

**Town of Kennebunkport
Board of Selectmen Meeting VIA Zoom
August 13, 2020
6:00 PM**

Minutes of the Selectmen's Meeting of August 13, 2020

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

Others attending via Zoom: Chris Becker, Mike Claus, Greg Dombrowski, Jen Lord, Sharon McCabe, Laura McCullough, Arlene McMurray, Lisa Miller, Tracey O'Roak, Dave Powell, Chris Simeoni, Jim Stockman, Laurie Smith, and others

1. Call to Order.

Chair Daggett called the meeting to order at 6:04 PM. He took **roll call** of Selectmen present: Patrick Briggs, Allen Daggett, Sheila Matthews-Bull, Ed Hutchins, and D. Michael Weston.

2. Approve the July 23, 2020, selectmen meeting minutes.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the July 23, 2020, selectmen meeting minutes. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

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.).

Jim Stockman showed photos of their new ambulance. He said it is funded through their endowment. Painted on the ambulance is "In Memory Of Judy Barrett."

4. Public hearing on the proposed amendment to the Kennebunkport Traffic and Parking Control Ordinance in Section 2. Parking Control Regulations, 27 Ocean Avenue. (The amendment would limit parking to 2 hours)

Chair Daggett opened the public hearing at 6:18 PM.

This proposed amendment was requested by the business owners along Ocean Avenue. Laura McCullough said there are no parking limits and they are concerned that vehicles park for the entire day in this location. They would like to limit the parking to allow for customer access to the businesses in this area. She said businesses need help on Ocean Avenue, especially during these difficult times.

Chris Becker agrees with Ms. McCullough that having a two-hour limit will make a huge difference.

Chair Daggett closed the public hearing at 6:25 PM.

Motion by Selectman Matthews-Bull, seconded by Selectman Weston, to amend the Traffic and Parking Control Ordinance Section 2. Parking Control Regulations, 27 Ocean Avenue to restrict parking to two hours from Memorial Day to Labor Day each year from the Fairfield Creek Bridge to Josiah Curtis Lane on the westerly side of Ocean Avenue.

Roll Call Vote: Briggs, Hutchins, Matthews-Bull, and Weston. Daggett recused himself because he has a business located there. **Voted:** 4-0-1. **Motion passed.**

5. Review ordinances for November 3, 2020, ballot.

Town Clerk Tracey O'Roak went over the three ordinance revisions for the November ballot. She said the Town Attorney looked over them and made some revisions.

a. Codification of ordinances for November 3, 2020, ballot.

The Town Attorney added some revisions in **§ 252.1. Marijuana establishments prohibited unless Town opts in.** See Exhibit A.

b. Emergency Management Ordinance.

The revision was made in Section 6B. Termination of emergency. No state of emergency may continue for longer than seven (7) days unless renewed or extended by the Board of Selectmen.

c. Land Use Ordinance amendment regarding tents.

**PROPOSED AMENDMENT TO THE KENNEBUNKPORT LAND
USE ORDINANCE CONCERNING TENTS**

Shall an ordinance entitled "2020 Amendment to the Kennebunkport Land Use Ordinance Concerning Tents" be enacted? (A true copy of which is on file in the Town Clerk's Office and is incorporated by reference.)

[Note of Explanation: This amendment would extend the timeframe for temporary tents from a maximum of 30 days per calendar year to include, in addition, the period from Memorial Day through Labor Day of each year.]

Note: Underlined language is proposed to be inserted and words ~~stricken out~~ are proposed to be removed. All other portions of the ordinance are proposed to remain unchanged.

Amend Article 11.2 Permit Required as follows:

11.2 Permit Required

- L. Temporary placement of an awning or tent(s) exceeding 80 square feet in size from Memorial Day until Labor Days shall be permitted without a permit. Temporary placement outside of the Memorial Day through Labor Day season shall not exceed 30 days per any calendar year per parcel.

Tents that exceed 80 square feet and are in place beyond the limits mentioned above for more than 30 days per calendar year are subject to conditions and approvals as a permanent structure.

