

**Town of Kennebunkport  
Selectmen's Meeting  
March 12, 2014  
6 p.m. – Village Fire Station – 32 North Street**

Minutes of the Selectmen's Meeting of March 12, 2015

**Selectmen attending:** Stuart E. Barwise, Patrick A. Briggs, Allen A. Daggett, Ed Hutchins, and Sheila Mathews-Bull

**Others:** Judy Barrett, Carol Cook, Michael Claus, David Conway, Michael Davis, Richard Driver, April Dufoe, Werner Gilliam, David James, Jennifer Lord, Arlene McMurray, Allan Moir, Pam Padgett, Craig Sanford, Roger Seavey, Bob Sherman, Laurie Smith, and others

**Budget Board:** Barbara Barwise, David Betses, Doug Dicey, David James, Kathryn Leffler, Dawn Morse, Chris Perry, Michelle Powell

**1. Call to Order.**

Chair Daggett called the selectmen's meeting to order at 6 P.M.

Barbara Barwise called the Budget Board meeting to order at 6 PM.

**2. Joint meeting with Budget Board for fiscal year 2016 municipal budget presentation and discussion of department capital requests.**

Town Manager Laurie Smith reviewed the capital items for the fiscal year 2016 budget. The department heads presented their capital items.

Barbara Barwise adjourned the Budget Board meeting at 7:14 PM.

**3. Approve the February 26, 2015, and March 5, 2015, selectmen meeting minutes.**

**Motion** by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the February 26, 2015, selectmen meeting minutes. **Vote:** 4-0-1/Selectman Briggs abstained because he was not present at that meeting.

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to approve the March 5, 2015, selectmen meeting minutes. **Vote:** 4-0-1/Selectman Briggs abstained because he was not present at that meeting.

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

Fire Chief Allan Moir mentioned that the Kennebunkport Fire Department replaced Engine 23. It went to Reed Plantation, a small Fire Department consisting of about eight men. He said they were thrilled to receive it and sent him

photos showing that they kept "Kennebunkport, home of the 41<sup>st</sup> President" on it.

Richard Driver commented on letters sent to the editor attacking the Town in regard to the Goose Rocks Beach litigation. He disagreed with letters from KRA Board members saying that they did not represent all of the KRA members' opinions. He urged the Board of Selectmen to stay on course.

David James, president of the KRA, responded that he signed onto a letter that represents facts that people should consider before they spend another \$70,000. He said the letter was to inform the public so they could make their own decision.

Pam Padgett of Alissons's Restaurant asked about the Dock Square Parking Lot's conversion to automated machines. She was concerned about the parking lot hours.

Ms. Smith responded that the operating hours will be the same as it was before for this initial transition. She agreed to keep Ms. Padgett informed.

Town Clerk April Dufoe announced the positions that expire this year:

- Selectmen: Stuart Barwise and Allen Daggett
- RSU #21 Board member Robert Domine
- K.K. & W. Water District trustee James Burrows
- Beach Advisory Committee At-Large member D. Michael Weston

Ms. Dufoe said that nomination papers are available on March 16 and due back to her on April 27, by 4:30 PM.

Chris Perry urged the Board to stay on course with the Goose Rocks Beach litigation. He thanked Richard Driver for speaking out about the KRA letters.

**5. Consider a renewal liquor license application submitted by W. Scott Lee, SBJC, LLC, DBA Bandaloop, 2 Ocean Avenue.**

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to approve the renewal liquor license application submitted by W. Scott Lee, SBJC, LLC, DBA Bandaloop, 2 Ocean Avenue. **Vote:** 5-0.

**6. Consider a renewal special amusement permit application submitted by, W. Scott Lee, DBA Bandaloop (SBJC, LLC), 2 Ocean Avenue.**

**Motion** by Selectman Matthews-Bull, seconded by Selectman Briggs, to approve the renewal special amusement permit application submitted by, W. Scott Lee, DBA Bandaloop (SBJC, LLC), 2 Ocean Avenue. **Vote:** 5-0.

**7. Consider a renewal liquor license application submitted by JEM Holdings, LLC, DBA Pier 77 Restaurant, 77 Pier Road.**

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to approve the renewal liquor license application submitted by JEM Holdings, LLC, DBA Pier 77 Restaurant, 77 Pier Road. **Vote:** 5-0.

**8. Consider a special amusement permit submitted by JEM Holdings, LLC, DBA Pier 77 Restaurant, 77 Pier Road.**

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to approve the special amusement permit submitted by JEM Holdings, LLC, DBA Pier 77 Restaurant, 77 Pier Road. **Vote:** 5-0.

**9. Consider a renewal liquor license application submitted by Alisson's/Dock Square LTD, DBA Alisson's Restaurant, 11 Dock Square.**

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to approve the renewal liquor license application submitted by Alisson's/Dock Square LTD, DBA Alisson's Restaurant, 11 Dock Square. **Vote:** 5-0.

**10. Consider a renewal special amusement permit submitted by Ashley Padget DBA Alisson's Restaurant, 11 Dock Square.**

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to approve the renewal special amusement permit submitted by Ashley Padget DBA Alisson's Restaurant, 11 Dock Square. **Vote:** 5-0.

**11. Consider a renewal liquor license application for Coastal Breezes, L.L.C. DBA Kennebunkport Inn, 1 Dock Square.**

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to approve the renewal liquor license application for Coastal Breezes, L.L.C. DBA Kennebunkport Inn, 1 Dock Square. **Vote:** 5-0.

