2018

Town of Kennebunkport Maine Ordinances

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KENNEBUNKPORT ADMINISTRATIVE CODE

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TOWN OF KENNEBUNKPORT
ADMINISTRATIVE CODE

ARTICLE I
ELECTED OFFICERS

1.1 TOWN MEETING MODERATOR

1.1.1 Election

Each town Meeting shall elect a Moderator as prescribed by statute.

1.1.2 Qualification

The Town Meeting Moderator shall be a registered voter of the Town.

1.1.3 Duties

In addition to the duties prescribed by statute, the Town Meeting Moderator shall appoint a sufficient number of members to the Budget Board to constitute a Board consisting of twelve members, the terms of four members expiring every three years.

1.2 SELECTMEN

1.2.1 Number

There shall be five Selectmen elected at large, for staggered terms of three years each.

1.2.2 Qualifications

Selectmen shall be registered voters of the Town.

1.2.3 Vacancy

The office of a Selectman shall become vacant (1) upon the death, resignation, non-acceptance, permanent disability, incompetence or removal from office in any manner authorized by law or by this Code and (2) upon the failure to qualify, failure to elect, or forfeiture of office.

1.2.4 Forfeiture of Office
A Selectman shall forfeit his office if he:

a. Lacks at any time during his term of office any qualification for the office described by this Code or by statute;

b. Is convicted of a felony or a crime involving moral turpitude;

c. Misses three (3) consecutive regularly scheduled meetings of the Board for reasons other than those of health. If illness or health reasons are claimed, the Board may request verification from a doctor; or

d. Misses five (5) regularly scheduled meetings in any three-month period.

If a Selectman’s absence is due to extenuating circumstances as determined by a majority of the Board, the requirements of subsections c and d above may be waived.

1.2.5 Filling of Vacancies

If a vacancy in the office of a Selectman shall occur when there are more than ninety (90) days remaining before the next regular Town Meeting, the remaining Selectmen shall call a Special Town meeting for the election of a qualified person to fill such vacancy. If a vacancy shall occur when there are less than ninety (90) days remaining before the next regular Town Meeting, the remaining Selectmen may, in the exercise of their sole and absolute discretion, call a Special Town Meeting to fill such vacancy. If at any time, two of more offices in the Board of Selectmen are vacant, a Special Town Meeting and election shall be held to fill such offices. In the event that all five (5) positions on the Board of Selectmen are vacant, the aforesaid Special Town Meeting shall be called by the Town Clerk.

1.2.6 Selectmen’s Salary

Selectmen shall be paid a yearly salary as determined by the annual Town Meeting.
1.2.7 **Expenses**

Selectmen shall be reimbursed for their actual and necessary expenses incurred during the performance of their duties, provided such expenses shall be approved by the full Board.

1.2.8 **General Powers and Duties**

The Board of Selectmen shall have all powers of the Town which can be legally vested in the Board of Selectmen except as otherwise provided by ordinance, statute or this Code.

1.2.9 **Enumeration of Responsibilities**

The powers and duties of the Board of Selectmen shall include, but not be limited to, the following:

a. To be assessors and overseers of the poor;

b. To provide for an annual audit pursuant to statute;

c. To appoint members of the Planning Board, the Appeals Board, the Board of Assessment Review, and other boards, agencies and positions as provided by statute and by this Code. The Board of Selectmen reserves the right to use whatever factors it deems appropriate in considering the appointment or reappointment of a citizen to a town board or commission;

d. To propose to the Town Meeting the enactment or repeal of ordinances which require approval by a Town Meeting;

e. To adopt, amend or repeal ordinances and regulations which do not require approval by a Town Meeting;

f. To provide for the granting of licenses and permits for the conduct of any business in accordance with statute for such periods of time and in accordance with such rules and regulations not inconsistent with statute and upon payment by the licenses of such fees as the Board of Selectmen may establish;

g. To recommend a budget to the Annual Town Meeting;

h. To adopt and modify the official maps of the Town;
i. To oversee all activities within the Town government but not to direct Town employees, either in public or in private, such being the responsibility of the Town Manager. Not withstanding the above and with the exception of personnel matters the Board of Selectmen have the authority to discuss any issue affecting the Town with any employee of the Town;

j. To inquire into the conduct of any office, department or agency of the Town and make investigation as to all municipal affairs not otherwise provided for by ordinance or statute;

k. To adopt purchase procedures providing for the delegation of purchasing authority to department heads and/or the Town Manager within defined categories and limits;

l. To prepare and post in the Town Office an agenda for its regular and special meetings one day in advance thereof, indicating the time, place of the meeting and the matters to be considered;

m. To obtain professional services on behalf of the Town, including but not limited to legal services, accounting services and engineering services;

n. To adopt regulations for the management of Government Wharf, the Cape Porpoise Pier and the Kennebunkport parking lot system;

o. To adopt regulations for the internal management of the several municipal departments;

p. To confirm the appointment by the Town Manager of the heads of the several municipal departments and to delegate to department heads the power to make internal regulations and operating procedures for such departments;

q. To the extent permitted by state law, to establish fees for public services provided by the Town government;
r. To the extent permitted by State law and consistent with the inter-local agreements between Arundel, Kennebunk and Kennebunkport, to adopt regulations for the management of the Kennebunk River and Cape Porpoise Harbor and to delegate to the respective harbormaster the power to make such further regulations as may be necessary for the proper usage of those waterways, such regulation and management of the Kennebunk River to be conducted in conjunction with other towns, where appropriate;

s. To enact emergency regulations and ordinances as may be permitted by statute;

t. To appoint ad hoc advisory or study committees as the need may arise and to charge them with specific duties;

u. To declare as “surplus” certain old or used equipment or property which is no longer of significant use to the Town, and to dispose of said equipment or property on such terms as the Selectmen deem to be in the Town’s best interest;

v. To evaluate on an annual basis the duties, performance and performance objectives of the Town Manager; and

w. To appoint members of Boards and Committees as provided herein but not to direct or attempt to direct the Board of Zoning Appeals or the Planning Board in their decision making on the appeals and applications before them.

### 1.2.10 Assumption of Office

The Board of Selectmen shall meet within five days following adjournment of the annual Town Meeting or at any special Selectman’s meeting duly called. At such meeting all Selectmen elected shall be sworn to the faithful discharge of their duties by the Town Clerk or a Notary Public.

### 1.2.11 Chairman

At the first meeting of the Board of Selectmen following the adjournment of the annual Town Meeting, or as soon thereafter as practicable, the Board shall elect by majority vote of the entire Board one of its members as Chairman and one of its members as Vice Chairman for the ensuing year. The Board may fill at any time, at any meeting duly called therefore, any vacancy in the office of Chairman or Vice Chairman that may occur. The Chairman shall
preside at the meetings of the Board and shall be recognized as head of Town government for ceremonial purposes and by the Governor of the State of Maine for the purposes of military law. The Chairman shall be entitled to a vote, which vote shall be counted in all matters and things as a vote equal to that of the other members of the Board. In the temporary absence or disability of the Chairman, the Vice Chairman shall exercise the powers of the Chairman during the temporary absence or disability.

1.2.12

Meeting Procedure

The Board of Selectmen shall hold a regular meeting the second and fourth Thursday evenings of each month at the Town Offices or such other times and places as the Selectmen shall announce in the agenda of their meeting. Special meetings may be held on the call of the Chairman or any member upon no less than twelve (12) hours notice to each member of the Board, whenever possible. Emergency meetings of the Board of Selectmen may be called at any time by the Chairman or by any member of the Board.

Any action taken at any such emergency meeting by a quorum present thereat shall be deemed the lawful action of the Board of Selectmen. All meetings of the Board of Selectmen shall be open to the public, reserving to the Board of Selectmen the right to recess for the purpose of holding discussion in an executive session, as permitted by state statutes, provided the general subject matter for consideration is expressed in the motion calling for executive session and that any final action taken by the Board be taken in public session. The Selectmen shall keep minutes of their proceedings, which minutes shall be available to the public in the town office. Voting, except on procedural motions, shall be by ayes and nays and shall be recorded in the minutes of the Board of Selectmen. Three (3) members of the Board of Selectmen shall constitute a quorum for the conduct of business. A majority of the Board of Selectmen (not a majority of the quorum) is needed to pass a motion.
1.3 **REMOVAL**

Any elected official of the Town of Kennebunkport may be removed from elective office by the voters of the Town of Kennebunkport in the following manner:

a. A number of voters equal to at least ten (10) percent of votes cast in the town at the last gubernatorial election, but in no case less than ten (10), may present a written petition, which petition shall fully set forth the reasons therefore, to those members of the Board of Selectmen having no conflict of interest in the subject matter of said petition;

b. In or within fifteen (15) days after the receipt of such petition said Selectmen shall hold a public hearing on said petition, which hearing shall be restricted and limited to presentation and discussion of those matters set forth in the petition. Said public hearing shall be conducted by said Selectmen having no interest in the subject matter of the petition in accordance with rules of conduct and guidelines established by and set forth by them at the outset of the hearing;

c. Notice for the aforesaid public hearing shall be given in the same manner as is provided for and established with regard to notice for a Town Meeting;

d. In or within fifteen (15) days after the aforesaid public hearing, a Town Meeting shall be called by the said Selectmen and a vote by secret ballot shall be taken; and

e. In the event of an affirmative vote for such removal, such vote shall take effect and such removal shall be effective as of recording thereof in the record of the Meeting, subject to such recount of the vote as may be requested and provided by statute.
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;
k. Collect data necessary for the preparation of the budget, assist and work with the Budget Board;

l. Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices;

m. Exercise exclusive authority to remove for cause, after notice and hearing, all persons whom the Town Manager is authorized to appoint and report any removals to the Board of Selectmen. However, all employees shall serve a probationary period of six months and may be removed without cause, notice or hearing prior to the expiration of this probationary period;

n. Prepare applications for state and federal grants;

o. Coordinate departmental activities and set attainable goals for all municipal departments;

p. Monitor all state and federal programs that may benefit the Town of Kennebunkport and supervise these programs in the Town of Kennebunkport. The Town Manager will also be responsible for any municipal programs initiated by the Board of Selectmen;

q. Appoint at least one Deputy Tax Collector subject to confirmation by the Board of Selectmen; and

r. Prepare or have prepared and submit to the Board of Selectmen for approval job descriptions for all municipal employees and appointed officers of the Town.

2.2 REMOVAL

All officers appointed by the Board of Selectmen and reporting to the Town Manager may, upon recommendation of the Town Manager, be removed by the Selectmen for cause, after notice and hearing, which hearing shall be conducted by the Board of Selectmen consistent with statute.
2.3 MUNICIPAL DEPARTMENTS

The municipal administration shall be divided into the following departments:

2.3.1 Administrative Department
- Fire Department
- Health Department
- Parks and Recreation Department
- Planning and Development Department
- Police Department
- Public Works Department
- Town Clerk 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 of 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.
ARTICLE III
APPOINTED OFFICERS

3.0 APPOINTED OFFICERS

The Board of Selectmen shall appoint the following officers:

Animal Control Officer
Assessor’s Agent
Assistant Code Enforcement Officer
Assistant Plumbing Inspector
Emergency Management Director
Code Enforcement Officer
Constable
Fire Inspector
Harbor Masters
Health Officer
Plumbing Inspector
Road Commissioner
Registrar of Voters
Shellfish Warden
Street Naming & Numbering Delegate
Tax Collector
Town Clerk
Treasurer
Tree Warden
Town Forester

3.1 ANIMAL CONTROL OFFICER

3.1.1 Appointment

The Board of Selectmen shall appoint annually an Animal Control Officer. The Animal Control Officer shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.1.2 Duties

The duties of the Animal Control Officer shall be the enforcement of statutes relating to the duties of animal control officers and such other duties as may be required by the Board of Selectmen.

3.1.3 Compensation

The compensation of the Animal Control Officer shall be on the basis of a salary to be determined by the Board of selectmen and not otherwise.
3.2 SHELLFISH WARDEN

3.2.1 Appointment

The Board of Selectmen shall appoint annually a Shellfish Conservation Committee consisting of one or more persons.

3.2.2 Chairman

The Chairman of the Shellfish Conservation Committee shall be known and serve as the Shellfish Warden. The Shellfish Warden shall report directly to, and be supervised by, the Town Manager, or his or her designee. Notwithstanding any other provision of this Administrative Code, the Chairman of the Shellfish Conservation Committee serving as Shellfish Warden shall not be required to be a resident of the Town.

3.2.3 Duties

The duties of the Shellfish Conservation Committee shall be as set forth in the Shellfish Conservation Ordinance of the Town of Kennebunkport.

3.3 EMERGENCY MANAGEMENT DIRECTOR

3.3.1 Appointment

The Board of Selectmen shall appoint annually the Emergency Management Director. The Emergency Management Director shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.3.2 Duties

The duties of the Emergency Management Director shall be as specified by the Board of Selectmen, by statute, and by ordinances of the Town.
3.4 CODE ENFORCEMENT OFFICER

3.4.1 Appointment

The Board of Selectmen shall appoint annually the Code Enforcement Officer and may appoint an Assistant Code Enforcement Officer. The Code Enforcement Officer shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.4.2 Qualifications

The Code Enforcement Officer and the Assistant Code Enforcement Officer shall hold the certifications required by State statute. Prior to their appointment by the Board of Selectmen, the qualifications of the Code Enforcement Officer and the Assistant Code Enforcement Officer shall be reviewed by the Planning Board and Appeals Board.

3.4.3 Duties

The duties of the Code Enforcement Office shall be prescribed by the Land Use Ordinance of the Town of Kennebunkport, the Planning Board Regulations, the State Plumbing Code and any applicable federal and state statute. The Code Enforcement Officer or someone appointed to act with his authority is the sole municipal officer authorized to notify any person of non-compliance with the Kennebunkport Land Use Ordinance.

3.5 FIRE INSPECTOR

3.5.1 Appointment

The Fire Chief(s) shall serve as the Fire Inspector as required by 25 M.R.S.A. Sec. 2391. The Fire Inspector shall appoint annually such Deputy Fire Inspectors as he/she deems necessary to perform the duties and functions of the Fire Inspector. The Fire Chief shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.5.2 Duties

The duties of the Fire Inspector shall be as set forth in the statutes of the State of Maine, as the same may be amended from time to time, and such other duties as shall be prescribed by the Board of Selectmen.
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 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 authority granted by law and through his appointment as Harbormaster, any other duties specified by federal or state statute.
3.7 HEALTH OFFICER

3.7.1 Appointment

The Board of Selectmen shall annually appoint a Health Officer.

3.7.2 Qualifications

The Health Officer shall be a duly qualified, State certified medical practitioner.

3.7.3 Duties

The duties of the Health Officer shall be as prescribed by statute.

3.8 REGISTRAR OF VOTERS

3.8.1 Appointment

The Board of Selectmen shall appoint in writing a qualified Registrar of Voters by January 1st of each odd-numbered year. The Registrar of Voters shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.8.2 Qualifications

The Registrar must be a citizen of the United States, a resident of the State and at least 18 years of age. The Registrar may not hold or be a candidate for any State or county office, or be an officer in a municipal, county or State party committee.

3.8.3 Term of Office

The Registrar shall serve for 2 years and until a successor is appointed and sworn. If the Clerk is appointed to serve as Registrar, the term of the Registrar is the same as the term of the Clerk.
3.8.4 **Vacancy**

When there is a vacancy in the office of Registrar, the Board of Selectmen shall appoint a qualified person to fill the vacancy for the remainder of the term of office. If the Board of Selectmen fails to appoint a Registrar to fill the vacancy within 15 days after the Board of Selectmen receives notification of the vacancy, the Clerk shall appoint a qualified person to fill the vacancy for the remainder of the term of office.

3.9 **TREE WARDEN**

3.9.1 **Appointment**

The Board of Selectmen shall annually appoint a Tree Warden. The Tree Warden shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.9.2 **Duties**

The duties of the Tree Warden shall be as prescribed by ordinances of the Town and statute.

3.10 **TOWN FORESTER**

3.10.1 **Appointment**

The Board of Selectmen shall annually appoint a Town Forester. The Town Forester shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.10.2 **Duties**

The duties of the Town Forester shall be the management of the Town forest and such duties as may be prescribed by ordinances of the Town and statute.