The Board requested another revision to add the word weekend after Memorial Day.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to place the items on the November warrant as written and to include the new revision to the Land Use Ordinance amendment regarding tents. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

6. Award contract for Wastewater Department emergency generator upgrade electrical work.

The Wastewater Department has been working on an emergency generator upgrade project for several months. Bids were solicited for the electrical portion of the project and no one responded. A large portion of the sitework has been completed, and they are working to complete the associated concrete work. Bids were solicited from seven electrical contractors, and three responses were received:

<u>Contractor</u>	<u>Bid</u>
All Phase Electric, Inc.	\$ 89,676
Milliken Brothers, Inc.	\$108,080
Camille's Electric	\$ 89,925

Since this project is being funded with state revolving loan fund dollars, the Town must abide by their policies which are to award to the lowest bidder. Staff recommends awarding to All Phase Electric for \$89,676.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to award the Wastewater Department emergency generator upgrade bid to All Phase Electric for \$89,676. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

7. Consider giving the Town Manager authority to sign both the CMP Bill of Sale and the CMP Street Light Agreement.

Public Works Director Mike Claus said the purchase of the street lights from Central Maine Power was approved at the July Town Meeting. He said the town attorney reviewed the street light agreement and approved it with the condition that the Town's street light maintenance contractor has adequate insurance coverage and town employees do not perform street light maintenance work on any of the street lights that are part of this agreement. He is requesting that the Town Manager be given authority to sign the bill of sale and move forward with the purchase of 280 street lights.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to authorize the Town Manager to sign the CMP street light agreement and bill of sale with CMP. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

8. Consider carryforwards from FY2020.

With the onset of COVID-19 in the last quarter of the fiscal year, projects and payments were delayed due to concerns with cash flows. The largest carryforward is the Debt Service for the seawall project of \$100,000. They planned to have the payment in FY 20, but due to the timing of the bond closing, the payment is not due until October of this year. They are requesting a total of \$227,863.50 be carried forward.

Discussion followed and the Board did not choose to carry forward the \$100,000 for the seawall project.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize \$127,864 in carry forwards from FY 20. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

9. Discuss short-term rental regulations.

Selectman Hutchins said that they had no idea how many short-term rentals they had until COVID-19 happened. As a result, they saw more out-of-state cars and decided to have another discussion about this because there are no rules.

The background information on this is that in 2018, the Board of Selectmen appointed the Short-Term Rental Committee to review the short-term rentals and make recommendations back to the Board. After several months of meetings and a survey of residents, the committee presented their findings to the Selectmen in February of 2019. It recommended that no regulations be put in place, but that staff continue to monitor the rentals and further define the actual impacts on the community.

The Board of Selectmen suggested reviewing this issue again and prepare for an ordinance amendment to license short-term rentals. One ordinance suggested for review is the City of South Portland. South Portland categorizes their short-term rentals (under 30 days) into two categories – homes that are hosted (owner lives there while renting) and non-hosted homes. All rentals must be registered, and the home is inspected by the Fire Department during the first registration and any time the home is renovated. All homes must comply with the rules in the good neighbor brochure which covers parking, dog rules, noise, recycling, and maximum occupancy.

Non-hosted home rentals are prohibited in all residential zoning districts. The minimum stay is at least 7 consecutive days, and a maximum of two guests per bedroom and a maximum of six guests allowed per home. The hosted home stay is allowed in all zoning districts with no minimum stay and with a maximum of two guests per bedroom and six guests allowed per home.

Discussion followed that:

- The Town has no contact information and does not know if these short-term rentals carry insurance. The Town Manager and Director of Planning and Development should develop an ordinance and bring it back to the Board.

- This is not usually a problem, but this year, two houses had eight or nine cars parked in the street at Cape Porpoise. Residents need to know if it is safe. Even hotels have a maximum occupancy.
- There are noise and parking problems.
- They could have a minimum stay.
- The Town is changing before our eyes. They are not looking to stop short-term rentals, but just to regulate them.
- How can they enforce this?

Director of Planning and Development said that most communities have contracts with a company that collects data and have electronic monitoring. He said there were 255 short-term rentals in town to start with that fluctuated up and down, and 93% are for the full house rental. The median cost is \$350 a night.

Greg Dombrowski said these discussions about noise and parking were already discussed with the Short-Term Rental Committee and adding regulations will hurt young people trying to move back into town. He said people are just using short-term rentals as a tool to supplement their income. There are already safety regulations.