**12. Consider a special amusement permit renewal application for Coastal Breezes, L.L.C., DBA Kennebunkport Inn, 1 Dock Square.**

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to approve the special amusement permit renewal application for Coastal Breezes, L.L.C., DBA Kennebunkport Inn, 1 Dock Square. **Vote:** 5-0.

**13. Authorize contract for banking services.**

Treasurer Jen Lord said Requests for Proposals (RFP's) were sent to 12 banks and the following 5 proposals were received:

- Peoples United Bank
- Gorham Savings Bank
- Bank of Maine
- Camden National Bank
- TD Bank.

Ms. Smith and Treasurer Jen Lord reviewed the proposals and recommended awarding the contract to Camden National Bank. Ms. Lord said she also checked to make sure the bank's online software program met the Town's requirements, and it does. A five-year contract was recommended.

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to award a five-year contract for the Town's banking services to Camden National Bank.  
**Vote:** 5-0.

Ms. Smith announced that Kennebunkport was awarded the Certificate of Achievement for Excellence in Financial Reporting by the Government Finance Officers Association of the United States and Canada for its comprehensive annual financial report. She said the Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. She congratulated Ms. Lord for this accomplishment for the second year in a row.

Ms. Smith also announced that the local circuit breaker is now available. Ms. Smith said the application deadline is April 20, 2015, and they are available online on the Kennebunkport Website. Ms. Lord explained the qualifications to apply.

**14. Consider the following proposed Warrant Articles for the June 9, 2015, Town Meeting Warrant.**

Director of Planning and Development Werner Gilliam reviewed the proposed amendments to the Land Use Ordinance that he discussed at the February 12, 2015, Selectmen's Meeting. He said they have been submitted to Town Counsel for review. (See Exhibit A).

- a. Proposed amendment to the Land Use Ordinance concerning residential mixed use standard.**
- b. Proposed amendment to the Land Use Ordinance concerning revised lot area definition.**
- c. Proposed amendment to the Land Use Ordinance concerning commercial ADA/Accessibility Issue.**
- d. Proposed amendment to the Land Use Ordinance concerning SLZ Map revision Cape Porpoise Square.**

**e. Proposed amendment to the Land Use Ordinance concerning permitted uses structures.**

**f. Proposed amendment to the Land Use Ordinance concerning Land Use Ordinance errors.**

**g. Proposed amendments to Dog Ordinance.**

Ms. Smith passed out a copy of the original Dog Ordinance adopted in 1976 (See Exhibit B). The Board also received a new draft of the proposed Dog Ordinance from Town Attorney Amy Tchao in which she merged the proposed ordinances developed by the Beach Advisory Committee and Barbara Barwise's group. (See Exhibit A). In this draft, the Town Attorney included the names of the beaches throughout the document: Goose Rocks Beach, Colony Beach, and Cleaves Cove. The language in this draft allows the Selectmen to set the rules and regulations for all public properties in Section E. The current Dog Ordinance says that dogs must be leashed even on private property. This proposed ordinance allows dogs to be off leash everywhere except on public roads, sidewalks, and during certain hours on the beach.

Chair of the Goose Rocks Beach Advisory Committee (BAC) Bob Sherman said the BAC had two corrections for the draft (See Exhibit C). One was a piece that was missed when the two documents were merged. In section D 2 he suggested adding: from April 1 to September 30, dogs must be on leash between 7:30 and 8:30 AM. He said dogs can be off leash prior to that time until 7:30 AM; and after 6 PM dogs must still be on leash. Also, he understood that the intent of **Section C: Requirements for Control of Animals** was to "change the existing dog ordinance to allow owners to have a dog off leash on their own property, but requiring that a dog be on leash when off the property owner's property. The existing law says the dog must be on the leash even in your own yard. He said this might be confusing because according to the proposed ordinance, the only place a dog is allowed off leash under voice control is on the beach. He suggested expanding the definition of where dogs should be on leash such as private roads, public parks, and Town parking areas.

Barbara Barwise said there are many places people like to exercise their dogs by voice and sight control such as: Turbats Creek, Conservation Trust, Wanby Beach, Town Forest and private roads.

Lengthy discussion followed. Richard Driver mentioned two incidents in which unleashed dogs went on his private property. He said most dogs won't obey voice control, and it is a mistake to allow dogs to be on voice and sight control on every private road in town. He said the proposed ordinance expands the off-leash provision, and it is a mistake.

David Conway, animal control officer, said zones should be put back in the ordinance. He said it worked for all of these years. He said voice control does not

work, that dogs have other priorities.

Ms. Barwise said the main problem is that it is done by zone. She doesn't like the Village Residential East. It has voice control, but the rest of the town doesn't.

Mr. Sherman said what works for Goose Rocks might not work at other areas in town. He would like it built in the ordinance the ability to modify it.

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to amend the proposed Dog Ordinance to change **Section C: Requirements for Control of Animals 2. DOGS LEASHED:** A leash shall be used to restrain a dog: (a) if the dog fails to respond to voice commands when off the premises of the owner, (b) when a dog is walking with a responsible party on ~~public streets~~ roads and sidewalks in the Town of Kennebunkport. Also, to add, from April 1 to September 30, dogs must be on leash between 7:30 AM and 8:30 AM and after 6 PM.