3.11 **TOWN CLERK**

The Selectmen shall appoint annually the Town Clerk. The Town Clerk shall report directly to, and be supervised by, the Town Manager. The Town Clerk shall exercise such powers and duties as prescribed by law and such other responsibilities as specifically designated by the Town Manager.

**ARTICLE IV**

**BOARDS AND COMMISSIONS**
4.1 QUALIFICATION AND REMOVAL

4.1.1 Residence Qualification

All persons appointed to Boards and Committees under Article IV shall be registered voters in the Town of Kennebunkport and shall continue to serve only so long as they remain registered voters, except as provided in Article 4.11.1, Article 4.12.1 and Article 4.16.

4.1.2 Removal of Appointees to a Board or Committee

A vacancy on any board or committee may occur by the following means: non-acceptance, death, resignation, permanent disability or incompetence, failure to qualify for the office within 10 days after written demand by the Board of Selectmen, removal from office in any manner provided by law, and forfeiture of office as provided in this Administrative Code.

4.1.3 Appointees to a board or committee shall forfeit their office if they:

a. Lack at any time during their term of office any qualifications for the office prescribed by the Administrative Code or by the Constitution and Laws of the State of Maine;

b. Violate any express prohibition of this Code;

c. Are convicted of a crime punishable by imprisonment for more than 30 days whether or not such imprisonment actually occurs;

d. With respect to all boards or committees other than the Board of Selectmen, fail to attend the greater of three (3) consecutive regular meetings of the board or commission or more than 25% of all meetings within any 6 month period, unless such absences are determined not to be grounds for forfeiture pursuant to Section 4.1.3;

e. Fail to disclose a conflict of interest; or

f. Fail to perform the duties of the office.
4.1.4 **Determination of Forfeiture**

The determination of whether a forfeiture has occurred shall be made by the Board of Selectmen by appropriate proceedings of a judicial nature and after written notice and hearing. After receipt of such written notice, where the reason of alleged forfeiture is failure to attend the requisite number of meetings, the six month period for determining whether the member failed to attend the requisite percentage of all meetings shall end on the date of such written notice, and no subsequent meetings may be included in determining whether a forfeiture has occurred. Notice of the hearing shall be given to all other individuals who are members of the board or committee at the time the alleged grounds for forfeiture occurred. The determination of when a vacancy exists shall be made by the Board of Selectmen no later than its next regularly scheduled meeting. Upon such determination, a vacancy shall be deemed to “occur” for purposes of filling such vacancy.

4.1.5 **Attendance**

a. The failure of an appointed board or committee member to attend the greater of three consecutive regular meetings of the board or commission or more than 25% of all meetings within any six month period shall not result in forfeiture of office if the Board of Selectmen determines that the absences were justified and that forfeiture is not in the best interests of the Town. In making this determination, the Board of Selectmen shall consider all relevant evidence, including but not limited to the following:

   (i) whether the reason for the absence was within or beyond the board/committee members control;

   (ii) whether the absence interfered with the efficient operational functioning of the board or committee;

   (iii) whether the board/committee member could have given advance notice;

   (iv) the attendance history of the board/committee member.

b. The board/committee member shall have the burden of establishing by a preponderance of the evidence that the absences were justified and forfeiture is not in the best interests of the Town.
4.1.6 **Filling a Vacancy**

When a vacancy occurs in any appointed Town office or position, the Board of Selectmen shall appoint a qualified person to fill the vacancy within 60 days.

4.1.7 **Town Employees**

Employees of the Town of Kennebunkport may not serve on standing boards and commissions, except by ex-officio appointment. This limitation does not apply to individuals who are hired by the Town to serve as temporary election workers or wardens, occasional part time or temporary employees, or volunteer fire and reserve police personnel. Such individuals may serve on a board or commission unrelated to their work for the town.

4.2 **LEGAL STANDING**

No Board or Committee established under this Administrative Code shall have legal standing to appeal a decision of any other municipal body or officer or to monitor an action at law against any other municipal body or officer without the consent of the Board of Selectmen unless such standing is specifically granted by State Statute.

4.3 **DECISIONS OF BOARDS AND COMMITTEES**

A quorum shall consist of the majority of the full membership of a Board or Committee. A simple majority of the full membership (not a majority of the quorum) is needed to pass a motion. For purposes of this section, full membership shall mean the regular membership of a Board or Committee not including alternate members unless alternate member(s) are designated regular members in the absence or disqualification of any regular member(s). Alternate members, when there are alternate members, of any Board or Committee may participate in proceedings but may only vote when designated as a voting member by the Chair to act for a member who is unable to vote because of absence or disqualification.

4.4 **PARSONS WAY COMMITTEE**

4.4.1 **Composition**

The Parsons Way Committee shall be composed of three or more members.

4.4.2 **Appointment**

The Board of Selectmen shall appoint the members of the Parsons Way Committee.

4.4.3 **Terms**
The members of Parsons Way Committee shall serve for three-year terms, and the terms shall be staggered. Appointments to replace members unable to complete their terms shall be for the unexpired portion of the three-year term.

4.4.4 Organization

The members of the Parsons Way Committee shall elect annually from its membership a Chairman and a Secretary.

4.4.5 Duties

The duties of the Parsons Way Committee shall be to make recommendations to the Board of Selectmen for the management of Parsons Way consistent with the conditions under which Henry Parsons deeded Parsons Way to the Town (by deed dated July 29, 1944, recorded in the York County Registry of Deeds in Book 1018 at Page 179), accepted by the Town of Kennebunkport at the March 6, 1944 Town Meeting, Warrant Article 53, and with further reference to a 3-page letter signed by Henry Parsons dated March 2, 1944, addressed “To the Citizens of Kennebunkport”, expressing his intent.

4.5 PLANNING BOARD

4.5.1 Composition

The Planning Board shall consist of five members and two alternate members.

4.5.2 Appointment

The Board of Selectmen shall appoint the members of the Planning Board.
4.5.3 **Terms**

The members of the Planning Board shall serve for three year terms on a staggered basis. Members are limited to serving three full, consecutive terms. Reappointment may occur after a one year period of non-service. The Board of Selectmen may, despite the term limitations in this section and for good cause shown, appoint a member for an additional one year of service beyond the three consecutive terms.

4.5.4 **Organization**

The members of the Planning Board shall elect annually from its membership a Chairman, a Vice-Chairman and a Secretary.

4.5.5 **Powers and Duties**

The powers and duties of the Planning Board shall be as prescribed by statute. Members shall attend and complete a training session for Planning Board members sponsored by the Maine Municipal Association in their first year of service and in their sixth year of service.

4.5.6 **Regulations**

The Planning Board may adopt such procedures for the conduct of its own business and such standards for evaluating the proposals brought before it as are consistent with ordinances of the Town and statute.

4.6 **PUBLIC SAFETY COMMITTEE**

4.6.1 **Composition**

The Public Safety Committee shall be composed of seven members: the Fire Chief, the Chief of Police, the Highway Superintendent, the Sewer Department Supervisor, the Emergency Management Director, the Chief of Service for the Kennebunkport Emergency Medical Services and one Selectman.

4.6.2 **Organization**

The Public Safety Committee shall annually elect from its members (other than the Selectman) a Chairman.
4.6.3 **Duties**

The Public Safety Committee shall be an advisory committee. The Committee shall annually review the communications budget which shall be prepared by the Chief of Police and make recommendations for the acceptance, amendment or non-acceptance of each budget item.

4.7 **LIGHTING COMMITTEE**

4.7.1 **Composition**

The Lighting Committee shall be composed of five or more members.

4.7.2 **Appointment**

The Board of Selectmen shall appoint the members of the Lighting Committee.

4.7.3 **Terms**

The members of the Lighting Committee shall serve for three years.

4.7.4 **Organization**

The members of the Lighting Committee shall choose from its membership a Chairman and Secretary. The Committee may adopt such further procedures as it deems necessary for its own organization.

4.7.5 **Duties**

The Selectmen may charge the Lighting Committee with specific tasks.

4.8 **SEWER ADVISORY COMMITTEE**

4.8.1 **Composition**

The Sewer Advisory Committee shall be composed of three or more members.

4.8.2 **Appointment**

The Board of Selectmen shall appoint the members of the Sewer Advisory Committee.

4.8.3
Terms

Members of the Sewer Advisory Committee shall serve for terms of one year.

4.8.4 Organization

The members of the Sewer Advisory Committee shall elect annually from its membership a Chairman and a Secretary. The Sewer Advisory Committee may adopt such further procedures as it deems necessary for its own organization.

4.8.5 Duties

The Selectmen may charge the Sewer Advisory Committee with specific tasks.

4.9 CEMETERY COMMITTEE

4.9.1 Composition

The Cemetery Committee shall be composed of three or more members.

4.9.2 Appointment

The Board of Selectmen shall appoint the members of the Cemetery Committee.

4.9.3 Terms

The members of the Cemetery Committee shall serve for terms of one year.

4.9.4 Organization

The members of the Cemetery Committee shall elect annually from its membership a Chairman and a Secretary.

4.9.5 Duties

The Cemetery Committee shall be responsible, within the limitations of its budget, for the maintenance of those cemeteries in the Town of Kennebunkport for which there are no other provisions.
4.10 GROWTH PLANNING COMMITTEE

4.10.1 Composition

The Growth Planning committee shall be composed of five members and two alternate members.

4.10.2 Appointment

The Board of Selectmen shall appoint the members of the Growth Planning Committee.

4.10.3 Terms

The members of the Growth Planning Committee shall serve for terms of three years on a staggered basis as provided in said ordinance.

4.10.4 Organization

The members of the Growth Planning Committee shall elect annually from its membership a Chairman and a Secretary. The Committee may adopt such further procedures as it deems necessary for its own organization.

4.10.5 Duties

The Growth Planning Committee shall have such duties as may be set forth in a growth planning ordinance to be adopted by the Town Meeting.

4.11 CAPE PORPOISE PIER COMMITTEE

4.11.1 Composition

The Cape Porpoise Pier Committee shall be composed of five or more members, one of whom shall be a member of the Board of Selectmen. Nonresidents may be appointed to this committee provided they are commercial fishermen from the Cape Porpoise Pier and at least 75% of the membership are registered voters of Kennebunkport.

4.11.2 Appointment

The Board of Selectmen shall appoint the members of the Cape Porpoise Pier Committee.

4.11.3 Terms
The members of the Cape Porpoise Pier Committee shall serve for terms of one year.

4.11.4 Organization

The members of the Cape Porpoise Pier Committee shall elect annually from its membership a Chairman, a Vice-Chairman and a Secretary.

4.11.5 Duties

The Cape Porpoise Pier Committee shall advise the Board of Selectmen on all matters addressed in the Cape Porpoise Pier Ordinance.

4.12 GOVERNMENT WHARF COMMITTEE

4.12.1 Composition

The Government Wharf Committee shall be composed of five or more members, one of whom shall be a member of the Board of Selectmen. Nonresidents may be appointed to this committee provided they are commercial fishermen from Government Wharf and at least 75% of the membership are registered voters of Kennebunkport.

4.12.2 Appointment

The Board of Selectmen shall appoint the members of the Government Wharf Committee.

4.12.3 Terms

The members of the Government Wharf Committee shall serve for terms of one year.

4.12.4 Organization

The members of the Government Wharf Committee shall elect annually from its membership a Chairman, a Vice-Chairman and a Secretary.
4.12.5 **Duties**

The Government Wharf Committee shall advise the Board of Selectmen on all matters relating to the management of Government Wharf.

4.13 **RECREATION COMMITTEE**

4.13.1 **Composition**

The Recreation Committee shall consist of five or more members.

4.13.2 **Appointment**

The Board of Selectmen shall appoint the members of the Recreation Committee.

4.13.3 **Terms**

All members of the committee will serve two-year terms.

4.13.4 **Organization**

The members of the Recreation Committee shall elect annually from its membership a chairman, vice-chairman, secretary and treasurer.

4.13.5 **Duties**

The Recreation Committee shall be charged with the assessment and enhancement of Kennebunkport’s public recreation facilities in response to the community’s needs and priorities. It will work with the Department of Parks and Recreation to help develop a long range plan of facilities.

4.14 **SOLID WASTE COMMITTEE**

4.14.1 **Composition**

The Solid Waste Committee shall consist of three or more members.

4.14.2 **Appointment**

The Board of Selectmen shall appoint the members of the Solid Waste Committee.

4.14.3 **Terms**

Members of the Solid Waste Committee shall serve for terms of three years.
4.14.4 **Organization**

The members of the Solid Waste Committee shall elect annually from its membership a Chairman and a Secretary. The Solid Waste Committee may adopt such procedures as it deems necessary for its own organization.

4.14.5 **Duties**

The Selectmen may charge the Solid Waste Committee with specific tasks.

4.15 **ADMINISTRATIVE CODE COMMITTEE**

4.15.1 **Composition**

The Administrative Code Committee shall consist of five or more members.

4.15.2 **Appointment**

The Board of Selectmen shall appoint the members of the Administrative Code Committee. For two positions preference shall be given to former members of the Board of Selectmen. For one position preference shall be given to persons who are members or former members of the Zoning Board of Appeals, the Planning Board or to persons trained in the Law.

4.15.3 **Terms**

All members of the committee will serve one-year terms. Successive terms are permissible.

4.15.4 **Organization**

The members of the Administrative Code Committee shall elect annually from its membership a chairman and a vice-chairman.

4.15.5 **Duties**

The Administrative Code Committee shall propose amendments to the Administrative Code either on its own initiative or at the request of the Board of Selectmen.

4.16 **RIVER COMMITTEE**

The River Committee, established by the inter-local Agreement among Kennebunkport and Kennebunk, shall be responsible for all Kennebunk River
harbor activities as set forth in the Agreement, the Kennebunk River Committee Ordinance and as otherwise required by law.

4.17 BOARD OF APPEALS

4.17.1 Composition

The Board of Appeals shall consist of seven members.

4.17.2 Appointment

The Board of Selectmen shall appoint the members of the Board of Appeals.

4.17.3 Terms

Members of the Board of Appeals shall serve three-year terms which shall be staggered. Members are limited to serving three full, consecutive terms. Reappointment may occur after a one year period of non-service. The Board of Selectmen may, despite the term limitations in this section and for good cause shown, appoint a member for an additional one year of service beyond the three consecutive terms.

4.17.4 Organization

The members of the Board of Appeals shall elect annually from its membership a chairman, a vice-chairman and a recorder. The board may adopt such further procedures as may be necessary for its organization.

4.17.5 Powers and Duties

The powers and duties of the Board of Appeals shall be as prescribed by the Kennebunkport Land Use Ordinance and the statutes of the State of Maine. Members shall attend and complete a training session for Appeals Board members sponsored by the Maine Municipal Association in their first year of service and in their sixth year of service.
4.18 BUDGET BOARD

4.18.1 Composition

The Budget Board shall consist of twelve members.

4.18.2 Appointment

The Moderator of the Town Meeting shall appoint four members to the Budget Board each year.

4.18.3 Terms

Members of the Budget Board shall serve for terms of three years. Any vacancies arising in the Budget Board for any reason shall be filled by the Moderator of the preceding Town Meeting by appointment for the unexpired term.

4.18.4 Qualifications

No member of the Board of Selectmen, the School Committee or any Department Head with financial responsibility, or the spouses of any of the aforementioned persons shall serve on the Budget Board.

4.18.5 Organization

The members of the Budget Board shall elect a Chairman, Vice-Chairman and Secretary at the first Budget Board meeting after the annual Town Meeting.

4.18.6 Meetings

The Budget Board shall meet to review receipts and expenditures at the call of the Chairman.

4.18.7 Duties

The Budget Board shall consider any and all financial questions for the purpose of making reports and recommendations to the Town. The Chairman of the Budget Board and the Town Manager shall establish budgetary guidelines, and shall prepare a budget calendar for budgetary preparation and review. The Budget Board shall review all budget proposals submitted and make recommendations. These recommendations shall be included in the warrant for consideration at the annual or special Town Meetings.
4.18.8 Prerogatives

The Budget Board or any subcommittee of the Budget Board may call upon department heads or any persons requesting town funds for assistance on information during the budget review process.