Selectman Weston responded that there are houses on Pier Road in Cape Porpoise that were bought from people out of state who turned them into rentals and charge \$600 to \$800 a night. They pulled in \$30,000 last summer. They rent all summer at Goose Rocks, Pier Road, and Langsford Road.

Lisa Miller added that the Cape Porpoise rentals do not represent the rest of the rentals in town, and they are the only way people can live in Kennebunkport. The parking and noise problems can be addressed.

Sharon McCabe also said the noise and parking on Langsford Road and Pier Road should be addressed. Cars should be ticketed.

The Board would like the Town Manager and Mr. Gilliam to develop an ordinance draft and bring it back to the Board.

10. Reappointments to the Cape Porpoise Pier Advisory Committee and the Shellfish Conservation Committee.

Motion by Selectman Hutchins, seconded by Selectman Weston, to reappoint: Peter Eaton, Benjamin Nunan, Zandy Talmadge, and Eric Wildes to a one-year term on the Cape Porpoise Pier Advisory Committee and to reappoint Eric Wildes, Charles Zeiner, and Everett Leach to three-year terms on the Shellfish Conservation Committee. **Roll**

Call Vote: Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0.
Motion passed.

11. Permission for use of Dock Square Parking Lot in September and October.

Hurricanes and Alisson's are requesting permission to continue to use the parking spaces in Dock Square Parking lot for dining through the end of October.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to authorize the use of the Dock Square Parking Lot through October 31, 2020. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

12. Discussion of business tent and outdoor dining for September and October.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the continued use of tents and signage for outdoor dining through October 31, 2020. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0.
Motion passed.

13. Accept donations to the Stuart Barwise Parks and Recreation Fund.

- a. Ed & Christina Hutchins - \$100
- b. Pat & Ann Marie Briggs - \$250
- c. Marcy McAleer - \$75
- d. Steve & Carol Cook - \$50
- e. Jean & Helen Conaty - \$100
- f. Barbara O'Hara - \$25
- g. Judith J. Uhrig - \$50
- h. Chelmsford Class of 1984 - \$600

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to accept donations in the amount of \$1,250 with great thanks. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

14. Accept \$25 donation in memory of Arnold Cluff to the nurses' general account from Kenneth and Janice Hutchins and Kathleen Anuszewski.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to accept the \$25 donation in memory of Arnold Cluff to the nurses' general account from Kenneth and Janice Hutchins and Kathleen Anuszewski. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

15. Other Business.

Town Manager Laurie Smith announced that the Town is dedicating the Edgewood entrance to Goose Rocks Beach to Stuart E. Barwise.

Chair Daggett read the notation on the dedication plaque.

Motion by Selectman Weston, seconded by Selectman Matthews-Bull, to approve the plaque dedication to Stuart Barwise. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed**

a. Vote for MMA Vice-President and Executive Committee members.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to vote for the slate of officers. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

b. Good-bye Drive-by to Barbara and Stan Barwise August 20, 10:30 AM to noon.

Ms. Smith announced that there will be a drive-by to say goodbye to Barbara and Stan Barwise on Thursday, August 20, at 11:00 to noon, at the Kennebunkport Conservation Trust. People can decorate their cars with balloons and signs. Someone will be collecting cards with a butterfly net. Barbara and Stan who will be situated in front of the Kennebunkport Conservation Trust building in comfy chairs. Cars must go to the Arundel Road intersection of Gravelly Brook to enter, line up, and drive by.

16. Approve the August 13, 2020, Treasurer's Warrant.

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

17. Adjournment.

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

The meeting adjourned at 7:50 PM.

Submitted by Arlene McMurray
Administrative Assistant

EXHIBIT A – 8-13-2020
TOWN OF KENNEBUNKPORT
YORK COUNTY, MAINE

ORD. NO. _____

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

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

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

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

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

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

§ 1-3. Notice; publication.

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

§ 1-4. Severability.

Each section of this ordinance and of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional,

void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-5. Repealer.

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

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

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

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Kennebunkport prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Town of Kennebunkport or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision of the Town of Kennebunkport.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Kennebunkport.
- E. Any ordinance of the Town of Kennebunkport providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Kennebunkport or any portion thereof.
- F. Any ordinance of the Town of Kennebunkport appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Kennebunkport or other instruments or evidence of the Town's indebtedness.