**Vote:** 5-0.

**15. Authorize the assessing maintenance agreement with Maine Equilization Consultants, Inc.**

Ms. Smith explained that Donna Moore Hayes has been the Town's Assessor's Agent for many years and her contract needs to be updated. The Selectmen received an updated contract to review.

**Motion** by Selectman Barwise, seconded by Selectman Hutchins, to accept the contract with Maine Equilization Consultants, Inc. for assessing services.

**Vote:** 5-0.

**16. Consider amendment to agreement between the Town and Oceanside Rubbish, Inc. for waste collection and hauling services.**

Ms. Smith said the contract with Oceanside Rubbish for waste collection expires August 2016. She asked if the Board wanted to go out to bid again, as it is a lengthy process. She explained that Kennebunk recently went out to bid. The Board received a copy of their bid results. They had two options: 1. An automated system for waste and recycling collection using carts; and 2. The same waste and recycling collection the Town currently uses. She said Oceanside was the lowest bid for the services that Oceanside provides the Town now. She and Highway Superintendent Michael Claus both agree that the Town receives very good service from them.

**Motion** by Selectman Barwise, seconded by Selectman Matthews-Bull, to authorize the Town Manager to negotiate a new contract with Oceanside Rubbish.

**Vote:** 5-0.

**17. Authorize the establishment of scholarships and accept \$200 contri-**

**tribution to the Kennebunkport Parks and Recreation Scholarship Program from Mary Ellen Auriemma.**

Parks and Recreation Director Carol Cook explained that the scholarship program came about because of a check she received from Mary Ellen Auriemma who had children in her summer camp last year. When she paid her bill for summer camp, she included a donation of \$200 directed toward whatever best meets the needs of the program. Ms. Cook and the Town Manager discussed establishing a scholarship program for low income youth so they could participate in recreation programs or summer camp. The Board received a scholarship application developed by Ms. Cook and Director of Public Health Judy Barrett. This item is their first donation to the scholarship.

**Motion** by Selectman Barwise, seconded by Selectman Matthews-Bull, to authorize the establishment of scholarships and to accept a \$200 contribution to the Kennebunkport Parks and Recreation Scholarship Program from Mary Ellen Auriemma. **Vote:** 5-0.

Ms. Smith added that anyone wishing to donate to the Scholarship Fund may do so by writing a check to the Town of Kennebunkport and sending it to either the Town Treasurer or to Ms. Cook.

**18. Accept \$290 donation from Consolidated School's February Sock Hop to be directed to the emergency fuel/food account.**

**Motion** by Selectman Barwise, seconded by Selectman Matthews-Bull, to accept \$290 donation from Consolidated School's February Sock Hop to be directed to the emergency fuel/food account. **Vote:** 5-0.

**19. Meet as Assessors to consider the following abatement request:**

Property Owner	Location	Map	Blk	Lot(s)	Tax Abatements 2015
Janet Wendle	134 Goose Rocks RD	16	1	18	\$546.31

**Motion** by Selectman Hutchins, seconded by Selectman Barwise, to accept the tax abatement for Janet Wendle, map 16, block 1, lot 18, in the amount of \$546.31 per Assessor's Agent Donna Moore Hayes' recommendation. **Vote:** 5-0.

**20. Other business.**

Selectman Briggs thanked Ms. Smith for her professional presentation of the budget. He said it was very well coordinated and cross referenced and made the Board's job easier.

Selectman Hutchins wanted it on record that his stance on the Goose Rocks Beach litigation is to see it through to the end. He said he believes that "justice

Ms. Smith said Mike Claus applied for a Project Canopy grant and the Town received a grant of \$4,900 to be used for software that is integrated with our GIS system to keep track of tagged trees and store their history.

**21. Consider the March 12, 2015, Treasurer's Warrant.**

**Motion** by Selectman Hutchins, seconded by Selectman Barwise, to approve the March 12, 2015, Treasurer's Warrant. **Vote:** 5-0.

**22. Adjournment.**

**Motion** by Selectman Hutchins, seconded by Selectman Barwise, to adjourn the meeting. **Vote:** 5-0.

The meeting adjourned at 8:40 P.M.

Submitted by

Arlene McMurray  
Administrative Assistant





## TOWN OF KENNEBUNKPORT, MAINE

~INCORPORATED 1653~

MAINE'S FINEST RESORT

February 9, 2015

Memo: List of Potential Warrant Articles June 2015

From: Werner Gilliam, CFM Director of Planning and Development

To: Laurie Smith, Town Manager/ Board of Selectmen

For June 2015 I've identified a number of potential warrant articles related to the Land Use Ordinance that I would like to have the Board of Selectmen consider.

- **Residential Mixed Use Standard:** The Growth Planning Committee has been working on developing a standard that would allow 2 residential units to be constructed above a commercial structure without triggering a larger lot size requirement (See attached DRAFT RMU Standards) This article is consistent with their objectives found in the Comprehensive Plan that support the creation of more affordable housing options.
- **Revised Lot Area Definition:** Based on discussions with Town Counsel we have been contemplating revising the definition of "Lot Area" primarily to prevent the use of large intertidal areas for lot development calculations. To date we have developed two options.(See attached)
- **Commercial ADA/Accessibility Issue:** Recently the Nonantum Hotel attempted to obtain a setback variance to construct an ADA/Life-safety compliant elevator. The logical location from a cost and building code perspective would have required a variance which is difficult if not impossible to obtain. Other locations, while technically feasible, would have cost 3 to 4 times as much due to the need for significant building modifications. The result is that needed safety upgrades are not occurring at our commercial properties due to our local zoning restraints. With our stock of older Hotels, Inns and B&B's this issue affects many properties. I would like to propose a specific revision to the performance standards that would allow for stairwells and elevator shafts for existing Hotels, Inns, and B&B's that would allow for these type of Life Safety modifications to occur without the need for a variance.
- **SLZ Map revision Cape Porpoise Square:** Based on a site review by a Licensed Wetland Specialist, staff from Maine DEP, and town staff this proposal is to correct the Shoreland Zoning Map by removing a section of Stream Buffer over an area that has been misidentified as a stream. This area directly affects property owned by Church on the Cape, Bradbury Brothers, Atlantic Hall, and Cape Corp Condo Association. (See attached)



