**

No person shall cause to be abandoned any Vessel, floating device, cradle, or any other obstruction on the shore within Kennebunkport Waters. Any such object left within the confines of Kennebunkport Waters and which has been unattended for a period of ninety (90) days shall be deemed to be abandoned. The Harbor Master shall then order the last owner of any such abandoned Vessel, floating device, cradle or other obstruction, if such owner is ascertainable, to remove same within thirty (30) days. Upon refusal or failure to do so, the Harbor Master shall cause its removal or destruction at the cost of the said last ascertainable owner. Any violation of the above shall be considered a Class E crime pursuant to Title 38 M.R.S.A. § 9, and further punishable as set forth in this Ordinance.

## **7. POLLUTION**

Except in case of emergency imperiling life or property or unavoidable accident, collision, or stranding, no person shall discharge, or suffer, or permit the discharge of sewage, garbage, trash or other refuse of any kind, by any method, means, or manner into or upon Town wharves or docks or Kennebunkport Waters.

## **8. RULES AND REGULATIONS**

The Harbor Master shall recommend to the Board of Selectmen for adoption such rules and regulations as shall be necessary to implement the intent of this ordinance.

## **9. ENFORCEMENT**

### **9.1 ENFORCEMENT BY THE HARBOR MASTER**

It is the duty of the Harbor Master to enforce the provisions of this Ordinance. No person shall fail to observe any lawful order of the Harbor Master with reference to the navigation and disposition of Vessels or Moorings within Kennebunkport Waters. If, after investigation, the Harbor Master finds that any provision of this Ordinance is being violated, he or she shall give written notice delivered by hand, if the owner agrees to sign a receipt for the notice, or by certified mail, return receipt requested, to the person responsible for such violation, and/or to the owner and/or to the operator of such Vessel. The notice shall indicate the nature of the violation and order the action necessary to correct it, including discontinuance of illegal use of moorings, or work being done, removal of illegal moorings, fishing equipment and abatement of nuisance conditions. The notice shall demand that the violation be abated within some designated reasonable time. If after such notice, the violation is not abated within the time specified, the Harbor Master shall take appropriate measures to enforce this Ordinance including notifying the Selectmen of the need to institute appropriate action in the name of the Town of Kennebunkport to prevent, enjoin, restrain or abate any violation of this Ordinance. A copy of each such notice of violation shall be submitted to the Board of Selectmen and be maintained as a permanent record.

### **9.2 ENFORCEMENT BY LAW ENFORCEMENT OFFICERS**

In addition to the Harbor Master, any law enforcement officer vested with the authority to carry a weapon and make an arrest shall have the authority to enforce the provisions of this Ordinance.



### **9.3 MISDEMEANOR FINES; SEPARATE VIOLATIONS**

Any person who violates any provision of this Ordinance or a lawful order of the Harbor Master shall be subject to a Fine. Each day that a violation continues, without action to effect abatement after receipt of notification by the Harbor Master, shall be considered a separate violation for purposes of this section. Pursuant to 38 M.R.S.A. § 13, an intentionally, knowingly, or recklessly failing to obey any lawful order of the harbormaster is a Class E Crime.

### **9.4. LEGAL ACTION**

The Harbor Master may impose Fines as approved by the Board of Selectmen as may be appropriate to enforce any provision of this Ordinance. The Board of Selectmen, upon notice from the Harbor Master, are hereby authorized and directed to institute any and all action and proceedings, either legal and/or equitable, including seeking injunctions of violations and the collection of Fees or Fines as may be appropriate or necessary to enforce the provisions of this ordinance in the name of the Town. In any such action in which the town prevails, the town shall be awarded reasonable attorney's fees and the cost of suit in addition to any other relief to which it may be entitled.

## **10. APPEALS**

The Board of Selectmen shall hear and decide appeals alleging error by the Harbor Master in the administration of this ordinance. The aggrieved person must make a written appeal within thirty (30) days of the date of the decision being appealed and the Board of Selectmen shall hold a public hearing within thirty (30) days from the date of receipt of the appeal. The Board may establish additional rules and procedures for such hearings. A party aggrieved by the decision of the Board may appeal it to Superior Court within thirty (30) days from the date of the original decision pursuant to Maine Rules of Civil Procedure, Rule 80B.



# Agenda Item Divider



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**Laurie Smith**

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**From:** Amy K. Tchao <ATchao@dwmlaw.com>  
**Sent:** Friday, February 16, 2018 2:24 PM  
**To:** Laurie Smith  
**Subject:** FW: Renumbering of Kings Highway  
**Attachments:** AddressGuidebook3.1.pdf

Laurie -

I'm writing to you in response to your request for a legal review of a November 9, 2017 letter sent by Mr. Donovan to the Board of Selectmen concerning the E-911 renumbering of Kings Highway. In short, Mr. Donovan seems to contend that the Town is not required to comply with the State's recommended E-911 addressing standards and is not required to renumber *all* of the properties on Kings Highway. Rather, he suggests that the Town renumber only the 15 or so addresses that have been identified as potentially confusing.