4.19 CONSERVATION COMMISSION

4.19.1 Composition

The Conservation Commission shall be composed of five or more members.

4.19.2 Appointment

The Board of selectmen shall appoint members of the Conservation Commission.

4.19.3 Terms

The terms of office initially shall be 1, 2, and 3 years, such that the terms of approximately 1/3 of the members shall expire each year, or until the appointment of their successors, and their successors shall be appointed for terms of 3 years each. Any commissioner presently serving a term greater than 3 years may serve until his term expires. The appointment of his successor shall be for a term of 3 years.

4.19.4 Organization

The Conservation Commission shall elect one of its members annually to be Chairman.

4.19.5 Duties

The duties of the Conservation Commission shall be those prescribed by the Board of Selectmen and any other duties prescribed by ordinances of the Town or statute.

4.20 SIDEWALK COMMITTEE

4.20.1 Composition

The Sidewalk Committee shall be composed of three or more members.

4.20.2 Appointment
The Board of Selectmen shall appoint the members of the Sidewalk Committee.

4.20.3 Terms

The members of the Sidewalk Committee shall serve for terms of one year.

4.20.4 Organization

The members of the Sidewalk Committee shall elect annually from its membership a Chairman, a Vice-Chairman, and a Secretary.

4.20.5 Duties

The Sidewalk Committee shall advise the Board of Selectmen on all matters concerning the construction and maintenance of sidewalks in the Town of Kennebunkport.

4.21 SHADE TREE COMMITTEE

4.21.1 Composition

The Shade Tree Committee shall consist of three (3) or more members.

4.21.2 Appointment

The Board of Selectmen shall appoint the members of the Shade Tree Committee. The town Tree Warden shall be an ex-officio member of the committee.

4.21.3 Terms

The members of the Shade Tree Committee shall serve for terms of one year.

4.21.4 Organization

The members of the Shade Tree Committee shall elect annually from its membership a Chairman and a Secretary. The Shade Tree Committee may adopt such procedures as it deems necessary for its own organization.
4.21.5 Duties

The Shade Tree Committee shall be charged with regulating the planting, protection, maintenance and removal of shade trees in the town rights of way and easements. This work shall be done in cooperation with the property owners, public agencies, local and state officials. The improvement and preservation of shade trees shall follow the standard policies and specifications of state and national organizations with modifications to suit local conditions and the recommendations of the committee.

4.22 BOARD OF ASSESSMENT REVIEW

4.22.1 Composition

The Board of Assessment Review shall consist of five members and two alternate members.

4.22.2 Appointment

The Board of Selectmen shall appoint the members of the Board of Assessment Review.

4.22.3 Terms

The members of the Board of Assessment Review shall serve for three years each or until their successors are appointed, except that for transition purposes, initial terms shall be staggered. Members are limited to serving three full, consecutive terms. Reappointment may occur after a one year period of non-service. The Board of Selectmen may, despite the term limitations in this section and for good cause shown, appoint a member for an additional one year of service beyond the three consecutive terms.

4.22.4 Organization

The members of the Board of Assessment Review shall elect annually from its membership a Chairman, and a Secretary.
4.22.5 **Powers and Duties**

Pursuant to 30-A M.R.S.A § 2526(6) and other applicable statutes the Board of Assessment Review shall hear and decide all appeals properly taken from the refusal of the Municipal Assessors to make such property tax abatements as are asked for. Members shall attend and complete a training session for Assessment Review Board members sponsored by the Maine Municipal Association in their first year of service and in their sixth year of service.

4.22.6 **Regulations**

The Board of Assessment Review may adopt such procedures for the conduct of its business as are consistent with ordinances of the Town and statute. The Board may take such evidence and testimony as it deems necessary and may grant such abatements as it thinks proper. The Board’s decisions may be appealed in accordance with 36 M.S.R.A. § 843.

**ARTICLE V**

**ANNUAL & SPECIAL TOWN MEETINGS**

5.1 The Annual Town Meeting shall convene on the second Tuesday of each June for the purpose of electing Town Officials and for voting on referendum articles and other secret ballot articles and shall adjourn to the Saturday immediately following the second Tuesday of June for the purpose of considering and adopting the budget and acting upon remaining business. The terms of those elected Town officials whose terms would have expired in March on the date of the annual town meeting shall be automatically extended to the date of the next corresponding Annual Town Meeting in June. All annual and special Town Meetings shall be called in accordance with the provisions of the statutes of the State of Maine.

The Town’s fiscal year shall be July 1 through the following June 30, commencing July 1, 2002, with a six month interim fiscal and budget year running from January 1, 2002, through June 30, 2002, to provide for the change in the fiscal year. In addition, property taxes will be billed on or about February 1, 2002, to fund the six month interim budget and thereafter twice a year with half of the taxes to be billed on or about August 1 and the second half to be billed on or about February 1.

5.2 A notification of any annual or special Town Meeting shall be sent to all box holders of the Town of Kennebunkport and shall also occur by the following methods: by posting the warrant at five (5) conspicuous places in the Town, by advertisement in a newspaper of general circulation in the Town and by announcement on a local cable television channel at least seven (7) days prior to that annual or special Town Meeting date. The notification shall also name the location of the distribution points where the warrant for the annual or special Town Meeting is available.
ARTICLE VI
ENACTMENT OF ORDINANCES

6 PURPOSE

The Town of Kennebunkport may enact ordinances for all purposes authorized or permitted under the Constitution of Maine and state statute; including without limitation ordinances promoting the general welfare, preventing disease, providing for the public health and safety, and restricting the use of real property by zones as provided by the statutes of the State of Maine.

Proposed ordinances to be presented to the voters of the Town of Kennebunkport shall be written by or under the direction of the Board of Selectmen in such a fashion as they shall deem necessary and enacted by the Town of Kennebunkport in the following manner:

a. A proposed ordinance may be brought before a Town Meeting on the Warrant either at the direction of the Board of Selectmen, to include it, or by petition procedures duly established by the laws of the State of Maine. Any proposed amendment to the Land Use Ordinances of the Town shall be established and enacted in accordance with the provisions for such action as the same are set forth within the Land Use Ordinance of the Town of Kennebunkport, as the same shall be amended from time to time.

b. One copy of the proposed ordinance shall be certified by the Selectmen to the Town Clerk at least seven (7) days prior to the election to be preserved as a public record. Copies shall be made available for the distribution to the voters by the Town Clerk prior to and at the Town Meeting.

c. The subject matter of the proposed ordinance shall be reduced to the question, “Shall an ordinance entitled ___________ be enacted?” and shall be submitted to the Town Meeting for action as an article in the Warrant or as a question on a secret ballot.
d. To the extent authorized by statute, the Board of Selectmen may by majority vote enact ordinances for the regulation of vehicular traffic and for the promotion of public safety on public ways as they deem necessary following proper posting in a local newspaper seven (7) days before the hearing is held.

e. Except as provided in Sub-Paragraph d of this Article, the provisions of the Article shall not apply to ordinances which may be enacted by the Selectmen.

**ARTICLE VII**

**MUNICIPAL ELECTIONS**

7.1 **MUNICIPAL ELECTIONS**

Regular elections for the Board of Selectmen, except as otherwise provided herein for the filling of vacancies, shall be held at the annual Town Meeting as their terms expire. In accordance with the general laws of the State of Maine, any registered voter of the Town of Kennebunkport may be nominated for the Board of Selectmen or any other elected Town Office.

7.2 **CONDUCT OF MUNICIPAL ELECTIONS AND TOWN MEETINGS**

All Town meetings and municipal elections shall be governed by the applicable provisions of the statutes of the State of Maine.

**ARTICLE VIII**

**OATH OF OFFICE**

8 **OATH OF OFFICE**

Every elected and appointed official of the Town of Kennebunkport and every member of the Zoning Board of Appeals, Planning Board, Board of Assessment Review and Budget Board shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk:

“I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the ordinances of the Town of Kennebunkport and the statutes of the State of Maine and will fully discharge the duties of __________________________.”

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ARTICLE IX
CONFLICT OF INTEREST

9 PERSONAL FINANCIAL INTEREST

Any official or employee of the Town of Kennebunkport who has a financial interest, either direct or indirect or by reason of ownership interest in any business entity, enterprise or corporation, in any agreement or contract with the Town of Kennebunkport for the sale of land, materials, supplies, or services to the Town shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as an official of the Town or an employee of the Town in the making of any such sale or purchase or in any other manner relating to the undertaking or performance of any such contract or agreement. Any officer or employee of the Town who willfully conceals such financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and such action shall constitute grounds for removal from office or position as herein provided. Violation of this section by any municipal officer or employee with the knowledge either expressed or implied, of such financial interest shall render any related contract, sale, agreement, or obligation voidable by the disinterested members of the Board of Selectmen in the exercise of their sole and absolute discretion. Any officer or employee violating the provisions of this section shall be held personally liable for any damages suffered by the Town or any office or agency of the Town arising out of such action.

ARTICLE X
SEVERABILITY

10 In the event that any portion of this Code shall be held invalid, such invalidity shall not affect the validity and full force and effect of the remaining portions hereof.

ARTICLE XI
MUNICIPAL ORDINANCES

11 All ordinances of the Town of Kennebunkport in full force and effect as of the effective date of the adoption of this Code, which said ordinances shall not be inconsistent with the provisions of this Code, shall continue in full force until repealed.
ARTICLE XII
AMENDMENT

12 This Code may be revised or amended by a vote of the Town by Article or Referendum at any Town Meeting duly called and held in accordance with the laws of the State of Maine.

ARTICLE XIII
AMENDMENT OF STATE STATUTES

13 Any reference herein to the statutes of the State of Maine is made to those statutes of the State of Maine in effect as of the effective date of this Code, together with any amendments to said statutes as the same shall be made from time to time.

ARTICLE XIV
RELATIONSHIP TO STATE STATUTES

14 Except as permitted under the Town’s home rule authority, in the event of a conflict between this ordinance and any provision of state statute the state statute shall control.

ARTICLE XV
EFFECTIVE DATE

15 The code shall be effective at the conclusion of the Town Meeting whereat an affirmative vote for the enactment was recorded.
Animal Control Ordinance

Adopted at an Annual Town Meeting on June 13, 2015

Amended November 3, 2015.

ANIMAL CONTROL ORDINANCE

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. LIMITED DOG ACCESS AREA: Any beach area on Goose Rocks Beach, Colony Beach or Cleaves Cove, that is designated by the Board of Selectmen or designee for special protection of piping plovers or other endangered species based upon scientific and historical data, where dogs may be either prohibited entirely or permitted only if on-leash based on time of day and/or date, as provided herein or pursuant to rules adopted hereunder. This designation may be seasonal or permanent.
10. NESTING AREA: 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.

11. 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.

12. RESPONSIBLE PARTY: Any person who has custody, possession or control of a dog, whether or not that person is the Owner.

13. 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 the 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 roads 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 or Section D(2) of this Ordinance. For example, the Board of Selectmen or designee may designate Limited Dog Access 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.

2. DOG RESTRICTIONS ON BEACHES: The following restrictions apply to dogs on the following beaches located within the Town of Kennebunkport: Goose Rocks Beach, Colony Beach and Cleft Cove.

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. The West End Plover Protection Area at Goose Rocks Beach ("WEPPA"), which begins at Norwood Avenue and continues westerly to the Batson River, is designated a Limited Dog Access Area.

d. From April 1 to September 30, in the Limited Dog Access Areas, dogs must be on leash at all times, except that from June 15 to September 30 between 8:30 am and 6:00 pm, no dogs are permitted on the beach (see Section 2(i) below).

e. From April 1 to September 30, no dogs shall approach or remain within 200 feet of any clearly marked Nesting Area, except that lawns or upland properties within 200 feet of a Nesting Area are excluded from this requirement.

f. From April 1 to September 30, dog owners who live within 200 feet of a Nesting Area must leash their dog when attempting to access the beach and stay as far away as possible from the Nesting Area.

g. From April 1 to June 14th, dogs must be on leash on the beach at all times other than between 6:00 am and 7:30 am, when they may be off leash if under Voice and Sight Control, except to the extent the restrictions in Section D(2)(d), (e) or (f) above may require otherwise.

h. From June 15 to September 30, if under Voice and Sight Control, dogs may be off leash on the beach between 6:00 am and 7:30 am, except to the extent the restrictions in Sections D(2)(d), (e) or (f) above may require otherwise.

i. From June 15 to September 30, dogs are not permitted on the beach between 8:30 am and 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. Between 6:00 pm and 6:00 am and between 7:30 am and 8:30 am, dog are permitted on the beach if on leash, except to the extent the restriction in Section D(2)(e) or (f) above may require otherwise. Between 6:00 am and 7:30 am, dogs may be off leash, if under Voice and Sight Control, except to the Extent the restrictions in Sections D(2)(d), (e) or (f) may require otherwise.

j. From October 1 through March 31, if under Voice and Sight Control, dogs may be off leash on the beach, except between 12:00 pm and 2:00 pm when they must remain on leash.
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.

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).

Section G: 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.

Barking Dog Ordinance

Adopted at the Annual Town Meeting on March 10, 1984, Amended June 18, 2005

The owner of a dog or dogs, or the person having control over a dog or dogs, which disturb the peace of any person by frequently and habitually barking, howling, or creating other noise shall be punished, on the first offense, by a fine of not more than $50.00.
The second offense within a six month period shall be punished by a fine of not more than $100.00. The third offense within a one year period shall be punished by a fine of not more than $500.00 and the Town may ask the Court to order that such dog or dogs be forthwith removed from Town. All costs incurred by the Town as a result of prosecution, including attorneys’ fees, shall be recoverable from the owner or person having control of said dogs.

**Source URL:** https://www.kennebunkportme.gov/town-clerk/pages/animal-control-ordinance
I. Preamble, Purpose:

This Ordinance is adopted pursuant to and in connection with a Beach Use Agreement by and among the Town of Kennebunkport and certain owners of properties on or in the vicinity of Goose Rocks Beach dated as of the 20th, day of August, 2012 and recorded in the York County Registry of Deeds in Book ______, Page ______, relating to the use of portions of the Beach by members of the general public and by certain owners of property in the vicinity of, but not on, the Beach (hereinafter, the “Back Lot Owners” as defined herein).

The purpose of this Ordinance is to provide for the safety, enjoyment, health and welfare of persons using Goose Rocks Beach pursuant to the Beach Use Agreement, including members of the general public, the Back Lot Owners and others, while preserving the Beach as a natural resource, by authorizing, among other things, regulations to protect wildlife, dune areas and the Beach environment, and regulations for recreational use of portions of the Beach that are subject to use pursuant to the Beach Use Agreement, as the Beach Use Agreement may be amended from time to time, while respecting the private property rights of beachfront property owners, and devising regulations governing maintenance, management, operation and protection of the Beach designed to preserve its continued use as an environmentally friendly, family oriented beach to be enjoyed by Kennebunkport residents and property owners, their guests and invitees, and members of the general public using the Beach.

II. Definitions:

As used in this Ordinance the following terms have the following meanings:

1. “Back Lot” means a lot located in the vicinity of, but not on, Goose Rocks Beach, the owner or owner’s predecessor of which is or was a party to the Beach Use Agreement.

2. “Back Lot Owner” means anyone who owns property located in the vicinity of, but not on, the Beach, and who is or whose predecessor owner was a party to the Beach Use Agreement.

3. “Beachfront Owner” means anyone who owns property fronting on the beach commonly known as Goose Rocks Beach and who is either a party to the Beach Use Agreement as of its effective date or who subsequently becomes a party to such Agreement by supplemental agreement with the Town.
4. "Beach" means the beach commonly known as Goose Rocks Beach from the Batson River to the Little River and extending in width seaward from the seawall or vegetation/landscape to the low water mark of the Atlantic Ocean.

5. "Beach Premises" means those portions of the Beach extending seaward from the seawall or vegetation/landscape to the low water mark of the Atlantic Ocean and located adjacent to and immediately seaward of each of the Beachfront Owners' upland properties situated at the addresses set forth in Schedule A of the Beach Use Agreement (the "Upland Properties" or "Upland Property"), as that Schedule may be subsequently amended by supplemental agreement with the Town.

6. "Large Volume Vehicle" is defined as a motor vehicle (such as a bus or trolley) designed for carrying more than 15 persons, including the operator.