# TOWN OF KENNEBUNKPORT, MAINE

~ INCORPORATED 1653 ~

## MAINE'S FINEST RESORT

- ***Permitted use structures:*** Currently the Land Use Ordinance requires Planning Board Site Plan approval for essentially all uses except for residential permitted uses. Over the years this has not been enforced as it relates to those uses which we identify as "permitted" in various zones. For example uses such as: Agriculture, Storage and Repair of Fishing Equipment, and Farm Stand while listed as "permitted uses" do not have their associated buildings exempt from Planning Board Site Plan Review under the current Ordinance. The proposed change to the LUO would be to exempt the review of structures associated with "permitted uses" from Planning Board review and allow them to be permitted and reviewed by just the Code Enforcement Officer which has been past practice.
- ***Land Use Ordinance Errors:*** Base on a significant and lengthy audit of the Land Use Ordinance a number of errors were discovered that need to be voted upon. These revisions are minor housekeeping items. We would like to have them addressed before the ordinance undergoes a reformatting that will make it more user friendly for the website.

149.

## **PROPOSED AMENDMENT TO THE KENNEBUNKPORT LAND USE ORDINANCE CONCERNING RESIDENTIAL MIXED USE STRUCTURES**

Shall an ordinance entitled "2015 Amendment to the Kennebunkport Land Use Ordinance concerning residential mixed use structures be enacted? (A true copy of which is on file in the Town Clerk's Office and is incorporated by reference.)

[Note of Explanation: Currently the ordinance allows for mixed use structures, it does however require a doubling of the minimum lot size in order to accomplish this. This revision would allow mixed use structures in certain zones to be constructed/converted without doubling the minimum lot size when the proposal includes up to two residential dwelling units utilized as permanent residences. All otherwise current commercial performance standards remain in effect.]

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.

### **Article 2: DEFINITIONS:**

**STREETSCAPE:** An area that lies between the street curb and the façade of the adjacent building.

**MIXED USE:** A principal building (including any accessory structures) that blends a residential use with a commercial use. For purposes of minimum lot size calculations, outside of the Shoreland Zone, Mixed Use as defined shall be considered a single use.

**WORKFORCE HOUSING:** Affordable housing for households with earned income that is insufficient to secure quality condition housing in reasonable proximity to the work place.

### **Article 4: ZONE REGULATIONS:**

Add Residential Mixed Use as a Conditional Use Subject to Site Plan Review for the following Zones.

4.6 Riverfront Zone: Residential Mixed Use

4.9 Cape Porpoise East & Cape Porpoise West Zones: Residential Mixed Use

4.10 Cape Porpoise Square Zone: Residential Mixed Use

4.11 Free Enterprise Zone: Residential Mixed Use

Article 6.9 Off-Street Parking and Loading-Non-Residential

A7 Residential Mixed Use – Parking for the Non-Residential Component based on the requirements listed in this section

Article 6.10 Residential Parking Standards

5. Parking for residential components of RMU shall be as follows:

1 Bedroom Unit	1 Parking Space
2or more Bedroom Unit	2 Parking Spaces

Article 7.13 Roomers

Article 7.14 Roomers

Article 7.13 Residential Mixed Use

Purpose: To provide for smaller scale housing options, specifically workforce housing and small scale commercial options by encouraging mixed use structures without requiring twice the minimum lot size on conforming lots.

- A. A request for Residential Mixed Use requires submittal of a site plan that shall include the property owner with deed reference lot boundaries and dimensions to scale the location and set backs of all buildings and parking areas and open spaces.
- B. Minimum lot size and building setbacks shall meet the underlying zone requirements. Minimum open space (area not occupied by structures or parking) shall be 60% of total lot area.
- C. Streetscapes created by new development must be pedestrian-oriented. There shall be a direct pedestrian connection between the principal building entrance and the sidewalk(s) or path(s) along the adjoining street(s) if the commercial use is open to the public and/or fronts an existing public sidewalk or path.
- D. Parking shall meet the requirements set forth in Article 6. Parking shall be predominantly located to the side and/or rear of the building.
- E. Residential Mixed Use structures located on properties connected to the Town's wastewater collection system must be approved by the Sewer Department. Properties utilizing subsurface waste system and private wells must meet the standards required in the Maine Subsurface Waste Rules.

In addition:

- 1. Existing septic systems must be evaluated for condition and capacity by a licensed Site Evaluator. A reserve area is required for existing and new systems in the event that

replacement is necessary. Bi-annual pump-outs of septic systems servicing the property are required and documentation must be provided to the Town upon request.

2. Properties serviced by private wells must provide to the Code Enforcement Office a water quality test to ensure adequate water quality prior to issuance of a certificate of occupancy.