The renumbering of properties on Kings Highway falls squarely within the scope of the Town's Street Ordinance, which was adopted pursuant to its home rule authority for the purpose of enabling quick, easy identification and location of properties by emergency responders. Although any renumbering efforts must comply with that Ordinance, the Town is well within its authority to adopt a renumbering scheme for Kings Highway that is also consistent with the State's E-911 recommended addressing standards—so long as those standards do not conflict with its Street Ordinance.

For reference, I've attached a document prepared by the Maine Office of GIS to assist municipalities in implementing the E-911 system. Pages 14-15 set forth recommended E-911 addressing standards for streets with existing physical addresses such as Kings Highway. Based on my quick review, none of those recommended standards are at odds with the Town's Street Ordinance.

With regard to Mr. Donovan's suggestion that the Town focus its renumbering efforts on only the 15 or so properties that have been flagged as confusing, it appears that such an approach would make it challenging, if not impossible, for the Town to comply with its Street Ordinance. For example, Article IV(1) of the Street Ordinance provides that "[n]umbers shall be assigned in anticipation of future growth and increases in density" and identifies a rule-of-thumb numbering interval of 100 feet for assigning property numbers in order to provide sufficient room to assign unused numbers to accommodate future growth. Because the Kings Highway properties are currently numbered sequentially without any intervals, it seems unlikely that the Town could renumber only the 15 properties on Kings Highway and also comply with this Ordinance provision.

It also bears mention that Mr. Donovan states in his letter that the Fire Department and emergency personnel have advised that renumbering Kings Highway would help alleviate confusion as firefighters and EMTs respond to emergency calls. While renumbering Kings Highway will impose some burdens on property owners, the Town's action to reduce the likelihood of error in dispatching emergency responders is both a lawful and responsible act of local government.

Finally, attached to Mr. Donovan's letter were several exhibits containing information about the location and status of Kings Highway, which documents he believes prove that Kings Highway is a private way or street, and therefore, in his view, cannot be made subject to the Town's street renumbering efforts. However, there are numerous historical documents, including town road inventory records, which indicate that significant portions of Kings Highway were accepted as a town way and Kings Highway has been maintained along its entire length as a town way for many decades. Even if this were not the case, the Town's street ordinance makes clear that privately owned streets are subject to the same street numbering requirements as public streets. Again, I believe the Town is well within its authority to adopt a street renumbering plan for Kings Highway that is consistent with state E-911 standards and other requirements in its Street Ordinance, pursuant to its police power and under its home rule authority.

Please let me know if you have any questions or would like to discuss this further.

Best regards,

Amy

Amy K. Tchao

Attorney

207.772.1941 ext. 552

[ATchao@dwmlaw.com](mailto:ATchao@dwmlaw.com)

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**DrummondWoodsum**

ATTORNEYS AT LAW

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Brendan R. Donovan  
238 Kings Highway  
Kennebunkport, ME. 04046

November 9, 2017

Re: The Board of Selectmen  
Meeting: Concerning The  
Re-numbering of Kings  
Highway.

The Board of Selectmen  
Town of Kennebunkport

Gentlemen:

My name is Brendan Donovan and my wife and I have enjoyed a home at the above captioned address since approximately 2007 and before that at 6 Bel Air Avenue beginning in 1981. My family has been coming to the beach since 1939 (before my time).

The purpose of this letter and supporting documents is to discuss the proposal currently under consideration by the Board for the possible re-numbering of each home along Kings Highway and possible name change of the Street. The Town is responding to "GUIDELINES" from the State and not a "MANDATE", concerning the e911 issue.

In general, the renumbering of any street in any community would / will have dramatic consequences and disruption for any of the citizens in the community directly involved, and therefore should only be considered and implemented on a highly selective basis after the citizens are at least consulted and not read about it in a weekly newspaper, which they may or may not receive.

The Town should also consider all new "technologies" as they currently exists and evolve almost on a daily basis. By this I mean, but not limited to, GPS, Global Positioning Systems and GIS, Geographic Information Systems. Each of these technologies implement satellite technology for public, accurate, positioning and public location, mapping, systems for public safety and more. I do not claim to be an expert on any of this, just that the systems exist.

I personally have consulted with the following individuals in recent days and, hopefully, will share with you their comments as accurately as possible:

- 1) Ms. Laurie Smith, Town Manager, Kennebunkport. We briefly discussed that there are app. 240 homes / lots along Kings Highway (per tax map) and app. 15 addresses were / are potentially causing the e911 confusion. I am glad that Laurie is here tonight to concur or disagree with my comments of our conversation and the discussion tonight.