7. "Public Access Points" describe those existing access points and rights of way where members of the public gain access to the Beach, and include the locations as shown and listed on the map attached as Exhibit 1.

8. "Reserved Area" means a twenty-five (25) foot strip of land measured in width extending from the seawall or vegetation/landscape line towards the Atlantic Ocean extending across the full length of a Beachfront Owner's seaward property boundary, as measured at the seawall or vegetation/landscape line, except that for beachfront properties where, during tidal events when the Reserved Area extends below the high water mark into the intertidal zone, the Reserved Area will be reduced to ten (10) feet in width for one (1) hour before high tide until one (1) hour after high tide.

III. Beach Advisory Committee

There shall be established a standing Beach Advisory Committee to provide guidance regarding the management of the Beach Premises in accordance with the provisions of this Ordinance; to consider, propose, and review regulations and Ordinance changes; to advise on related matters governing use of the Beach Premises by all persons; and to perform such other duties set forth in this Ordinance and in Schedule D of the Beach Use Agreement.

A. Composition. The Beach Advisory Committee shall be comprised of eight (8) members. Four (4) members shall be Beachfront Owners, two (2) members shall be Back Lot Owners, one (1) shall be an at-large community member, and one (1) shall be appointed by the Board of Selectmen. A nonresident of the Town may serve as a Beachfront Owner representative member or a Back Lot Owner representative member.

B. Appointment; Elections. Beachfront Owners and Back Lot Owners shall elect their respective members through annual elections to be facilitated by the Town. Each Beachfront Owner will have the number of votes equal to the number of beachfront lots owned by that Beachfront Owner in each election. A Beachfront Owner who becomes a party to the Beach Use Agreement after its effective date shall be immediately eligible to
vote for a Beachfront Owner representative but shall not be eligible to serve on the Beach Advisory Committee until five (5) years after the Beach Use Agreement goes into effect. Each Back Lot Owner shall have the number of votes equal to the number of Back Lots owned by that Back Lot Owner in each election, except that the Back Lot Owners may, by majority vote, permit other property owners in the Goose Rocks Beach area to vote for and/or to serve as a Back Lot Owner member of the Beach Advisory Committee. The at-large community member shall be elected at a Town Meeting. The Board of Selectmen shall appoint a member to coincide with the election of other members.

C. Terms; Term Limits. The members of the Beach Advisory Committee shall serve for three-year terms, and the terms shall be staggered. Members are limited to serving two full, consecutive three-year terms. Reappointment or re-election may occur after a one year period of non-service.

D. Organization. The members of the Beach Advisory Committee shall elect annually from its membership a Chairman, a Vice-Chairman, and a Secretary.

E. Voting; Quorum. Five (5) members of the Beach Advisory Committee present or participating shall constitute a quorum. All actions and decisions by the Beach Advisory Committee shall be made by a majority vote of the full membership of the Board (not a majority of the quorum). A tie vote results in no action, decision or recommended changes.

F. Duties. The Beach Advisory Committee shall advise the Board of Selectmen on all matters concerning Goose Rocks Beach, including:

1. Recommending, drafting, and/or reviewing proposed revisions to this Beach Use Ordinance as necessary;

2. Recommending, drafting, and/or reviewing proposed further regulations as contemplated in Section IV.D of this Ordinance;

3. Advising and making recommendations to the Board of Selectmen as to expenditures from the Beach Maintenance Fund;

4. Reviewing compensation matters in connection with arbitration proceedings provided for in the Beach Use Agreement;

5. Assisting in informal resolution of complaints between the parties to the Beach Use Agreement upon request; and

6. Assisting in the resolution of problems relating to use of the Beach, as appropriate, and offering recommendations to the Board of Selectmen for solutions, if warranted.
IV. Use of the Beach Premises

A. Recreational Use Permitted

The Beach Premises may be used by any person for active and passive recreational and recreational related purposes and activities customarily associated with, or conducted upon, beaches, including, without limitation, swimming, sunbathing, walking and typical “beachgoer” uses, subject to the limitations provided herein pertaining to use of the Reserved Areas, and provided that such purposes and activities shall be undertaken in compliance with the provisions of this Ordinance.

B. Reserved Area

1. The portion of the Beach Premises called the Reserved Area, as defined herein, shall be reserved for the Beachfront Owner(s). A Beachfront Owner shall have preferred use of the Reserved Area adjacent to their Upland Property and may exclude members of the general public, Back Lot Owners and others from the Reserved Area, except for the walking rights provided herein.

2. Storage of watercraft and equipment for beach recreation/enjoyment, in a manner that does not impede the walking rights of others using the Beach, shall be permitted in the Reserved Area by Beachfront Owner(s). No member of the general public or Back Lot Owner may store or leave any watercraft or beach equipment in the Reserved Area except by permission of the Beachfront Owner.

3. Members of the general public and/or Back Lot Owners using the Reserved Area may be asked by the Beachfront Owner to move out of the Reserved Area, and shall be expected to do so promptly and shall leave the Reserved Area as they found it.

4. Notwithstanding Paragraph 3 above, walking by members of the general public, Back Lot Owners and others shall be permitted within the Reserved Area at any time.

5. On a year-round basis, the Town shall respond promptly to a request by a Beachfront Owner to enforce the Owner’s preferred or exclusive use of the Reserved Area if the Beachfront Owner’s request that any beach user leave the Reserved Area is unsuccessful.

6. In addition to the Town’s enforcement duties in Paragraph 5 above, the Town shall provide sufficient enforcement of Beachfront Owners’ preferred or exclusive use of the Reserved Areas by increased foot patrol on the Beach on a seasonal basis from June 15th through Labor Day, as necessary.

7. The Town shall make information readily available to public visitors to the Beach and Back Lot Owners and their invitees/designees regarding the rules of use pertaining to
the Reserved Areas, such as by appropriate signage at Public Access Points to the Beach and by dissemination of information to residents, visitors, rental agencies and commerce or tourism bureaus.

8. Nothing in these rules governing the Reserved Areas of the Beach Premises shall be interpreted to require or encourage Beachfront Owners to post signs or flags on their property, provide notice of any kind to the Town, to other Beach users or to the Beach Advisory Committee or any successor Committee, or perform any acts other than those described in these rules herein, in order to exercise their right to preferred or exclusive use, at their election, of the Reserved Area. This Paragraph 8 shall not be interpreted to alter the duties of the Town described in Paragraphs 1 through 7 above.

9. The rules described in Paragraphs 1 through 8 above implement the appropriate means referenced in Paragraph 4.a. of the Beach Use Agreement for a Beachfront Owner to exercise preferred or exclusive use of the Reserved Area.

C. General Restrictions on the Beach

The following restrictions shall apply to the use of the Beach Premises by members of the general public, the Back Lot Owners, Beachfront Owners using any portion of the Beach Premises not adjacent to their own Upland Properties, and others:

1. No alcohol or tobacco use;
2. No glass containers;
3. No disorderly conduct, or public indecency;
4. No littering;
5. No commercial soliciting;
6. No removal of sand, gravel or rocks from the Beach Premises (this provision is not intended to regulate the removal of seashells, driftwood, seaweed or scientific samples);
7. No camping, sleeping or use of tents overnight on the Beach Premises;
8. All holes created by an individual party (or parties) using the Beach Premises must be filled in by that party prior to leaving the area;
9. No launching of motorized boats on the Beach Premises except where required for emergency response or rescue or for public safety;
10. No starting or allowing any fire to burn within the Beach Premises, unless a fire permit has been issued by the municipal fire chief or designee(s) and permission
has been obtained from the Beachfront Owner, in accordance with regulations that may be adopted by the municipal officers in consultation with the Beach Advisory Committee as provided in Subsection D.5 herein;

11. No climbing, sitting, or standing on the rocks or seawall adjacent to the Beach Premises;

12. Overnight storage of beach equipment such as chairs and toys is prohibited unless by permission of the Beachfront Owner and consistent with Section IV.B.2, except for storage of watercraft, kayaks and other such equipment consistent with the provisions of Section IV.D.3 and any regulations adopted thereunder;

13. No mass gathering permits may be issued for any portion of the Beach Premises without the written permission of the Beachfront Owner.

Beachfront Owners and their invitees shall not be subject to the above enumerated restrictions as to their use of the portion of the Beach Premises adjacent to their own Upland Properties, except for the restrictions in 3, 4, 5, 8 and 10 above, restrictions 1 and 2 outside the Reserved Area, and as may otherwise be limited or prohibited by law.

Willful interference with the public use rights set forth in this Ordinance by any person, including a Beachfront Owner or his/her invitee, shall be deemed a violation of this Ordinance.

D. Additional Regulations

The municipal officers may, upon consultation with the Beach Advisory Committee, adopt regulations implementing this Ordinance, including but not limited to the following areas:

1. Regulations governing domestic animals or pets on the Beach, which shall require at a minimum that domestic animals or pets shall at all times be under the control of their owner or keeper, and that the owner or keeper shall remove and properly dispose of all animal feces (this provision is not intended to apply to horses and horseback riding, which are regulated by the Town Horseback Riding on Goose Rocks Beach Ordinance);

2. Regulations to protect the environment, including, for example, signage to protect dune grass, marine life and wildlife on the Beach;

3. Regulations limiting storage of watercraft, dinghies, kayaks and other such equipment by non-Beachfront Owners to designated areas where the Town has the authority to store such equipment or other areas with permission of the Beachfront Owner (such as Dinghy Point), except that the municipal officers may
not designate any such area other than Dinghy Point without the written permission of the Beachfront Owner;

4. Regulations regarding use of the Beach Maintenance Fund, established and maintained by the Town under the terms set forth in the Beach Use Agreement, which use shall be exclusively for beach maintenance and improvement and enforcement of beach regulations in consultation with the Beach Advisory Committee;

5. Regulations governing fires and fire permits on the Beach Premises, consistent with Subsection C.10. above;

6. Regulations governing hours of use of the Beach Premises; and

7. Regulations, including appropriate signage governing protections for beachfront properties located adjacent to public rights of way and/or other areas receiving heavy beach user traffic.

V. Parking and Traffic Control

A. Parking Regulations:

The municipal officers shall, in consultation with the Beach Advisory Committee, adopt and maintain parking and traffic control regulations regarding access to the Beach Premises to include the following:

1. Penalties. Such regulations shall address enforcement issues, including a schedule of fines and/or penalties for parking and traffic infractions.

2. Number of Parking Spaces. Notwithstanding the Town of Kennebunkport Traffic and Parking Control Ordinance or any other parking or traffic control ordinances adopted by the municipal officers pursuant to 30-A M.R.S.A. § 3009 or other authority, the number of available parking spaces designated for access to the Beach Premises shall be limited to no more than one hundred and seventy-three (173) parking spaces unless the Beach Use Agreement has been amended pursuant to its terms to permit additional spaces.

3. Beach Permit Parking. The regulations shall specify a system of parking stickers, parking meters, and/or a suitable system of technology.

4. Location of Spaces. The location of parking spaces maintained by the Town for access to the Beach shall be specified on a map, attached as Exhibit 2, as such map may be updated from time to time. A decision to change the location of a parking space shall be made after consultation with the Beach Advisory Committee, except where such consultation is impracticable for public safety reasons.
B. **Large-Volume Vehicles Restricted:**

Due to traffic and safety concerns, Large-Volume Vehicles are prohibited from stopping and discharging or picking up passengers at the Public Access Points and private access points to the Beach. This prohibition is not intended to apply to school buses.

C. **Information and Signage:**

The Town shall make information readily available to public visitors to the Beach and Back Lot Owners and their invitees/designees regarding the restrictions of this Section, such as by appropriate signage at public access points and parking areas and by dissemination of information to residents, visitors and commerce or tourism bureaus.

VI. **Enforcement and Penalty**

This Ordinance is enforced by the Kennebunkport Police Department. Any person who violates any provision of this Ordinance commits a civil violation for which a penalty of not more than one hundred dollars ($100.00) may be adjudged. Enforcement of parking and traffic rules, including fines and/or penalties for parking and traffic infractions, shall be governed by regulations adopted pursuant to Section V herein. All penalties recovered shall accrue to the benefit of the Town.

VII. **Other Provisions**

A. **Beach Closures.** The Town Manager is authorized to close the Beach Premises to public use when water quality testing determines the water to be unhealthy for humans.

B. **Staffing.** The Town shall provide acceptable levels of staffing to ensure reasonable enforcement of the Ordinance, which shall include increased foot patrol presence on the Beach on a seasonal basis from June 15th through Labor Day for enforcement of the Reserved Areas and other rules and regulations pertaining to the Beach Premises.

C. **No Abrogation of Public Trust Rights.** Notwithstanding any provision of this Ordinance, nothing in this Ordinance shall have the effect of limiting or abrogating any public trust rights that exist or are declared in the intertidal zone under the common law of the State of Maine.

D. **Ordinance Amendment Procedure.** Amendments to this Ordinance may be brought for consideration to the Board of Selectmen by the Beach Advisory Committee, may be initiated by the Board of Selectmen, or may be initiated by petition as provided by state law. Before being placed on a Town warrant, proposed changes to the Ordinance shall be reviewed by the Board of Selectmen and the Beach Advisory Committee for consistency with Paragraph 5 and Schedule C of the Beach Use Agreement, and no changes to the Ordinance that are deemed by the Selectmen to be inconsistent with the Beach Use
Agreement may be made without prior amendment of the Beach Use Agreement, except to the extent required by law.

E. **Severability.** The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

F. **Effective Date.** This Ordinance shall take effect and be in force upon the effective date of the Beach Use Agreement as provided in Paragraph 12 thereof, provided, however, that the Town’s enforcement duties under this Ordinance shall not be required to be fully in place until May 15, 2013. Once effective, this Ordinance shall cancel and/or supersede any conflicting existing ordinance as a whole or any part thereof relating to the same subject matter.

G. **Applicability.** This Ordinance is intended to apply to the Beach Premises only and the Town shall have no right or obligation to enforce the provisions of this Ordinance on, and this Ordinance shall not apply to, any portion of the Beach that is not subject to the Beach Use Agreement, as that Agreement may be amended from time to time. Upon taking effect, this Ordinance shall remain in effect with respect to the Beach Premises unless or until the rights and obligations of the Town with respect to public use of all or any portion of the Beach Premises are terminated pursuant to the Beach Use Agreement terms. In such event, the Ordinance shall be of no further force and effect as to the portions of the Beach Premises as to which the Town’s rights and obligations under the Beach Use Agreement have been terminated, but shall otherwise remain in full force and effect.

H. **Private Use Rights.** No actions of the general public and no failure or act of the Town relating to the Beach Use Ordinance shall affect or impair the private rights and obligations as between the Beachfront Owners and the Back Lot Owners under the Beach Use Agreement or the private rights and obligations that may exist as between any beachfront owner and any Back Lot Owner.

I. **Assumption of Risk.** Use of the Beach by the general public, the Back Lot Owners and others shall constitute an assumption of all risks associated with such beach use. The Town shall provide appropriate signage at Public Access Points to the Beach indicating that use of the Beach Premises is at the user’s own risk.

J. **Indemnity.** The Town agrees to indemnify and hold harmless the Beachfront Owner up to the limits imposed under the Maine Tort Claims Act, 14 M.R.S. §§8101, et seq., from and against any loss, damage, liability, cost or expense, including reasonable attorneys’ fees, arising from any claim, suit or judgment brought by or on behalf a member of the public against a Beachfront Owner based upon or arising out of the use of the Beach Premises that is not the result of the Beachfront Owner’s willful or malicious failure to guard or to warn against a dangerous condition, use, structure or activity on the Beachfront Owner’s property. Nothing in this paragraph shall waive any defense, immunity or limitation of liability which may be available to the Beachfront Owner or the Town pursuant to the the Maine Recreational Use Statute, 14 M.R.S. §159-A, and/or the
Maine Tort Claims Act, 14 M.R.S. §§8101, et seq., or otherwise, the Town and the Beachfront Owners acknowledging and agreeing that use of the Beach Premises is being granted to the public without charge for the purpose of recreational activities by the general public. When any Beachfront Owner becomes aware of any claim, suit or judgment which may be covered by this paragraph, the Beachfront Owner shall immediately notify the Town and the Town may, in its discretion, undertake defense and compromise of the claim, suit or judgment on behalf of the Beachfront Owner.
Prohibiting Business on Streets

ORDINANCE PROHIBITING BUSINESS ON PUBLIC STREETS

Section 1. No person shall in any part of a public street, road, square, avenue, lane or way within the Town of Kennebunkport, Maine, carry on any trade or business without a written permit from the Municipal Officers of the Town of Kennebunkport.