- F. A request for Residential Mixed Use shall include a plan of the entire building showing a separate layout of all finished levels identifying the use of all rooms and the location of all entrances/exits.
- G. The number of dwelling units permitted with a commercial use as identified in the definition of Residential Mixed Use shall be limited to two
- H. Individual dwelling units shall consist of a minimum of 600 square feet of habitable space and may not have any living space on a third story unless it meets the minimum Life Safety requirements as defined in the Building Code.
- I. The dwelling unit(s) shall be occupied as a primary residence (primary residence shall be defined as more than six (6) months per year)
- J. Where permitted only one(1) home occupation shall be permitted per dwelling unit.
- K. The minimum commercial unit size shall be 500 square feet of gross floor area. The commercial area may not exceed 2 times the total residential area.
- L. All new or redeveloped structures shall meet or exceed NFPA requirements for the applicable fire suppression system.
- M. Any specific performance standards otherwise identified in this Ordinance related to the commercial use must also be met.



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## **PROPOSED AMENDMENT TO THE KENNEBUNKPORT LAND USE ORDINANCE CONCERNING THE DEFINITION OF LOT AREA**

Shall an ordinance entitled "2015 Amendment to the Kennebunkport Land Use Ordinance Concerning The Definition of Lot Area 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 revise the description of Lot Area. Lot Area is used to determine the square footage of a lot used towards calculating allowable lot coverage. This amendment would specifically exclude beach areas from that calculation.]

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 2 DEFINITIONS:**

Lot Area: The total area located within the lines of a lot as measured on a horizontal plane. Within the Shoreland Zone, lot area shall exclude land areas below the normal high-water line of a water body and any other adjacent areas of sand, if any, located between the normal high water line of a water body and either the seaward edge of a structure such as a sea wall or the seaward edge of dune vegetation.





14c

## **PROPOSED AMENDMENT TO THE KENNEBUNKPORT LAND USE ORDINANCE CONCERNING PERFORMANCE STANDARDS OF HOTELS MOTELS BED & BREAKFASTS AND INNS**

Shall an ordinance entitled "2015 Amendment to the Kennebunkport Land Use Ordinance Concerning Performance Standards for Hotels, Motels, Bed & Breakfasts and Inns 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 allow existing non-conforming Hotels Motels Bed & Breakfasts and Inns to construct ADA and Life Safety Compliant Stairwells and Elevator Shafts without the need for a variance.]

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.

### Hotels, Motels, Bed & Breakfasts, and Inns

- G. Hotels Motels Bed & Breakfasts or Inns, constructed prior to January 1 2015 may after receiving all applicable approvals, construct compliant stairwells or elevator assemblies meeting all dimensional requirements including lot coverage, setback, and building height to the greatest practical extent as determined by the Planning Board without the need for a variance. These stairwells and elevator assemblies shall not be considered an expansion of use as otherwise described in this ordinance and are specifically exempt from the dimensional requirements of this Ordinance. When considering such a request Planning Board shall with the assistance of the Code Enforcement Officer ensure that proposals are in full compliance with current ADA and Life Safety standards.