- G. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- H. The levy or imposition of taxes, special assessments or charges.
- I. The annexation or dedication of property or approval of preliminary or final subdivision plans.
- J. Any ordinances relating to salaries and compensation for municipal employees.
- K. Personnel policies of the Town.
- L. Any ordinance adopting or amending a comprehensive plan.
- M. Any ordinance adopting or amended a zoning map or otherwise rezoning property.
- N. The General Assistance Ordinance and all amendments thereto.
- O. Any ordinances adopted subsequent to June 11, 2019.

§ 1-7. Changes in previously adopted ordinances.

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

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

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

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

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

§ 1-10. When effective.

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

**Town of Kennebunkport
Code Adoption Ordinance**

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

Nomenclature.

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

H. Chapter 240 is amended to change instances of:

- (1) "Maine Department of Agriculture" to "Department of Agriculture, Conservation and Forestry."
- (2) "State Soil and Water Conservation Commission" to "Department of Agriculture, Conservation and Forestry."
- (3) "Department of Human Services" to "Department of Health and Human Services."

Fees.

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

Chapter 5, Administrative Code.

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

Chapter 9, Alarm Systems.

Article I, False Alarms.

Section 9-7E is amended as follows:

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

Chapter 16, Animals.

Article II, Animal Control.

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

Chapter 24, Beaches.**Article II, Use of Goose Rocks Beach.**

Section 24-8A is amended as follows:

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

Chapter 46, Fires and Fire Prevention.**Article I, Life Safety Code.**

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

Chapter 49, Fireworks.

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

Chapter 61, Harbor and Waterfront.**Article II, Waterfront.**

This article is amended to add the following section:

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

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

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

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

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

- B. ~~*Prohibited acts. It shall be unlawful for any lobster buoys to be set within the area of Cape Porpoise Harbor, defined as follows: a navigation fairway, 75 feet wide, located on the east (Goat Island) side of the harbor entrance, extending from the bell buoy R "2" marking the ocean entrance to the harbor on a compass course NW by N (approximately 330° magnetic) passing hard by red nun number 4 and red day board number 6 marking Folly Island ledge, into red nun number 8, making the outer limit of the anchorage as further defined on Chart No. 13286, attached to this article on file with the Town Clerk.*~~ PLEASE REMOVE THIS SECTION ENTIRELY.

Chapter 105, Peace and Good Order.**Article I, Electronically Amplified Sound.**

Section 105-2 is added:

§ 105-2. Violations and penalties.

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

Chapter 110, Property Assessed Clean Energy.

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

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

Chapter 127, Shellfish Conservation.

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

Chapter 140, Special Events and Mass Gatherings.

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

Chapter 147, Streets and Sidewalks.

Article I, Business on Public Streets.

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

Article II, Street Openings.

- A. Section 147-13 is amended to repeal the definition of "Highway Director."
- B. Section 147-13 is amended to add the following definition:
NEWLY CONSTRUCTED, RECONSTRUCTED OR REPAVED STREETS -- Any street that has been newly constructed, reconstructed or repaved within the last five years.
- C. Section 147-16C is amended to delete the fee amount and instead state that the fee is as set by the Board of Selectmen.
- D. Section 147-21 is added:
§ 147-21. Excavations in reconstructed streets.
Whenever the Town has developed plans to reconstruct a street, the Town or its representative shall give written notice thereof to all abutting property owners, to the Town departments, and to all public utilities that have or may wish to lay pipes, wires or other facilities in or under the highway. Upon receipt of such written notice, such person or utility shall have 60 days in which to install or lay any such facility. If an extension of time is needed by a person or utility for the installation of such facilities, the person or facility shall make a written application to the Town during the sixty-day notice period

explaining fully the reasons for requesting such an extension of time. At the expiration of the time fixed or extended and after such street has been reconstructed, no permit shall be granted to open such street for a period of five years from installation of hot-mixed asphalt surface course layer unless an emergency condition exists or unless the necessity for making such installation could not reasonably have been foreseen at the time such notice was given. The above-mentioned five-year moratorium for street openings also pertains to all new public or private streets, i.e., new subdivisions or developments that have been accepted in accordance with Town specifications. The Town shall publish an annual street opening moratorium list with year of notice and year of expiration for each street. This section should not be construed to supersede Maine DOT street opening regulations for roads maintained by the State of Maine.