The Municipal Officers may grant a written permit to any person, persons or corporation to carry on a certain trade or business in any said public places for a period of time not longer than three days provided the business is not otherwise prohibited by law. The Municipal Officers may in writing revoke the permit at any time.

Section 2. No person shall in any part of a public street, road, square avenue, lane or way within the Town of Kennebunkport, Maine, carry any passengers for hire in any kind of vehicle, unless the same is especially allowed by law or some ordinance of Kennebunkport, without a written permit so to do from the Municipal Officers of the Town of Kennebunkport.

The Municipal Officers may grant a written permit to any person, persons, or corporation to carry passengers for hire, in any public places, for a period of time not longer than three days provided the business is not otherwise prohibited by law. The Municipal Officers may in writing revoke the permit at any time.

Section 3. Fees. The fee shall be Fifty dollars ($50.00) per license.

Section 4. Insurance. Liability insurance must be carried by the owner of the business in at least the following amount: $500,000 general liability combined single limit. Evidence of insurance must be presented prior to the issuance of a permit with the Town as an additional named certificate holder. Thirty (30) days advance notice of cancellation shall be required.

Section 5. Severability. The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

Section 6. Enforcement. The Chief of Police or any of his designated officers will enforce this Ordinance. Any officer who observes a violation of this Ordinance may summons that individual to the District Court. Any officer who receives a complaint of a violation of this Ordinance from a citizen may, after investigation of the complaint and determining that sufficient evidence exists to conclude that a violation of the Ordinance occurred, summons the offender to the District Court.

Section 7. Civil Penalty. Any person adjudicated in violation of this Ordinance shall be liable for a civil penalty.
First Offense: Written Warning and a copy of this Ordinance.

Second and Subsequent Offenses: Shall be not less than One Hundred ($100.00) dollars and not more than Five Hundred ($500.00) dollars.

Any second or subsequent offender of this ordinance who is summoned for violation may waive all court action by payment of the civil penalty to the Town within ten (10) days of the date of the summons. If the penalty is not paid and/or if court action ensues, the offender shall be liable for any and all costs incurred by the Town in enforcing this Ordinance, including but not limited to court filing fees and the cost of legal counsel.

Section 8. Penalties accrue to Town. All civil penalties collected under this Ordinance shall accrue to the Town of Kennebunkport.


Source URL: https://www.kennebunkportme.gov/town-clerk/pages/prohibiting-business-streets
Cable Television Ordinance

The Town of Kennebunkport, acting by and through its municipal officers, hereby ordains the following Cable Television Ordinance:

Section 1 - PURPOSE

The purpose of this ordinance is to provide for Town regulation and use of the cable television system including its construction, operation and maintenance in, along, upon, across, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof and additions thereof in the Town of Kennebunkport, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for the maintenance and operation in the Town of Kennebunkport, of the cable television systems and to provide conditions accompanying the grant of franchise; and providing for the Town regulation of cable television operation.

Section 2 - DEFINITIONS

“Cable Television System” shall mean any “cable system” as defined in the Cable Television Consumer Protection and Competition Act of 1992, as amended, or any facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such services, but such term shall not include any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management.

‘Cable Television Company” shall mean any person, firm or corporation owning, controlling, operating, managing or leasing a cable television system within the Town of Kennebunkport sometimes hereinafter referred to as “the company”.

“Town” shall mean the Town of Kennebunkport, organized and existing under the laws of the State of Maine and the area within its territorial limits.

Section 3 - FRANCHISE REQUIRED

No person, firm or corporation shall install, maintain or operate within the Town or any of its public ways or other public areas any equipment or facilities for the operation of a cable television system unless a franchise authorizing the use of said public ways or areas has first been obtained pursuant to the provisions of this Ordinance and unless said franchise is in full force and effect.
Section 4 - FRANCHISE CONTRACT

The municipal officers of the Town may contract on such terms, conditions and fees as they deem in the best interests of the Town and its residents with one or more Cable Television Companies for the operation of a cable television system within the Town, including the granting of a non-exclusive franchise for the operation thereof for a period not to exceed fifteen (15) years.

Applicants for a franchise shall pay a non-refundable filing fee to the Town as established in the master fee schedule by the Board of Selectmen to defray the cost of public notice and advertising expenses relating to such application. The applicants may also be assessed the cost of attorney fees, not to exceed $250.00, incurred by the Town in acting upon the cable franchises application. The applications shall be filed with the Town Clerk and shall contain such information as the Town may require including, but not limited to, a general description of the applicant’s proposed operation, a schedule of proposed charges, a statement detailing its previous two fiscal years, an estimated ten year financial projection of its proposed system, its proposed annual Town franchise fee, if any, and the basis for same, and a statement detailing the prior operational experience of the applicant in both the cable television and microwave service including that of its officers, management and staff to be associated with the proposed operations.

Any franchise contract may be revoked by the municipal officers for good and sufficient cause as provided in the franchise contract, after due notice to the company and a public hearing thereon, with the right to appeal to the Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

Section 5 - PUBLIC COMMENT PERIODS

Before issuance of a request for proposals, or during the franchise contract renewal process, the Town shall hold a public hearing with at least seven (7) days advance notice for the purpose of determining any special local needs or interests regarding cable television.

Any proposal or application submitted by a prospective cable television franchise shall be filed in triplicate with the Town Clerk’s office, shall be deemed a public record, shall be available for a period not less than fourteen (14) days prior to the Town’s taking any formal action thereon, and public notice of the filing shall be given.

Before authorizing the issuance of any such franchise contract, including an assignment or a renewal of a franchise contract, the municipal officers shall review the applicant’s character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a cable television system within the Town, and shall conduct a public hearing thereon with at least seven (7) days advertised notice prior to said public hearing.

Section 6 - PERFORMANCE BOND AND INSURANCE COVERAGE

Upon the execution of any such franchise contract, the Town may require the Cable Television Company to file a surety company performance bond in an amount and in such form as is acceptable to the Town. The Town, in making this determination, may rely upon the advice of the Municipal Officers, Town Manager, Town Attorney and/or other appropriate Town officials. The said amount of said bond, if required, shall not be less than the estimated cost of performing any work specified in the franchise contract. Said bond, if any, shall remain in effect until the Cable Television Company has completed any construction or reconstruction of the system as set forth in the franchise contract.

The Cable Television Company shall also, upon execution of any such franchise contract, provide evidence of such public liability, copyright infringement and other insurance coverage as the Municipal Officers may require.

Source URL: https://www.kennebunkportme.gov/town-clerk/pages/cable-television-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:**
   
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 Caper 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 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 that $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 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
Revised – June 12, 2018 at Annual Town Meeting
Condominium Conversion Ordinance

1.0 Title

This Ordinance shall be known and may be cited as “Condominium Conversion Ordinance of the Town of Kennebunkport.”

2.0 Purpose

The purpose of this Ordinance is to protect the public health, safety, and welfare by regulating proposed condominium conversions in Kennebunkport to protect the public from fraud or duress and to ensure compliance of such proposed condominium conversions with all applicable laws, regulations and ordinances.

3.0 Authority

Authority to enact is found generally under Maine Home Rule authority and 33 M.R.S.A. Section 1604-111 (f).

4.0 Permit Required

As of date of passage, any existing structure or property which is converted to condominium ownership in accordance with the provisions of the Maine Condominium Act, Title 33, Chapter 31, regardless of whether or not there is any proposed change in use or any proposed physical change in the structure or property, shall be required to obtain a condominium conversion permit from the Code Enforcement Officer.

5.0 Procedure and Fees

The Code Enforcement Officer, with the assistance of the Town Attorney, the Town’s planning consultant and/or other independent consultant or expert as necessary, shall review the proposed condominium declaration and any drawings or supporting documents, and shall only approve the condominium conversion permit upon finding that the declaration is worded in a way that will ensure that the prospective condominium owner will be thoroughly informed of the permitted use of their property and any restrictions placed upon its use by the Town’s Land Use Ordinance, Subdivision Regulations, Planning Board conditions of approval, or other applicable Town Codes or Town license restrictions.

The permit application fee for a condominium conversion permit shall be $250.00 per condominium unit. In addition, the applicant shall pay a fee of $1,500.00 to be deposited in a special account.
designated for that condominium conversion permit application to be used by the Code Enforcement Officer for hiring independent consulting services to review the application. If the balance in this special account is drawn down by 75%, the Code Enforcement Officer shall notify the applicant and require that an additional $750.00 be deposited by the applicant. The Code Enforcement Officer shall continue to notify the applicant and require an additional $750.00 be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit.

Any balance in the account remaining after a decision on the condominium conversion permit application by the Code Enforcement Officer shall be returned to the applicant.

6.0 Violations

Filing of a condominium declaration converting an existing structure or property to condominium ownership prior to obtaining a condominium conversion permit shall be considered a violation of this Ordinance. In addition to any court ordered injunctive relief, violation of this Ordinance shall be deemed a land use violation for which fines and attorneys’ fees shall be allowed under 30-A M.R.S.A. Section 4452.

Adopted June 13, 2006

Source URL: https://www.kennebunkportme.gov/town-clerk/pages/condominium-conversion-ordinance
Dock Square Shuttle & Parking Ordinance

1. Preamble. Pursuant to 30 M.R.S.A. Section 1917 and other applicable sources of authority, the Inhabitants of Kennebunkport, having determined that the operation of a shuttle and parking system is a public purpose and having determined that such a system is needed in the Dock Square area of Kennebunkport to relieve problems of inadequate parking and traffic congestion and for the convenience and well-being of the Inhabitants of the Town of Kennebunkport, enact this ordinance to be known as the “Dock Square Shuttle and Parking Ordinance”.

2. Definitions.
   1. Dock Square Shuttle and Parking System. “Dock Square Shuttle and Parking System” means the existing municipal parking lot in the vicinity of Dock Square in Kennebunkport, such public ways or public parking areas as may be designated by the municipal officers as constituting part of the system from which fees or charges may be collected for the parking of vehicles, such other parking areas located outside the Dock Square area as may be designated by the Selectmen and such other real estate, interests in real estate, structures, vehicles, improvements, accessories, and facilities deemed necessary or convenient by the municipal officers for the creation, operation, and management of the system.
   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 Dock Square Shuttle and Parking System shall be managed by the municipal officers of the Town, or their designee, primarily for the purpose of providing and controlling adequate public parking facilities in the Town of Kennebunkport, providing public transportation from the outlying parking facilities to the Kennebunkport Village Center, encouraging the free circulation of traffic through the streets and visitors to Kennebunkport, assisting in the rapid and effective fighting of fires and disposition of police forces, and promoting the health, safety, and general welfare of the public, whether residing in Kennebunkport or traveling to, through or from Kennebunkport in the course of lawful pursuits.

4. Fee Structure. After notice and public hearing, the municipal officers shall establish a reasonable schedule of fees for the use of the municipal parking lot in the Dock Square area, for the use of parking spaces on public streets in the village center of Kennebunkport, for the use of outlying parking areas and for related transportation facilities provided in conjunction with the Kennebunkport shuttle and parking system. In establishing the schedule or schedules of fees, the municipal officers shall consider the value of the services provided, the costs to the Town for capital equipment, administration, maintenance, salaries, debt service, repairs, and other expenses as well as the need to regulate and control the parking and circulation of vehicles in the Kennebunkport Village Center. Such fees may be established by the Selectmen on a seasonal basis during periods of the year when the problems of congestion and overcrowding in the Kennebunkport Village Center are most acute. Copies of the schedule of fees as established by the municipal officers and the periods of the year during
which such fees shall remain in effect shall be available at the municipal office during normal business hours and shall be posted in the vicinity of the municipal parking lot in the Dock Square area.

1. **4.1 Real Estate Property Taxpayer Voucher System.** The Board of Selectmen shall provide for the distribution of five (5) tickets/vouchers to each distinct real estate property taxpayer that will enable each distinct real estate property taxpayer one (1) hour of parking per ticket/voucher at the Dock Square Parking Lot, such tickets/vouchers will be valid only in the year that they are issued.

5. **Regulations.** After notice and public hearing the municipal officers are authorized to adopt regulations governing the rules of operation of the Dock Square Shuttle and Parking System which rules shall be designed to ensure that the system accomplishes its primary purpose of relieving crowding and congestion in the Kennebunkport Village Center while at the same time providing residents and visitors to the Kennebunkport Village Center with pleasant and convenient parking, transportation, and related facilities. Such regulations shall also be designed to prevent personal injury or damage to vehicles or property, to maintain safe traffic 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 Dock Square Shuttle and Parking System.

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 parking areas, transportation, or other facilities for the operation of the Dock Square Shuttle and Parking System or for any portion of such system. 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. **Dock Square Shuttle and Parking System Account.** All fees, payments, or other charges collected in connection with the operation of the Dock Square Shuttle and Parking System shall be kept in a separate account to be known as the Dock Square Shuttle and Parking 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 associated with the Dock Square Shuttle and Parking System including, without limitation, expenses for administration, salaries, debt service, maintenance, equipment and repairs. Funds remaining in the Dock Square Shuttle and Parking Account at the end of the fiscal year shall not lapse and such funds shall not be transferred to other accounts unless by a vote of the Town at a regular or special town meeting.

8. **Authority to Retain Personnel.** The municipal officers are authorized to contract with or employ such personnel as may be necessary to the operation of the Dock Square Shuttle and Parking System on such terms and conditions as are in the best interest of the Town. The municipal officers may delegate to such personnel, responsibility for the management and operation of the Dock Square Shuttle and Parking System under the general direction and supervision of the municipal officers, 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 $25.00 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 facilities of the Dock Square Shuttle and Parking System may be suspended by the municipal officers after reasonable notice and hearing for failure to pay any fees or fines due under this ordinance or under regulations adopted pursuant to this ordinance.

*Adopted March 10, 1984, Amended June 8, 2004*
Source URL: https://www.kennebunkportme.gov/town- clerk/pages/dock-square-shuttle-parking-ordinance
Published on Town of Kennebunkport, ME (https://www.kennebunkportme.gov)

Home > Electrically Amplified Sound Ban

Electrically Amplified Sound Ban

ORDINANCE BANNING ELECTRONICALLY AMPLIFIED SOUND

It shall be unlawful for any commercial establishment, without special permission from the Board of Selectmen, to allow electronically amplified sound to be emitted from, or outside of their establishments.

Adopted at the Annual Town Meeting on March 15, 1980.

Source URL: https://www.kennebunkportme.gov/town-clerk/pages/electrically-amplified-sound-ban
False Alarm Ordinance

Adopted: March 10, 1979  

1. **Purpose**: The purpose of this ordinance is twofold: first, to minimize false fire and police alarms signaled by private alarm systems and outside residential or business alarms that are not directly monitored by the Town of Kennebunkport; and second, to have adequate information available to respond to the alarm and to contact the owner of the property or representative in the event of a problem.

2. **Definitions**: Fire or police alarms are those alarms which signal a request for service by a central monitoring station, telephone digital dialer, outside bell, siren, light or horn.

3. **General**: For purpose of this ordinance, false fire or police alarms which are caused by events beyond the control of the owners, are not considered violations of this ordinance. Examples would include severe weather related causes, power outages and wild animal causes.

False fire or police alarms which are caused by events within the control of the owners are considered violations of this ordinance. Examples would include human errors including alarms mistakenly activated by homeowners, caretakers, cleaning persons, contractors and/or other workers. False fire or police alarms caused by failure to repair a malfunctioning system, neglect, failure to maintain a system, or failure to correct problems with the system (after notice), are considered violations of this ordinance.

4. **Information Required**: Any owner of residential or business property or the alarm company doing the installation shall provide to the Kennebunkport Communications Department in writing prior to the activation of the alarm system the following information:
   1. Name of the owner(s) of the alarmed property;
   2. Street addresses and description of the alarmed property;
   3. Address(es) of property owner(s);
   4. Telephone number of the alarmed property;
   5. Type of alarm(s);
   6. Names and telephone numbers of two individuals who have keys to the property and are familiar with the alarm system;
   7. Alarm company's name, address, and telephone number.