1401

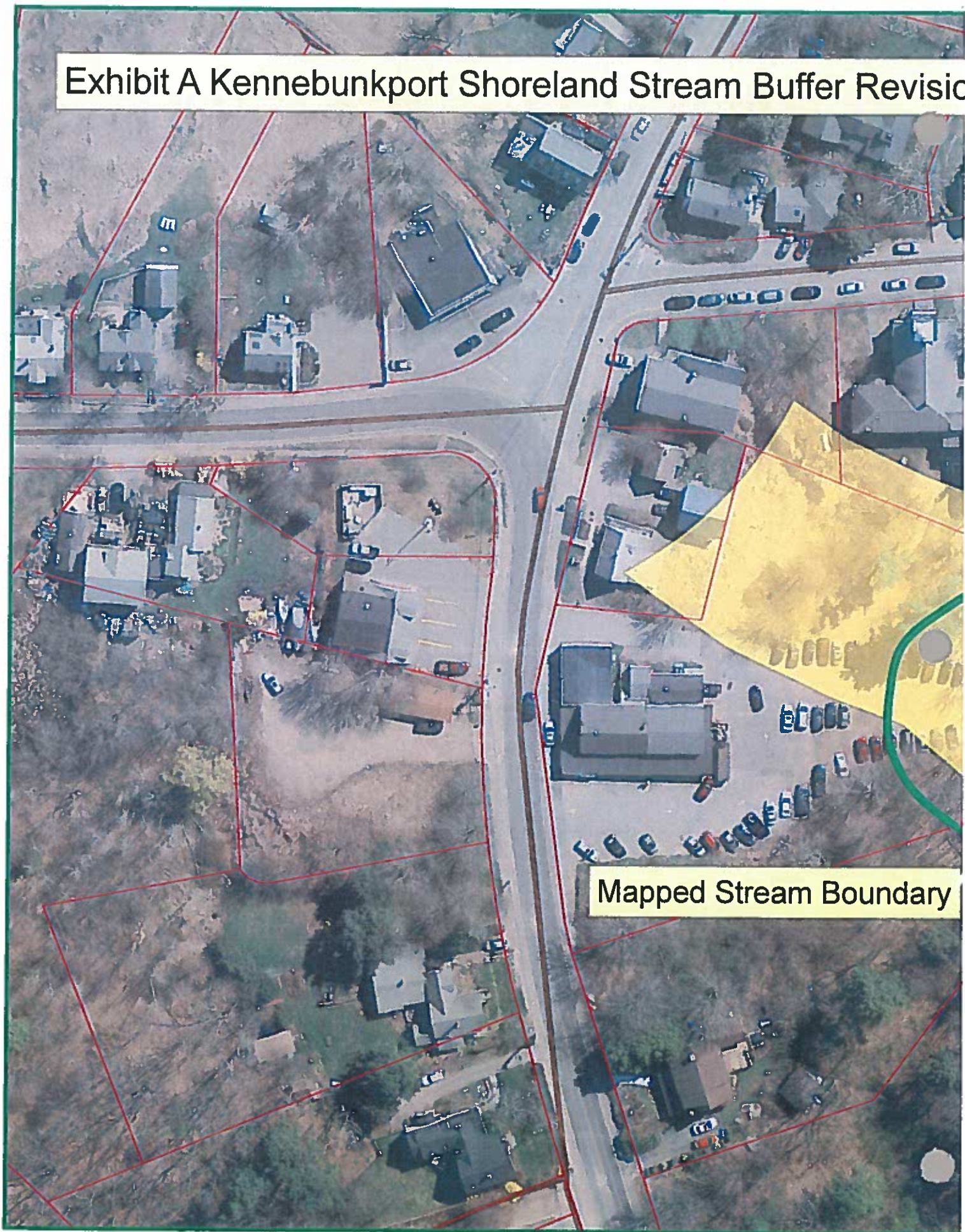
**PROPOSED AMENDMENT TO THE OFFICIAL  
KENNEBUNKPORT SHORELAND ZONING MAP**

Shall an ordinance entitled "2015 Amendment to the Kennebunkport Shoreland Zoning Map 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 map amendment revises an existing stream buffer in Cape Porpoise to reflect actual stream boundaries. See Exhibit A.]



# Exhibit A Kennebunkport Shoreland Stream Buffer Revisio



Mapped Stream Boundary

**PROPOSED AMENDMENT TO THE KENNEBUNKPORT LAND  
USE ORDINANCE CONCERNING STRUCTURES FOR  
PERMITTED USES**

Shall an ordinance entitled "2015 Amendment to the Kennebunkport Land Use Ordinance concerning structures for permitted uses 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 ordinance revision clarifies that structures associated with certain permitted uses do not require Planning Board Site Plan Review.]

10.2

B. Site Plan Review and Approval shall not be required:

1. For detached single family dwellings, accessory apartments, two family dwellings, home occupations and their accessory buildings, driveways and parking areas; or structures associated with: Agriculture, Farm Stands, or Storage and Repair of Fishing Equipment.





## PROPOSED AMENDMENT TO THE KENNEBUNKPORT LAND USE ORDINANCE CONCERNING ERRORS AND OMISSIONS

Shall an ordinance entitled "2015 Amendment to the Kennebunkport Land Use Ordinance concerning Errors and Omissions 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 ordinance revision fixes a number of various typographical errors and omissions from past warrant articles.]

Revise Article 3.2D to read:

In the event that a dispute cannot be resolved by the use of the rules in section 3.2.C above, the applicant or the Code Enforcement Officer may refer the matter to the Board of Appeals who shall interpret location of the disputed zoning district boundaries or location of the normal high water mark, pursuant to the procedure for administrative appeals, as set forth in section ~~9.2~~ 9.3 The Code Enforcement Officer shall provide copies of any such administrative appeal application to both the Conservation Commission and the Growth Planning Committee, as well as to the Department of Environmental Protection in cases involving any Shoreland Zone, so these bodies may have an opportunity to provide background information, comments and recommendations to the Board of Appeals regarding interpretation of the official maps. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to the location of district boundaries subject to the appeals provisions in section ~~9.2~~ 9.3

Revise Article 11.2I to read:

I. Roads, Filling, Grading: Road construction and filling or grading of land, as described in Subsection ~~6.15~~ 6.14

Revise Article 11.12H to read:

H. **Issuance procedure.** Growth management permit applications shall be submitted to the Code Enforcement Officer who shall endorse each with the date and time of receipt. ~~On~~ In the event two or more growth management permit applications are received simultaneously, the Code enforcement Officer shall determine their order by random selection. ...

Revise Article 10.8B to read:

B ...The notice shall identify the property involved, the applicant, the nature of the ~~appeal-application~~, and the time and place of the public hearing.





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The Kennebunkport Dog Ordinance adopted at a Special Town Meeting on June 9, 1976 is hereby repealed and replaced with this Animal Control Ordinance

## PROPOSED ANIMAL CONTROL ORDINANCE

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### Section A: Purpose

The purpose of this ordinance is to require that all animals in the Town of Kennebunkport be kept under the control of their owner or keeper at all times so that they will not injure persons or other animals, damage property or create a public safety threat.

The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody or possession of that animal.