Thus, 15 out of 240 homes (or 6.3%) is causing the conversations and should be discussed with this ratio in mind.

- 2) Mr. Craig Sanford, Chief of Police, Kennebunkport. We discussed the problem, if any, that his officers were having patrolling the Kings Highway area. He indicated that his patrolling officers were not having a e911 patrolling problem, and if any it was the area behind and west of Kings Highway. Again, I hope this characterizes our conversation accurately.
- 3) Mr. Matthew Drown, Postmaster USPS, Kennebunkport. He indicated that his postal carriers were having no delivery problems in the area in question and in fact he receives very few negative calls from the postal patrons in general from this defined territory.  
I cannot believe that FEDEX or UPS have an ongoing delivery problem with residents since I receive numerous packages from each on a weekly basis. Summer rentals, who change on a weekly or biweekly basis, would have delivery issues where-ever they rented.
- 4) Ms. Debra L. Anderson, Registrar of Deeds, County of York, Alfred, Me. See exhibits below
- 5) Ms. Deborah Briggs, P.L.S. Principal, Lower Village Survey, Kennebunk, Me. She explained to me the legalities of a public road, private way, public easements (for utilities, travel, biking, walking, maintenance, safety etc.) See exhibit entitled "M S B A Practice Series 101". She also, briefly, explained to me the concepts of GPS and GIS technologies and how satellites are playing an increasing role in their business. See exhibits below.
- 6) I spoke with Messrs. Alan Moir and Richard Stedman relative to Fire Department issues relative re-numbering of Kings Highway. Alan felt it would help alleviate any confusion as the firemen were responding to a call. Richard felt it would also alleviate any confusion relative to ambulance (KEMS) responding to a call. Again, I hope this characterizes our conversations accurately.
- 7) I was unable to meet with Mr. Michael Claus, Director of Roads, Kennebunkport. He was unable to get together because of the extensive disruptions caused by the recent storm.

I am enclosing documents as exhibits to this letter:

- A) A copy of the 10/13/17 cover article contained in The Kennebunk Post, which is self-explanatory and widely read.
- B) A copy of the taxpayers along Kings Highway. This document indicates that there are 240 taxable units along Kings Hghy and app. 14 lots with "rear lot designations or As and Bs .
- C) Goose Rocks Beach Kings Hghy map (drawn from Public Rights of Way Map). This map indicates that Kings Hghy stretches from the bridge on the East End (at Sand Point Rd.) to the Batson River on the West End and app. 1.5 miles long.

- D) M S B A Practice Series 101 – Number 1-2003 entitled Road and Easements. This complete document is considered “the Bible” by surveyors as noted by Deborah Briggs of Lower Village Survey Company.
- E) A copy of a survey of 238 Kings Highway indicating Kings Highway as a Private Way with public easements.
- F) “Plan of Land of A. Isabelle Fearing & Orlando Dow Beachwood- Kennebunkport, Maine Dated Sept.20, 1926”. This document indicates that the streets shown on the Plan are private streets with public easement. This document was recorded.

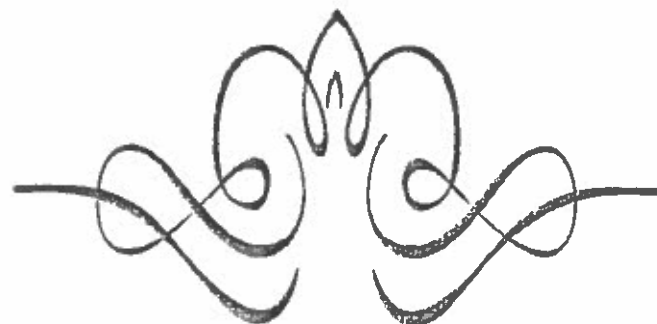
In general, these documents strongly indicate that the Town of Kennebunkport cannot arbitrarily consider changing the addresses, name or any other substantive changes / amendments without counseling those directly and / or indirectly affected. The safety issue as outlined in the article in the Kennebunk Post and discussed at the Sept. 28<sup>th</sup> meeting of this Board concerns app. 15 lots out of app. 240 lots 9 (or 6.3%) are limited and should be discussed as such.

Thank you for your time and your timely consideration of the above.

Sincerely,



# Agenda Item Divider





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**TOWN OF KENNEBUNKPORT  
PUBLIC NOTICE**

To: Tracey O'Roak, Constable of the Town of Kennebunkport in the County of York, State of Maine.

Greetings:

You are hereby required to notify and warn the voters of the Town of Kennebunkport in said County that the municipal officers of said town will meet at the Village Fire Station, 32 North Street, Kennebunkport, Maine, on Thursday, the Twenty-second (22<sup>nd</sup>) day of February at 6:00 o'clock in the evening and then and there consider the revisions of the attached Sewer Use (Wastewater Ordinance).

Tracey O'Roak, Town Clerk