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

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

\$100 for first offense

\$500 for second offense

\$1,000 for third and subsequent offenses

Chapter 160, Traffic and Vehicles.

Article I, Dock Square Shuttle and Parking.

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

Article II, Traffic and Parking Control.

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

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

Chapter 172, Victualers.

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

Chapter 179, Waste Management.

Article I, Radioactive and Hazardous Waste.

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

Article II, Solid Waste.

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

Chapter 183, Wastewater Use.

- A. Section 183-9 is amended to change State Bureau of Health to Department of Health and Human Services.
- B. Section 183-13 is amended to change Division of Health Engineering, Maine Department of Human Services to Department of Health and Human Services.
- C. Section 183-18 and 183-32A are amended to change "Building Inspector" to "Code Enforcement Officer or designee."
- D. Section 183-19 is amended to delete the latter portion thereof (*and shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, Subchapter 1, Subsection 361, as amended*).
- E. Section 183-21 is amended as follows:
"A sewer connection ~~application~~ permit shall be applied for and the fees shall be paid therefor[,] whenever a homeowner applies for a building permit that will increase the flows from that structure into the collection system."
- F. Section 183-32 is amended to delete the following at the beginning thereof:
Unless exempted under subparagraph (B) below...

- G. Section 183-47 is amended to change Part 128 to Part 125.
- H. Section 183-70 is amended as follows:
"When a sewer connection application is processed and a permit is issued, the owner of the property for which the ~~application~~ permit was issued will be billed for the units that were approved."
- I. Original Article XIV, Licensing of Persons Authorized to Make Connection to the Public Sewers, is repealed.

Chapter 210, Condominium Conversion.

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

Chapter 240, Land Use.

- A. Section 240-2.2.
 - (1) The definition of "mobile home" is amended to change "manufactured housing unit" to "manufactured housing."
 - (2) The definition of "recreational vehicle" is amended to change the reference to the State Division of Motor Vehicles to the State Bureau of Motor Vehicles.
 - (3) The definition of "wetland, inland," is amended to change 38 M.R.S.A. 406 et seq. to 38 M.R.S.A. § 480-B.
- B. The opening paragraph of Article 5 and § 240-5.7B are amended to delete references to the Stream Protection Zone.
- C. Section 240-5.11A is amended to change Maine Bureau of Public Lands to Bureau of Parks and Lands.
- D. Section 240-6.9C and 240-11.8 are amended to change "occupancy permit" to "certificate of occupancy."
- E. Section 240-6.9G is amended to change "Day-care centers" to "Child-care centers."
- F. Section 240-6.9N and O are amended to delete the reference to § 240-1.6.
- G. Section 240-6.17B and C are amended to change references to "license" [to blast] from Township to "permit."
- H. Section 240-7.1G is amended to add "In the Free Enterprise and Farm and Forest Zones only."
- I. Section 240-7.3B is amended to delete "great pond" setback reference.
- J. Section 240-10.8B is amended to change "Superintendent of the Sewer Department" to "Deputy Public Works Director."

- K. Section 240-11.3C is amended to change State Historic Preservation Officer to State Historic Preservation Commission.
- L. Section 240-11.9D is amended to change Bureau of Land and Water Quality to Bureau of Water Quality.
- M. Section 240-11.9E(2) is amended so that the first sentence thereof reads:
If the Code Enforcement Officer has been certified by the Department of Economic and Community Development, Office of Community Development, as being familiar with court procedures under 30-A M.R.S.A. § 4453, he/she may serve civil process and, when specifically authorized to do so by the Municipal Officers, represent the Town in District Court.
- N. Section 240-11.12G(3) is amended to change "nonrefundable application fee of \$250" to read "a nonrefundable application fee to be established in accordance with § 240-11.6 of this chapter."

Chapter 252, Marijuana.

Article I is amended to read:

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

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

§ 252-2. Authorization.

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

Chapter 290, Wireless Telecommunications Facilities Siting.

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