### Section B: Definitions

1. ANIMAL: Every living, sentient creature not a human being.
2. ANIMAL CONTROL: Control of dogs, cats and domesticated or undomesticated animals.
3. ANIMAL CONTROL OFFICER: Any person appointed by the Town of Kennebunkport to enforce animal control laws.
4. ANIMAL SHELTER: A facility that includes a physical structure that provides temporary shelter to stray, abandoned, abused or owner-surrendered animals.
5. AT LARGE: Off the premises of the owner, unleashed and not under the Voice and Sight control of a responsible party.
6. BEACH: ~~The beaches~~ within the Town of Kennebunkport ~~commonly referred to as Goose Rocks Beach, Colony Beach, and Cleaves Cove.~~
7. DOG: Any of large and varied groups of domesticated animals in the canine family.
8. LEASH: Hand held device, 15 feet or less in length, which can be used to restrain a dog.
9. OWNER: Owner or any person of persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.
10. RESPONSIBLE PARTY: Any person who has custody, possession or control of a dog, whether or not that person is the Owner.
11. RESTRICTED AREAS: Any beach area ~~on Goose Rocks Beach, Colony Beach or Cleaves Cove,~~ that is designated for special protection for piping plovers or other endangered species based upon scientific and historical data.

Deleted: Any

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Deleted: which is used by the public.

12. VOICE AND SIGHT CONTROL: "Voice Control" means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party's verbal command. "Sight Control" means that dog is always within sight of the responsible party and the dog is capable of complying with Voice Control. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and is in violation of this Ordinance unless such person has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog. A dog barking repeatedly is not considered under Voice and Sight Control.

#### **Section C: Requirements for Control of Animals**

1. AT LARGE DOGS: It is unlawful for any dog, licensed or unlicensed, to be at large within the Town of Kennebunkport, except when used for hunting. Dogs shall be considered at large unless leashed or under Voice and Sight Control of a responsible party. A responsible party shall maintain control of their dog(s) at all times, not allow the dog(s) to charge, chase or display aggression towards any person, or disturb or harass any person, other dogs or wildlife. A responsible party shall have a leash in his/her possession for any dog that is off leash. The owner of any dog found at large or otherwise in violation of this section will be subject to the civil penalties provided in the Ordinance and/or Maine State Law, Title 7, Section 3911.
2. DOGS LEASHED: A leash shall be used to restrain a dog: (a) if the dog fails to respond to voice commands when off the premises of the owner, (b) when a dog is walking with a responsible party on public streets and sidewalks in the Town of Kennebunkport, or (c) if the responsible party is ordered by the Animal Control Officer or a law enforcement officer to leash the dog. The owner of any dog found in violation of this section will be subject to the civil penalties provided in the Ordinance.
3. IMPOUNDMENT OR RETURN OF AT LARGE DOGS: All dogs found at large in violation of this Ordinance or Title 7, M.R.S.A., Section 3911 may be impounded at the animal shelter or returned to the owner, at the discretion of the Animal Control Officer or law enforcement officer.
4. LICENSES: No dog shall be kept within the limits of the Town of Kennebunkport unless such dog is licensed by the owner in accordance with Maine State Law.
5. RABIES TAGS: Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to the dog's collar and must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner.

6. CONTROL OF ANIMAL WASTE: An owner or responsible party must remove and dispose of any feces left by his/her animal on any sidewalk, street, beach, public property or private property (other than the property of the owner of the animal or of a person who has consented to the presence of the animal on his or her property). Deposit of feces left off property of the owner shall be placed in an appropriate litter receptacle.

#### Section D: Specific Requirements for Dogs on Beaches

1. AUTHORITY: The Board of Selectmen shall have the authority to adopt specific rules governing dogs on ~~Goose Rocks Beach, Colony Beach and Cleaves Cove~~ that are more restrictive than the provisions of Section C of this Ordinance. For example, the Board of Selectmen may designate Restricted Areas on ~~these~~ beaches for special protection for piping plovers or other endangered species based upon scientific and historical data consistent with state and federal laws governing endangered species. For specific rules governing dogs on Goose Rocks Beach, the Board of Selectmen shall have the authority to adopt such rules after consultation with the Goose Rocks Beach Advisory Committee, in accordance with Section IV.D of the Beach Use Ordinance for Goose Rocks Beach.

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2. DOG RULES ON BEACHES: The following rules, adopted in accordance with Section D.1 above, apply to ~~the following beaches located~~ within the Town of Kennebunkport: ~~Goose Rocks Beach, Colony Beach and Cleaves Cove.~~

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- a. An owner or responsible party shall always be required to leash their dog on any ~~of the applicable~~ beaches ~~referenced above~~ when directed to do so by a ~~law~~ enforcement officer or Animal Control officer.

- b. Pet waste must be picked up immediately and disposed of properly in an appropriate litter receptacle.

- c. Dogs must be kept at least 200 feet from any designated Restricted Area.

- d. Restricted Areas include the following:

- i. Any ~~beach~~ area ~~on Goose Rocks Beach, Colony Beach or Cleaves Cove~~ that has been roped off, fenced off or otherwise demarcated or posted by governmental officials or their agents to protect the nesting site of a piping plover or of any other endangered species protected under federal or state law.

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- ii. The West End Plover Protection Area is a Restricted Area on Goose Rocks Beach that begins at Norwood Avenue and continues westerly to the Batson River.

- e. From April 1 to September 30, if under Voice and Sight Control, dogs may be off leash ~~on the beach~~ between 6 am and 7:30 am, ~~except to the extent the rules in Sections D(2)(a), (c) and (d) above may require otherwise.~~

Deleted: however no dog may be off leash in any Restricted Area, including the West End Plover Protection Area on Goose Rocks Beach.

- f. From June 15 to September 30, dogs are not permitted on the beach from 8:30 AM to 6:00 PM. This provision does not apply to use of a service dog by a person with a disability when the dog is required to perform work or tasks directly related to the person's disability.
- g. From October 1 through March 31, if under Voice and Sight Control, dogs may be off leash on the beach, except for the hours of 12-2 pm when they must remain on leash, and except to the extent the rules in Sections D(2)(a), (c) and (d) above may require otherwise.