5. **Severability**: The invalidity of any section or provision of the ordinance shall not affect the validity of any other section or provision of this ordinance.

6. **Enforcement**: The Fire Chiefs, Police Chief, or any designated police or fire officer may enforce this ordinance. Any fire officer who observes a violation of this ordinance will contact the police, who may summons the property owner or person residing in the property to the District Court.

7. **Civil Penalty**: Any property owner or person residing in the property adjudicated in violation of this ordinance shall be liable for a civil penalty.
First Offense: Written Warning
Second Offense: Fifty Dollars ($50.00)
Third Offense: Two Hundred Dollars ($200.00)
Each Additional Offense: Five Hundred Dollars ($500.00)

For the purpose of this section, the number of false alarms shall be based upon a twelve month period.

Any second or subsequent offender for a particular property who is summoned for a violation of this ordinance may waive all court action by payment of the civil penalty to the Town within ten (10) days of the date of the summons.

If the penalty is not paid and/or if court action ensues, the offender shall be liable for any and all costs incurred by the Town in enforcing this ordinance, including but not limited to court filing fees and the cost of legal counsel.

Within the ten-day period, the user may appeal the imposition of the false alarm fee 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 upon good cause shown. The decision of the responsible Chief may be appealed to the Town Manager. The decision of the Town Manager shall be final.

8. Penalties accrue to the Town: All civil penalties collected under this ordinance shall accrue to the Town of Kennebunkport.

9. Effective Date: This ordinance shall become effective immediately upon approval by a majority vote at a Kennebunkport Town Meeting.

Source URL: https://www.kennebunkportme.gov/fire-department/pages/false-alarm-ordinance
Fire Code Ordinance

SECTION 1

There is hereby adopted and incorporated herein by reference, as if completely and specifically set forth in its entirety, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the most recent edition of the following codes prepared by the "National Fire Protection Association", as adopted by the State of Maine:

Life Safety Code (NFPA 101)

and the whole thereof save and except such portions as are hereinafter deleted, modified or amended. One copy of the most recent edition of the Codes shall be filed in the office of the Town Clerk for public use, examination and inspection.

SECTION 2

The Kennebunkport Fire Chief shall be the Town official principally responsible for the enforcement of the provisions of this ordinance, provided that this ordinance may also be enforced by the Code Enforcement Officer or any member of a fire department designated by the Fire Chief. The authority having jurisdiction shall be the Fire Chief or designees, and the Code Enforcement Officer of the Town acting as a body.

SECTION 3

This ordinance shall be enforced in the manner provided in Title 30-A M.R.S.A. section 4452, as amended, or its successor provisions. The penalty for violating the provisions of this ordinance shall be a civil penalty of not less than ($100) or more than ($2,500) for each separate violation. Each day during which a violation of this Ordinance continues shall constitute a separate violation.

Approved: March 18, 1986
Amended: (Incorporated into this is the Fire Alarm and Sprinkler System Ordinance) November 15, 1986
Amended: March 24, 1987
March 24, 1990
March 26, 1994
March 29, 1997
June 18, 2005
June 9, 2009
Source URL: https://www.kennebunkportme.gov/fire-department/pages/fire-code-ordinance
Fireworks Ordinance

ORDINANCE PROHIBITING THE SALE OR USE OF CONSUMER FIREWORKS

1. No person shall use, possess with the intent to use, sell, possess with the intent to sell, or offer for sale consumer fireworks within the Town of Kennebunkport or from any watercraft within the waters of the Town of Kennebunkport except as hereinafter provided.

   Definition: For the purposes of this ordinance, “consumer fireworks” shall have the same meaning as provided in Title 8 M.R.S.A., Section 221-A, except that the term consumer fireworks does not include toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates, or signal, antique or replica cannons if no projectile is fired.

2. Exceptions. This section shall not apply to a person issued a fireworks display permit issued by the State of Maine pursuant to Title 8 M.R.S.A., Section 227-A, or by the town of Kennebunkport.

3. Seizure and Disposal of Fireworks. The Town may seize consumer fireworks that the Town has probable cause to believe are used, possessed or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State of Maine for disposal.

4. Penalties:
   1. Any person who uses, or possesses with the intent to use, consumer fireworks in violation of this Ordinance shall be punished by a fine of not less than two hundred dollars ($200.00) and not more than four hundred dollars ($400.00) plus costs. For second and subsequent offenses, a fine of not less than three hundred dollars ($300.00) and not more than six hundred dollars ($600.00) per violation plus costs shall be imposed.
   2. Any person who sells, or possesses with the intent to sell, consumer fireworks in violation of this ordinance shall be punished by a fine of not less than five hundred dollars ($500.00) plus costs. For second and subsequent offenses, a fine of not less than one thousand dollars ($1000.00) per violation plus costs shall be imposed.

Source URL: https://www.kennebunkportme.gov/town- clerk/pages/fireworks- ordinance
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ARTICLE I – PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Kennebunkport, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Kennebunkport, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Kennebunkport, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Kennebunkport has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 and 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Kennebunkport having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Kennebunkport, Maine.


ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Kennebunkport, Maine.
ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

A. The name and address and phone number of the applicant, owner and contractor;

B. An address and a map indicating the location of the construction site;

C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposals facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. A statement of the intended use of the structure and/or development;

E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:

   a. in Zones A1-30, AO, and V1-30, from data contained in the "Flood Insurance Study - Town of Kennebunkport, Maine," as described in Article I; or,

   b. in Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

I. A description of an elevation reference point established on the site of all new or substantially improved structures;
J. Either an Elevation Certificate (FEMA Form 81-31, 03/97, as amended) completed by a Professional Land Surveyor, registered professional engineer or architect; or, for non-residential structures to be floodproofed, a Floodproofing Certificate (FEMA Form 81-65, 05/93, as amended) completed by a registered professional engineer or architect. These Certificates verify that the elevations shown on the application are accurate;

K. Certifications as required in Article VI by a registered professional engineer or architect that:

1. floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

2. construction in coastal high hazard areas, Zones V1-30, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;

3. engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.;

4. bridges will meet the standards of Article VI.M.;

5. containment walls will meet the standards of Article VI.N.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

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.
ARTICLE V - REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Study - Town of Kennebunkport, Maine," as described in Article I. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance;

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. Issue one of the following Flood Hazard Development Permits based on the type of development:

1. Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction “as built” for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
2. Issue a Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b, and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. Issue a Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement such as repairs, maintenance, renovations, or additions, whose value is less that 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Article III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. **All Development** – All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and,

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. **On Site Waste Disposal Systems** – On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. **Residential** - New construction or substantial improvement of any residential structure located within:

1. Zones A1-30, shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation.

2. Zones AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
   a. at least two feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
   b. at least three feet if no depth number is specified.

4. Zone A shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.

5. Zones V1-30 shall meet the requirements of Article VI.P.

G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:
a. be floodproofed to at least two feet above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;

b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zones AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:

a. at least two feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,

b. at least three feet if no depth number is specified; or,

c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI.G.1.

4. Zone A shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or

a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

5. Zones V1-30 shall meet the requirements of Article VI.P.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zones A1-30 shall:
a. be elevated such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation;

b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

i. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

ii. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

iii. All components of the anchoring system described in Article VI H.1.c.(1)&(2) shall be capable to carrying a force of 4800 pounds.

2. Zones AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:

   a. at least two feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,

   b. at least three feet if no depth number is specified; and,

   c. meet the requirements of Article VI.H.1.c.

4. Zone A shall:

   a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least two feet above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and,

   b. meet the anchoring requirements of Article VI.H.1.c.
5. Zones V1-30 shall meet the requirements of Article VI.P.

I. **Recreational Vehicles** – Recreational Vehicles located within:

1. Zones A1-30 shall either:
   
   a. be on the site for fewer than 180 consecutive days,
   
   b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
   
   c. be permitted in accordance with the elevation and anchoring requirements for “manufactured homes” in Article VI.H.1.

2. Zones V1-30 shall meet the requirements of either Article VI.I.1.a. or b., or Article VI.P.

J. **Accessory Structures** – Accessory Structures, as defined in Article XIV, located within Zones A1-30, AO, and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements or Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less that $3000;

2. have unfinished interiors and not be used for human habitation;

3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;

4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow or floodwaters and be placed further from the source of flooding that is the primary structure; and,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
K. **Floodways**

1. In Zones A1-30, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in riverine areas, for which a regulatory floodway is designated on the community's "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones A1-30 and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

   a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
   
   b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/January 1995, as amended).

3. In Zones A1-30 and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor** – New Construction or substantial improvement of any structure in Zones A1-30, AO, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
a. be engineered and certified by a registered professional engineer or architect; or,

b. meet or exceed the following minimum criteria:

i. a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

ii. the bottom of all openings shall be no higher than one foot above the lowest grade; and,

iii. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storing of articles and equipment used for maintenance of the building.

M. **Bridges** – New construction or substantial improvements of any bridge in Zones A1-30, AO, A, and V1-30 shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least two feet above the base flood elevation; and,

2. a registered professional engineer shall certify that:

   a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and,

   b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** – New construction or substantial improvement of any containment wall located within:

1. Zones A1-30, A, and V1-30 shall:

   a. have the containment wall elevated to at least two feet above the base flood elevation;

   b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development permit, as required by Article III.K.

2. Zone AO shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.

3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:
   a. at least two feet higher than the depth specified in feet on the community’s Flood Insurance Rate Map; or,
   b. at least three feet if no depth number is specified; and,
   c. shall meet the requirements of Article VI.N.1.b. & c.

O. **Wharves, Piers and Docks** – New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30, AO, A, and V1-30, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and,

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. **Coastal Floodplains** -

1. All new construction located within Zones V1-30, A, and V1-30 shall be located landward of the reach of the mean high tide except as provided in Article VI.P.6.

2. New construction or substantial improvement of any structure located within Zones V1-30 shall:
   a. be elevated on posts or columns such that:
      i. the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to two feet above the base flood elevation;
ii. the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and

iii. water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

b. have the space below the lowest floor:

i. free of obstructions; or,

ii. constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,

iii. constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

c. require a registered professional engineer or architect to:

i. develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55/February, 1986); and,

ii. certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.

3. The use of fill for structural support in Zones V1-30 is prohibited.

4. Human alteration of sand dunes within Zones V1-30 is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

5. The enclosed areas may be used solely for parking vehicles, building access, and storage.

6. Conditional Use – Lobster sheds and fishing sheds located seaward of mean high tide shall be exempt from the elevation requirement in Article VI.G. and are permitted as a Conditional Use only upon review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

d. The structure shall have unfinished interiors and shall not be used for human habitation.

e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.

f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII – CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

1. Review Procedure for a Conditional Use Flood Hazard Development Permit

a. The Food Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied may serve as the permit application for the Conditional Use Permit.

b. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.

c. If the Planning Board finds that the application satisfied all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
d. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.

e. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

2. Expansion of Conditional Uses

a. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

A. For New Construction or Substantial Improvement of any structure the applicant shall submit to the Code Enforcement Officer:

1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,

2. for structures in Zones V1-30, certification by a registered professional engineer or architect that the design and methods of construction to be used are in compliance with Article VI.P.2.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:

1. review the Elevation Certificate and the applicant’s written notification; and,

2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.
ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Kennebunkport may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Code Enforcement Officer in the administration of the provisions of this Ordinance. The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,
2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not a conflict with other state, federal or local laws or ordinances; and,

4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
   a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
   b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
   c. that the granting of a variance will not alter the essential character or the locality; and,
   d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
   1. other criteria of Article X and Article VI.K. are met; and,
   2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of a Historic Structure upon the determination that:
   1. the development meets the criteria of Article X, paragraphs A. through D. above: and,
   2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

ARTICLE XI - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA, section 4452.

B. The penalties contained in 30-A MRSA, section 4452, shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure – means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of a Shallow Flooding - means a designated AO zone on community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.
**Basement** - means any area of the building having its floor subgrade (below ground level) on all sides.

**Breakaway Wall** - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Building** - see **Structure**.

**Certificate of Compliance** - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer** - any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

**Conditional Use** – means a use that because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

**Development** - means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

**Elevated Building** - means a non-basement building

A. built, in the case of a building in Zones A1-30, A, AO, to have the top of the elevated floor, or in the case of a building in Zones V1-30, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

B. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, A, or AO, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).
**Elevation Certificate** - An official form (FEMA Form 81-31, 03/97, as amended) that:

A. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

B. is required for purchasing flood insurance.

**Flood or Flooding** - means:

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - means an official map of a community, on which of the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** - see Flood Elevation Study.

**Floodplain or Flood-prone Area** - means any land area susceptible to being inundated by water from any source (see flooding.)

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
**Floodproofing** - means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see Regulatory Floodway.

**Floodway Encroachment Lines** - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

**Freeboard** - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use** - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** – means any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   1. By an approved state program as determined by the Secretary of the Interior, or
   2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.
Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI of this ordinance.

Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

Minor Development – means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction or materials, public or private sewage disposal systems or water supply facilities that do not involve structures, and nonstructural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) – means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

New Construction - means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood see Base Flood.

Recreational Vehicle – means a vehicle which is:

A. built on a single chassis;

B. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;

C. designed to be self-propelled or permanently towable by a motor vehicle; and,
D. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway –

A. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and,

B. when not designated on the community’s Flood Boundary and Floodway Map, it is considered to the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area – see Area of Special Flood Hazard

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage – means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. any alteration of a Historic Structure provided that the alteration will not preclude the structures continued designation as a historic structure, an a variance is obtained from the Board of Appeals.

**Variance** – means, a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** – means, the failure of a structure or development to comply with a community's floodplain management regulations.

**ARTICLE XV - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3(e)
Goose Rocks Beach Parking Sticker Rules / Regulations

Parking in the Goose Rocks Beach area is regulated during the summer season through a parking sticker program because the demand for parking far exceeds the limited number of on-street parking spaces available. Parking stickers are available for daily, weekly and seasonal use.

Kennebunkport Taxpayers

Seasonal parking stickers are available to Kennebunkport residents and taxpayers at a cost of $5.00 per vehicle. In order to qualify for the resident sticker an individual must either pay property taxes on property in Kennebunkport or be a resident of Town and pay excise taxes to the Town on a motor vehicle registered in his/her name. Individuals paying property taxes to the Town may obtain parking stickers for more than one vehicle so long as each vehicle is registered in his/her name. Individuals seeking residential stickers shall provide a copy of the vehicle registration for each residential sticker issued. In circumstances where ownership of the property is dispersed among multiple people it is the individual’s responsibility to provide proof of ownership interest to the Town. The sticker shall be permanently affixed to the lower left-hand corner of the rear window of the vehicle to which it is issued. Any sticker not permanently affixed in that location shall be considered void and a violation of these regulations and Kennebunkport Traffic and Parking Control Ordinance.

Non-Kennebunkport Taxpayers

Non-Kennebunkport taxpayers shall pay $15.00 for daily stickers, $50.00 for weekly stickers, and $100.00 for seasonal stickers. Each sticker shall be permanently affixed to the lower left-hand corner of the rear window of the vehicle to which it is issued. Any sticker not permanently affixed in that location shall be considered void and a violation of these regulations and Kennebunkport Traffic and Parking Control Ordinance.

Hotels, Inns, Rental Properties and the Goose Rocks Beach General Store

Hotels, inns, owners of rental properties (including room rentals) and the Goose Rocks Beach General Store shall be allowed to purchase, for re-sale to their customers, daily and weekly stickers for $15.00 and $50.00 each, respectively. Stickers must be marked with a laundry marking pen or other indelible marker to show the date or dates for which they are issued, and each sticker must be permanently affixed to the lower left-hand corner of the rear window of the vehicle to which it is issued. If these conditions are not met, the sticker will be considered void. The establishment selling the sticker is responsible for recording the license plate number of the vehicle, the sticker number, the day or week for which the sticker is issued and explaining to the customer the beach and parking rules and regulations.
It shall be the policy of the Town of Kennebunkport to deny the issuance of any Goose Rocks Beach Parking Sticker to a registered vehicle that has an outstanding parking ticket(s) until said parking ticket fine(s) has been paid in full.