#### Section E: Rulemaking Authority governing Other Public Resources

Notwithstanding the general rules found in Section C herein, the Board of Selectmen shall have the authority to adopt specific rules governing dogs on other publicly owned or operated lands located within the Town of Kennebunkport, such as public parks.

#### Section F: Penalties

1. Any person who violates any provision of this Ordinance shall be subject to civil penalties for each violation, as follows:

First violation: not less than \$50.00 and not more than \$100.00, plus costs and reasonable attorneys' fees.

Second violation: not less than \$100.00 and not more than \$250.00, plus costs and reasonable attorneys' fees.

Third and subsequent violations: not less than \$250.00 and not more than \$500.00, plus costs and reasonable attorneys' fees.

2. Notwithstanding multiple violations of this Ordinance, any person who violates Section C(4) (Licenses), or Section C(5) (Rabies Tags) of this Ordinance shall be subject to a civil penalty of not more than \$100.00 for each offense, consistent with 7 M.R.S.A. §§3918, 3924.

3. All civil penalties collected pursuant to this Ordinance shall be recovered to the use of the Town of Kennebunkport and deposited in the separate account required by 7 M.R.S.A. Section 3945.

4. A person issued a civil violation citation for violating this Ordinance may elect to pay the minimum penalty specified above for each violation alleged in the citation, in lieu of appearing in court to answer the citation. Such payment must be received at the Office of the Town Clerk in the amount specified by the Animal Control Officer by the seventh day prior to the court appearance date specified in the citation. Upon receipt of such payment by the Clerk, the Animal Control Officer or law enforcement officer shall cause the citation to be dismissed. However, the violations alleged in the citation shall be deemed admitted for purposes of assessing any future penalties under this section.

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5. Any civil penalty collected for a violation of this Ordinance shall not preclude the Town from imposing or collecting a fine or penalty for a violation of the Barking Dog Ordinance (adopted March 10, 1984).

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**Section 6: Severability Clause**

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

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MARCH 12, 2015 EXHIBIT B

**Dog Ordinance**

Adopted at a Special Town Meeting on June 9, 1976

1. It shall be unlawful for any person owning, keeping or harboring a dog, whether licensed or unlicensed, either to bring such dog onto or to permit such dog to remain on any beach in the Town of Kennebunkport between the hours of 8:00 AM and 6:00 PM, from June 15 through September 15. This section shall not apply to seeing-eye dogs.
2. It shall be unlawful for any person owning, keeping or harboring a dog, licensed or unlicensed, to allow it to run unleashed in the Village Residential, Village Riverfront, Village Dock Square, Cape Arundel, Goose Rocks, Cape Porpoise West, Cape Porpoise East and Cape Porpoise Square zones, as defined in the Kennebunkport Zoning Ordinance as amended.
3. "Person" shall mean any individual, firm, association, or corporation owning, keeping or harboring a dog.
4. Whoever violates this ordinance shall be punished by a fine of \$25.00 for the first offense, and \$25.00 for each subsequent offense to be recovered by complaint before the District Court.





Request for *Correction* to the draft of the  
Proposed Animal Control Ordinance when integrating the  
BAC Approved Dog Rules for Goose Rocks Beach

1. The BAC dog rules specified that "dogs are required to be on leash" followed by three specified exceptions. Two of these exceptions identified times of day or months in which dogs could be on the beach if "under Voice and Sight Control", thereby permitting a dog to be unleashed.

2. The Issues:

- a. The time periods in the draft do not correctly match those set forth in the BAC approved dog rules.
- b. The structure of Section C(1) At Large Dogs could be interpreted to mean that dogs are allowed Under Voice and Sight Control during the two time periods identified below.

3. Proposed Solution:

Section D 2 should be modified as follows:

Add new 2 (f): "From April 1 to September 30, dogs must be on leash between 7:30 and 8:30 AM"

Old 2 (f) becomes 2 (g)

New 2 (h): "From April 1 to September 30, dogs must be on leash after 6 PM"

Old 2 (g) becomes new 2 (i)



Request for *Clarification* of the draft of the  
Proposed Animal Control Ordinance when integrating the  
BAC Approved Dog Rules for Goose Rocks Beach

1. Section C (2) reads: DOGS LEASHED: A leash shall be used to restrain a dog: (a) if the dog fails to respond to voice commands when off the premises of the owner, (b) when a dog is walking with a responsible party on public streets and sidewalks in the Town of Kennebunkport, or (c) if the responsible party is ordered by the Animal Control Officer or a law enforcement officer to leash the dog. The owner of any dog found in violation of this section will be subject to the civil penalties provided in the Ordinance.

**2. The Issues:**

A. As a first issue, it is my understanding that intent of Section C (2) was to change the existing dog ordinance to allow owners to have a dog off leash on their own property, but requiring that a dog be on leash when off the owner's property. Section C (2a) might be confusing, as it implies that dogs can also be under voice commands when off the premises of the owner, which is only true at the Beach.

B. A second issue that has been raised is to consider expanding the definition of the areas where dogs should be on leash, such as private roads, public parks, and Town parking areas.

**3. Possible Solution:** Section C (2a) might be rewritten as follows: if the dog fails to respond to voice commands when on the Beaches as set forth in this Ordinance.

Section C (2b) might be expanded to include other public areas.