Adopted by the Kennebunkport Board of Selectmen on March 24, 2005 in accordance with Section 13.II of the Kennebunkport Traffic and Parking Control Ordinance.

Reviewed annually and amended as needed.

Source URL: https://www.kennebunkportme.gov/town-clerk/pages/goose-rocks-beach-parking-sticker-rules-regulations
GPC Ordinance

1. PURPOSES

State law requires that land use regulations of the Town be adopted pursuant to a Comprehensive Plan. Such Comprehensive Plan, including policy statements, goals, standards, and pertinent data, requires a constant dialogue and exchange of ideas and materials between a board and the governing body of the Town so that significant municipal decisions are made on the basis of fact.

Currently the Planning Board is unable to commit the time necessary to undertake the inquiry and analysis to make the findings and recommendations necessary for thorough planning. This ordinance establishes a permanent committee to undertake such inquiry and analysis and to make findings and recommendations to the Planning Board and the Board of Selectmen in order to continually update and maintain the Comprehensive Plan.

2. COMMITTEE ESTABLISHED

A. There is hereby established a Growth Planning Committee to be composed of up to 5 (five) members including two alternates as appointed by the Selectmen. In making appointments, the Selectmen shall consider the experience of individuals in land use, housing, transportation, capital planning, economics, water resources, social patterns, and other areas which should be considered in formulating and maintaining the Comprehensive Plan.

B. Initial appointments to the committee shall be on a staggered basis so that the term of 1 person expires in 4 years, the terms of 2 people expire in 3 years, the terms of 2 people expire in 2 years, and the terms of 2 people expire in 1 year. Thereafter, terms shall be for a period of 3 years.

C. Annually, at the first meeting of the committee after the annual town meeting, the committee shall elect a chairman and a clerk. After such election the committee shall establish an agenda for the coming year, with timetables for the completion of goals and objectives during such year.

D. The committee shall generally meet twice each month, and at such other times as deemed necessary by a majority.

E. No later than November 30th of each year the committee shall submit to the Planning Board and the Board of Selectmen a report of its activities, any recommendations for inclusions or modifications to the Comprehensive Plan, and any ordinances or amendments to ordinances to achieve goals or objectives stated in the recommendations. By preamble to any proposed ordinance submitted to the Planning Board and the Board of Selectmen, the committee may set forth goals, policy statements or other pertinent materials expressing findings and conclusions supporting the ordinance. If the proposed ordinance is adopted, such preamble, as it may be modified prior to
enactment of the ordinance, shall be deemed part of the Comprehensive Plan to the end that such ordinance or amendment shall be enacted “pursuant to the Comprehensive Plan”.

F. From time to time the Board of Selectmen may find it necessary to appoint Ad Hoc committees to review and recommend policies and ordinances. The Growth Planning Committee may be considered to fill that role should the policy or ordinance be deemed to fall within their area of expertise.

G. In preparing its annual report to the Planning Board and the Board of Selectmen and any proposed ordinances or amendments, the committee shall ensure that the public is given an adequate opportunity to be heard.

H. The Planning Board and all other municipal officers, employees, boards and commissions shall cooperate with the committee, so that the continuous data-gathering, analysis and review to be undertaken by the committee may provide a continually updated Comprehensive Plan. The committee may update data tables and charts annually within the Comprehensive Plan without re-submitting the plan for inclusion on the town warrant.

I. Any proposed actions affecting the consistency of the Comprehensive Plan, including any amendments to the Land Use Ordinance and any long range capital expenditure plans, shall be submitted to the Growth Planning Committee prior to presentation to any Town meeting, for the committee’s review and recommendations.

J. The committee shall be subject to administrative supervision by the Town Manager as specified in the Administrative Code.


Source URL: https://www.kennebunkportme.gov/town-clerk/pages/gpc-ordinance
Horse Riding on Goose Rocks Beach

Commercial or Private Riding of Horses on Goose Rocks Beach

Purpose

The purpose of this ordinance is to allow for horses to be present on Goose Rocks Beach while providing for public safety, addressing environmental concerns and mitigating added congestion on Goose Rocks Beach between May and September.

Definitions

As used in this ordinance the following terms have the following meanings:

1. “Beach” means Goose Rocks Beach from the Batson River to the Little River.
2. “Owner” means anyone who keeps, has custody of, possession of, or control of a horse.
3. “Rider” means any person who rides, leads or drives a horse.

Regulations

- Horses are allowed on the beach from September 15th through May 14th. The Board of Selectmen may, after conducting a public hearing, modify the dates regulating access to the beach by horses.
- Horses are allowed on the beach only on the area below the mean high water mark, except for gaining access to and egress from the beach.
- Any rider or owner who allows a horse to be present on the beach shall be responsible for removing any feces left by his/her horse before departing from the beach or removing the vehicle used to transport the horse from its parking location, and for disposing of feces in an appropriate litter receptacle, except that disposal of feces shall not be into the town’s litter receptacles. Failure to clean up manure is a violation of this ordinance.

Severability

The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

Enforcement

The Chief of Police or any of his/her designated officers will enforce this Ordinance. Any officer who observes a violation of this Ordinance may summons that individual to District Court. Any Officer
who receives a complaint and determining that sufficient evidence exists to conclude that a violation of the Ordinance occurred, may summons the offender to District Court.

**Civil Penalty**

Any person adjudicated in violation of this Ordinance shall be liable for a civil penalty.

- First Offense: Written Warning and a copy of this Ordinance.
- Second and Subsequent Offenses: Fine of One Hundred Dollars ($100.00).
- Any second and subsequent offender of this Ordinance who is summoned for violation may waive all court action by payment of the civil penalty to the Town of Kennebunkport within ten (10) days of the date of the summons.

If the penalty is not paid and/or if court action ensues, the offender shall be liable for all costs incurred by the Town in enforcing the Ordinance, including but not limited to court filing fees and cost of legal counsel.

If a horse is present on the beach in violation of this Ordinance and the rider is not the owner, the owner shall be jointly and severally liable with the rider for civil penalties.

**Penalties Accrue to the Town**

All civil penalties collected under this Ordinance shall accrue to the Town of Kennebunkport.

**Source URL:** https://www.kennebunkportme.gov/town-clerk/pages/horse-riding-goose-rocks-beach
Kennebunk River Ordinance


Section I – Purpose

The purpose of this Ordinance is to provide for the just and orderly operation of marine activities on the Kennebunk River.

Section II – Authority

This ordinance is adopted pursuant to Title 38 M.R.S.A. sec.1, et seq., and the Home Rule Provisions of the Maine Constitution.

Section III – Conflicts with Other Ordinances and Laws

Where there is conflict between this ordinance and any other Federal, State, or Local law, statute, regulation, rule or ordinance, the more restrictive provisions shall apply.

Section IV – Amendments

After public hearing by the Board of Selectmen, this ordinance may be amended at an annual or special Town Meeting.

Section V – River Committee

The River Committee established by the Interlocal Agreement among Kennebunkport and Kennebunk shall be responsible for all Kennebunk River harbor activities as set forth in the Agreement, this Ordinance and as otherwise required by law.

The River Committee shall have the authority to establish and collect fees for moorings and harbor usage. Such fees must be reasonably related to the cost of maintaining and regulating the Kennebunk River Harbor and may include a charge to establish a capital reserve account for harbor dredging. However, before any such fees may be imposed, the River Committee shall hold a public hearing preceded by at least 10 days notice in a newspaper of general circulation in Kennebunkport. The initial fees must also be approved by the Board of Selectmen before becoming effective; thereafter, the River Committee may adopt amendments pursuant to the same procedure provided the Board of Selectmen may veto any changes within 14 days of adoption by the River Committee.
The River Committee is only authorized to spend such monies as are appropriated by Town Meeting.

Section VI – Harbormaster

The Harbormaster for the Kennebunk River is appointed annually by the Boards of Selectmen of Kennebunk and Kennebunkport. Certain duties and responsibilities of the office are prescribed by Title 38, M.R.S.A. He has the additional duty to administer and enforce the provisions of this Ordinance with the authority granted by law and through his appointment as Harbormaster. For purposes of compensation and employment benefits, he shall be deemed an employee of the Town of Kennebunk which may charge pro-rata shares of such expenses to Kennebunkport. However, for all purposes of initial employment recommendation to the Board of Selectmen and subsequent oversight and annual job performance review, he shall report solely to the River Committee which may recommend discipline or discharge to the Kennebunk Town Manager who may take such discipline only for just cause after notice and hearing.

He may utilize the Town Office and the Kennebunk River Committee for assistance in the administrative aspects of his responsibilities.

Section VII – River Limits and Channel

Kennebunk River

For the purposes hereof (and the area regulated hereby) the Kennebunk River is defined as all portions of said River within this municipality which extend and run generally southerly from the prolongation southerly of the Kennebunkport and Arundel town boundary at Goff Brook, including all waters to the high tide levels thereof, extending to a line drawn between the extreme offshore limits of the jetties at the mouth of said River.

Kennebunk River Channel

For the purposes of this Ordinance, the Federally Designated portion of the channel, so called, of the Kennebunk River is defined as follows:

The entrance of the Kennebunk River Channel is 100 feet wide and runs from the mouth of the river to a point beyond the Kennebunkport Marina, where it narrows to 75 feet in width. Thence it extends northerly, continuing at a width of 75 feet, terminating at a line, the end-point coordinates of which are N191412.53, E417265.28 and N191445.83, E417332.48 (NAD 1927, State Plane, Feet). All of said Federally Designated channel is as depicted on plans encaptioned “Kennebunk River, Maine-Maintenance Dredging”, dated July 19, 1984, bearing drawing number 2226, consisting of two sheets, the same being incorporated herein by reference. The northerly limit of the federal channel was established by U.S. Public Law 104-33, October 12, 1996 which amended the above referenced plans of 1984.

The Locally Designated Channel, so called, of the Kennebunk River is defined as follows:

A 50 foot wide Locally Designated Channel beginning at the northerly limit of the Federally Designated Channel and extending northward approximately 758 feet; thence a 40 foot wide Locally Designated Channel beginning at the end of the 50 foot wide Locally Designated Channel and extending northerly approximately 312 feet to the Mathew J. Lanigan Bridge. All of said Locally Designated Channel is as depicted on a plan encaptioned “Kennebunk River Locally Designated Channel,” dated August 26, 2004, and prepared by the Southern Maine Regional Planning Commission, the same being incorporated herein by reference.
Section VIII – Rules of River Use

Prudent Operation of Vessels

Vessels shall be operated on the Kennebunk River in a reasonable manner so as not to endanger persons or property or to cause excessive wash. In no case shall speeds exceed five (5) knots while operating on any portion of the Kennebunk River south of the aforementioned Railroad Bridge.

Government Wharf

The intended use of the floats and the facilities of Government Wharf are solely for the loading and unloading of vessels, for the dockage of skiffs used by owners of vessels, and for such other uses as are specifically authorized by the Board of Selectmen.

No vessel may be left unattended on the westerly face of the floats or at Government Wharf for a period of more than one-quarter (1/4) hour; in no event shall any vessel not using said facilities for loading and unloading remain thereat when any other vessel requires the use of said facilities for such purposes, and in no event shall any vessel remain thereat in excess of four (4) hours; in no event, excepting emergencies, shall the facilities at Government Wharf be utilized for any purpose other than loading and unloading without written permission from the Harbormaster. Boat owners wishing to leave a skiff at Government Wharf on a regular basis are required to notify the Harbormaster of this intention. If in the opinion of the Harbormaster, skiff tie-off space becomes overcrowded, first priority for space will be accorded to commercial users.

Skiffs tied to Government Wharf must be properly maintained, be kept bailed and must be secured so as to keep Government Wharf clear for operations and not interfere with vessels landing and departing.

Users of Government Wharf are responsible for properly cleaning up any spillage or untidiness resulting from their operations.

Failure to observe these regulations may result in loss of permission to use the Government Wharf facility and floats and a penalty as set forth in Section VI.

Traps in the River

No operation of fixed traps of any kind will be allowed in the Kennebunk River southerly of the Railroad Bridge. Storage cages shall be permitted if attached to a vessel or to a vessel’s mooring.

Record of Moorings

The Harbormaster shall maintain a written record of the basic information on each mooring including assigned location, identifying number, vessel description, owner, mooring specifications and details and any additional data deemed useful.

The Harbormaster shall maintain the aforementioned plans of the Channel and a chart of the harbor showing current mooring location assignments.

Each mooring location will be assigned an identifying number which must be marked in a legible fashion on the marker buoy or log in at least three inch (3”) numerals.

Mooring Authorizations

No mooring shall be permitted, and no mooring shall be placed, utilized or allowed without written authorization from the Harbormaster for the mooring of a specific vessel therein. Each day that a
mooring remains in place or is utilized in violation of this section shall be deemed a separate violation hereof.

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 Kennebunk River Committee and any other appropriate authority to determine mooring areas and their capacity. Commercial Moorings shall comprise at least 50% of the total number of Mooring Sites within the Kennebunk River. If an existing Commercial Mooring becomes available within the Kennebunk River, 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 50% of the total number of available mooring sites within the Kennebunk River.

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

The Harbormaster shall have absolute authority over all moorings and mooring locations in accordance with the terms of this Ordinance and the laws of the State of Maine.

Any mooring location which is not utilized by the holder of the mooring authorization therefore, or by an assignee approved by the Harbormaster, for a term of thirty (30) consecutive days during the months of June, July and August of any year shall be declared vacant and shall thereupon be available for reassignment by the Harbormaster except where the holder of the mooring has sent advance written notice to the Harbormaster showing good cause.

No Vessel greater than forty feet (40ft) shall be assigned a mooring space, except that should there be space available outside of the Federally Designated Channel a Commercial Vessel of up to forty four feet (44ft) may be eligible for a mooring provided that it does not conflict with any existing moorings and/or create any hazards or obstructions to navigation.

**Mooring Precedence for Mooring Locations**

The rules contained in this section are intended to comply with the requirements of Title 38 M.R.S.A. Section 3, 7-A, 8 and 11.

The Harbormaster shall maintain a chronological list, according to the date and time, of all vessel owners requesting mooring location assignment or reassignment to a new location.

Except as otherwise required by law, the Harbormaster shall assign spaces as they become available from the waiting list in accordance with the following priority guidelines:

- To shorefront owners who request for one mooring location immediately adjacent to frontage, and who have no other current shorefront moorings, so long as the assignment of such a mooring is practicable and so long as neither the mooring nor any vessel tied to the mooring encroaches upon the federal navigation channels or anchorages or upon the natural channels established by the Board of Selectmen. The assignment of a mooring site under this priority guideline shall not prevent the shorefront owner from receiving additional mooring assignments under the allocation system for other moorings set forth in this ordinance.

- Under this provision, a “shorefront owner” is an owner of shore rights of at least 100 contiguous feet of frontage.

- To resident commercial vessel owners, unless less than 10% of the moorings are currently assigned to non-resident commercial owners, in which case the next mooring available shall be assigned to the first non-resident commercial vessel owner on the list.

- To resident pleasure vessel owners, unless less than 10% of the moorings are currently assigned to non-resident pleasure vessel owners, in which case the next mooring available
shall be assigned to the first non-resident pleasure vessel owner on the list.

- To non-resident commercial vessel owners.
- To non-resident pleasure vessel owners.
- A dedicated continuous run at the end of the Kennebunk River adjacent to Government Wharf running northerly shall be kept specifically for commercial fishing vessels only. (Exhibit A)

Future mooring assignments will be on an as available basis in accordance with the chronological listing of requests and the foregoing priority guidelines. These priority guidelines shall not apply to the assignment of moorings located within the area dredged pursuant to the Kennebunk River Federal Navigation Project, as delineated by the U.S. Army Corps of Engineers also defined as the Kennebunk River Channel.

**Special Rules for Federal Anchorage Areas**

The following provisions are intended to comply with the requirements of the U.S. Army Corps of Engineers for federal anchorages and thus shall apply only to the following portion of the Kennebunk River over which the Harbormaster has control: the area dredged pursuant to the Kennebunk River Federal Navigation project, as delineated by the U.S. Army Corps of Engineers. Within the area described above (and only within this area) the following rules shall apply:

- The priority guidelines under “Mooring Precedence for Mooring Locations” in this ordinance shall not apply and the Harbormaster shall assign mooring spaces as they become available, from a chronological waiting list, without regard to residency of the applicant.
- No priority shall be given to residents if skiff tie-off space becomes overcrowded.

Nothing in this section shall be construed to prohibit the Harbormaster from giving priority to commercial fishing vessel owners in mooring location and skiff tie-off space.

**Channel to Remain Free of Obstructions**

The Harbormaster shall be empowered to ensure that the Kennebunk River Channel shall remain navigable and free of obstructions.

**Section IX – Penalties**

Violation of any of the provisions of this Ordinance shall be deemed a civil violation. They are enforceable by the Harbormaster or any other law enforcement officer with jurisdiction in Kennebunkport or upon the waters of the Kennebunk River by an action in the form of a civil infraction in Maine District Court, District Ten, Division of Eastern York, Biddeford; upon determination by said Court on a violation that occurred the violator shall be fined not more than $250.00 for each violation; each day a continuing violation exists in a separate violation of the provisions hereof. All fines collected hereunder shall inure to the Harbor Committee budget.

Penalties for violations of the laws of Maine with regard to speed restrictions, reckless operation of a vessel, operation of a vessel while under the influence of liquor or drugs and all other violations of State statute shall be as otherwise provided by law.

If the Harbormaster incurs costs in the conduct of his duty as a direct result of the failure of a vessel owner or operator to comply with this Ordinance or the statutes of the State of Maine, the Harbormaster may recover those costs and reasonable remuneration for his time by filing a civil complaint against such owner or operator in the Maine District Court, District Ten, Division of Eastern York, Biddeford.

**Section X – Definitions**
Vessel

The word “vessel” as used herein shall include boats of all sizes powered by sail, machinery or hand, scows, dredges, lobster, crab and shellfish cars, and craft of any kind.

Commercial Vessel

A vessel from which the owner obtains in excess of 67% of his earned income. The definition of Commercial Vessel includes Commercial Fishing Vessel, unless otherwise indicated.

Commercial Fishing Vessel

A vessel from which the owner obtains in excess of 67% of his earned income from commercial fishing. Commercial fishing is defined as fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.

Section XI – Separability

If any provision or clause of this Ordinance or application thereof to any person, persons or circumstances is held invalid, such invalidity shall not offset other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, provisions of this Ordinance are declared to be separable.

Section XII – Maine Law

Additional laws relating to boating are contained in M.R.S.A. Titles 12, 17 and 38 and the Department of Marine Resources Laws and Regulations.

Source URL: https://www.kennebunkportme.gov/town- clerk/pages/kennebunk-river-ordinance
TOWN OF KENNEBUNKPORT

KEY LOCK BOX ORDINANCE

SECTION 1: TITLE.

This Ordinance shall be known as the Town of Kennebunkport Key Lock Box Ordinance (the “Ordinance”).

SECTION 2: AUTHORITY.

This Ordinance is enacted in accordance with 30-A M.R.S.A 3001 et. seq., as may be amended.

SECTION 3: PURPOSE.

The Town of Kennebunkport determines that the health, safety and welfare of residents and property owners of the Town are promoted by a requirement that certain properties shall have a key lock box installed on the exterior of the structure(s) or at the gated entrance to aid the Kennebunkport Fire Department (KPFD) and Kennebunkport Emergency Medical Services (KEMS) with gaining access to or within a structure when responding to calls for emergency service, and to aid access into or within a building that is secured or is unduly difficult to gain entry to due to being either unoccupied or the occupants being unable to respond.

SECTION 4: DEFINITIONS.

Fire Chief: the person duly appointed as the Fire Chief of the Town of Kennebunkport.

Structure(s): a habitable space with floor to ceiling height of over 7’-0”.

Key Lock Box: a secured box or vault of a size and style approved by the Fire Chief or his/her designee, which contains key(s) for the exclusive use of the KPFD and KEMS to access the property and premises in an emergency.
SECTION 5: INSTALLATION REQUIRED.

New Structures: The following structures built after October 1, 2017 shall be equipped with a key lock box at or near the main entrance or such other location as required by the Fire Chief or his/her designee:

- Commercial and industrial structure; and
- All structures, including residential structures, protected by an automatic fire alarm system or automatic suppression system; and
- All properties having a security gate at the vehicular entrance to the property.

Existing Structures: Additions or renovations greater than $20,000 to any structure that has an automatic fire alarm system or an automatic suppression system existing as of October 1, 2017, shall be equipped with a key lock box at or near the main entrance or such other location as required by the Fire Chief or his/her designee.

SECTION 6: GENERAL REQUIREMENTS.

A. The approved manufacturer of the lock box system used in the Town of Kennebunkport shall be by the Knox Company of Phoenix, AZ. Brand name “Knox Box”.

B. The Fire Chief or his/her designee shall approve the location and style of the key lock box at the time the building permit is issued. All properties subject to this Ordinance shall have the key lock box installed and operational prior to the issuance of an occupancy permit. Or soon as the property is monitored by a 3rd party company.

C. The number of keys in the lock box cannot exceed the maximum number recommended by the Knox Company. Each key shall be labeled.

D. All properties with an electronic security gate shall have the lock box installed outside of the gate with the gate access code and required keys inside.

E. The Fire Chief or his/her designee shall approve any changes in the lock box installation.

F. Purchase, installation and maintenance of any required lock box is the sole responsibility of the property owner and/or occupant.
SECTION 7: MAINTENANCE.

The owner or operator of the property shall immediately notify the Fire Chief or his/her designee when any locks are added, changed or rekeyed. Additional labeled keys, access cards or access codes shall be added to the lock box immediately, if old keys, access cards or access codes are no longer effective.

SECTION 8: VIOLATIONS.

Any entity violating any of the provisions of this Ordinance or failing or neglecting or refusing to obey any order or notice of the Fire Chief or his/her designee issues hereunder shall be subject to a penalty as provided herein.

SECTION 9. CIVIL PENALTIES.

Any person who is found to be in violation of any provision of this Ordinance shall be subject to a civil penalty of not less than five hundred dollars ($500.00) and not more than two thousand five hundred dollars ($2,500.00), or as otherwise provided by 30-A M.R.S.A. §4452, as may be amended from time to time. Each violation of a separate provision of this Ordinance, and each day of violation, shall constitute separate offenses. In addition, if the Town is the prevailing party in an enforcement action, said person shall also be liable for all reasonable expenses incurred by the Town in the enforcement of this Ordinance, including, but not limited to, attorney’s fees and costs. All civil penalties shall inure to the benefit of the Town of Kennebunkport.

SECTION 10: SEVERABILITY, AMENDMENTS AND ADOPTION.

Severability: The invalidity of any portion of this Ordinance shall not invalidate any other part thereof.

Amendments: This Ordinance may be amended from time to time in accordance with the provisions of 30-A M.R.S.A. §3002, as may be amended.

Adoption: This Ordinance was submitted to the voters of the Town of Kennebunkport and shall be effective upon its adoption by Town Meeting.

ADOPTED: June 13, 2017
TOWN OF KENNEBUNKPORT

LAND USE ORDINANCE

November 6, 2018 Revision
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ARTICLE 1: GENERAL

1.1 Short Title

This Ordinance shall be known and may be cited as the “Kennebunkport Land Use Ordinance” and will be referred to herein as “this Ordinance.”

1.2 Purposes

This Ordinance and its regulations are designed for all the purposes of zoning embraced in Maine Revised Statutes, among other things: to promote and conserve the health, safety, convenience, and welfare of the inhabitants; to encourage the most appropriate interrelationships of land uses and groups of land uses in the various parts of the town; to secure safety from fire, panic, epidemics, flooding and other dangers; to provide adequate access of light and air; to prevent overcrowding of real estate; to lessen congestion in the streets; to facilitate the adequate provision of transportation, water, sanitary facilities, schools, parks and other public requirements, and to preserve and increase amenities throughout the Town of Kennebunkport. This Ordinance has been amended to comply with the Mandatory Shoreland Zoning Act and DEP Minimum Shoreland Zoning Guidelines to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in Shoreland areas.

1.3 Authority and General Requirements

Under the authority of Title 30-A M.R.S.A. § 2691, 3001, 4352-4358 and Title 38 M.R.S.A. § 435-449, any other enabling statutes, and all amendments thereto, the Town of Kennebunkport hereby regulates pursuant to this Ordinance the inspection, materials, construction, demolition, alteration, repair, height, bulk, area, ground coverage, location and use of buildings and structures, and the use of land, throughout the Town; and also, hereby divides the Town into zones.

1.4 Applicability

For Articles related to Shoreland Zoning this Ordinance applies to all land areas within two hundred fifty (250) feet, horizontal distance of the:

- Normal high-water line of any river;
- Upland edge of a coastal wetland, including all areas affected by tidal action; or the upland edge of a freshwater wetland.
Shoreland Zoning provisions also apply to:

All land areas within seventy-five (75) feet, horizontal distance of the normal high water line of a stream, to the entire area designated as the Dock Square and Riverfront Zoning Districts, and to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

1.5 Conflict with Other Ordinances

In general, this Ordinance is complementary to other town ordinances affecting the use, height, area and location of buildings and the use of land, but whenever a provision of this Ordinance conflicts with, or is inconsistent with another provision of this Ordinance, or other town ordinances, or where there is a conflict between this Ordinance and any other federal, state or local rule, regulation, ordinance, statute or other restriction, the more restrictive provision shall control.

1.6 Validity and Severability

The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

1.7 Availability

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

1.8 Omitted Uses

It is the intent of this Ordinance that any use not specifically allowed as either a permitted use or conditional use is specifically prohibited.

1.9 Effective Date

This Ordinance shall become effective as soon as it receives a favorable vote of the voters of the Town.
ARTICLE 2: CONSTRUCTION OF LANGUAGE AND DEFINITIONS

2.1  Construction of Language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the customary dictionary definition unless a different meaning is clearly implied by the context in which they are used. In the event of a conflict between the text of this Ordinance and any map, illustration, or table the text shall control.

The word “person” includes an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

The present tense includes the future tense; the singular includes the plural, and the plural includes the singular.

The words “shall” and “will” are mandatory, the work “may” is permissive.

The word “he” means either “he” or “she”.

2.2  Definitions

In this Ordinance, the following terms shall have the following meanings:

**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 lot lines of the subject lot would touch or enclose the abutting property.

**Accessory Use or Structure:** A subordinate use or structure customarily incidental to and located on the same lot as the principal use or structure, such as a detached garage, workshop, or the like. Accessory uses, in the aggregate, shall not subordinate the principal use or structure on a lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Acre:** A measure of land containing 43,560 square feet.

**Aggrieved Person or Party:** An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.
Agriculturally Related Products: Includes such items as homemade jams and jellies, honey, cheese, dairy products, baked goods, herbs and spices, ice cream and maple syrup. These products are to be produced privately or by an approved home occupation. It does not include items purchased for wholesale for the purpose of selling for retail, except as permitted within part b of the Farm Stand definition. Any licenses, either State or Federal, are the owner/applicant’s responsibility to obtain and maintain. (Also, see Farm Stand).

Agriculture: The cultivation of soil for the production or raising of food, crops, or other valuable or useful products including commercial gardening, and the growing of nursery stock. Agriculture does not include forest management and timber harvesting activities.

Alteration: A change, addition, or modification requiring construction, including any change in the location of structural member of buildings such as bearing walls, columns, beams or girders, but not including cosmetic or decorative changes.

Alternative Tower Structure: Clock towers, bell steeples, light poles, water towers, electrical transmission line towers, smokestacks, existing buildings, and similar mounting structures that camouflage or conceal the presence of an Antenna(s).

Animal Husbandry: Boarding, raising, breeding or keeping of animals, fish or fowl for commercial purposes including without limitation swine, poultry, cattle and horses.

Antenna/Antenna Array: A system of one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals. These include, but are not limited to, omnidirectional antennas (whips or rods), directional antennas (panels) and parabolic antennas (dish or disc).

Apartment, Accessory: A separate dwelling unit which may be located within a single-family dwelling or a detached accessory structure as permitted under Article 7.1 of this Ordinance.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Automobile Oriented Business: A business establishment which serves its customers while they remain in their motor vehicles, such as a drive-in restaurant, drive-up bank teller and car wash.

Automobile Repair Shop: A business establishment where motor vehicles and/or their related parts are serviced, repaired, reconditioned, painted or rebuilt.

Automobile Service Station or Gas Station: A business establishment selling fuel and related products for motor vehicles.

Basal Area: The area of cross-section of a tree stem at four and one half (4½) feet above ground level and inclusive of bark.

Basement: Any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty (50%) percent of its volume below the existing ground level.
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.

Boat House: A non-residential structure designed for the purpose of protecting or storing boats for non-commercial purposes.

Boat Launching Facility: A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Boat Yard: A business establishment where boats are hauled, stored, built and/or repaired.

Body of Water: The phrase “body of water” includes the following:

a. Tidal Water – All waters affected by tidal action and below the upland edge of the coastal wetland as defined by this Ordinance including the Kennebunk River.

b. Pond – An inland impoundment of water, natural or manmade, which collects and stores surface water.

c. Stream – A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map to the point where the body of water becomes a river or flows to another body of water or wetland within the Shoreland area. Streams with flood plains, as indicated by the FEMA Flood Insurance Rate Maps for the Town of Kennebunkport, shall be defined as streams for the purposes of this Ordinance along any sections of their length that are located within the limits of the 100-year floodplain and outside of the Shoreland zone.

d. Great Pond – Any inland body of water which in a natural state has a surface area in excess of ten (10) acres and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except, for purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

e. River – A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth. NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

f. Tributary Stream – A channel between defined banks created by the action of surface water which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. “Tributary Stream” does not include rills or gullies forming because of accelerated erosion in
disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term “stream” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving body of water or wetland. Water setback requirements apply to tributary streams within the Shoreland Zone.

**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 Footprint:** The area of a lot covered by all portions of any building and/or detached or attached accessory structures, including but not limited to garages, sheds, decks, porches, bulkhead entrances, steps, cantilevered sections, and roof overhangs.

**Building Height:** The vertical distance measured from the average elevation of the original ground level on all sides with twenty (20) feet of a building to the highest point of the building, not including such building features as chimneys, decorative cupolas, spires or similar non-habitable appurtenances.

**Campground:** Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy:** The more or less continuous cover formed by tree crowns in a wooded area.

**Cemetery:** A burial ground for the interment of the dead.

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

**Channel:** A natural or artificial watercourse with defined beds and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

**Child Care Center:** An establishment providing day care for five (5) or more children under the age of sixteen (16) which charges for the care of the children whether in a private home or separate establishment, and whether or not licensed by the State of Maine.

**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.

**Cluster Development:** A type of development where lot sizes are reduced below the minimum requirements of this Ordinance and the land gained thereby is preserved as open space.
Coastal Wetland: All tidal and sub-tidal lands, and any other adjacent lands below an elevation of seven (7) feet above mean sea level, utilizing the National Geodetic Vertical Datum (NGVD) of 1929. Coastal wetlands may include portions of coastal sand dunes, and may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

Code Enforcement Officer: A person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer shall include the Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Commercial Center: Commercial premises owned or managed as a single entity, which accommodate more than one retail or service business, including professional offices, and contain between 2,500 and 12,000 square feet of gross floor area.

Commercial Complex: Commercial premises owned or managed as a single entity, which accommodate more than one retail or service business, including professional offices, and contain more than 12,000 square feet of gross floor area, including department stores and grocery stores with more than 12,000 square feet of gross floor area.

Commercial Recreation – Indoor: A business establishment providing indoor recreation facilities such as a bowling alley, skating rink, swimming pool, tennis or racquet ball courts, but not including mechanical, electronic or video game arcades.

Commercial Recreation – Outdoor: A business establishment providing outdoor recreational facilities such as a golf course, tennis courts, swimming pool, ice skating rink, or riding stables, but not including campgrounds, drive-in movie theaters, race tracks, water slides or mechanical or motorized rides.

Commercial Use: The use of lands, buildings, or structures, other than a “home occupation,” defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Community Building: A building owned by a non-profit organization available to the community for purposes of public assembly and community activities.

Community Use: A governmental or public service use for the general benefit of citizens funded in whole or in part by the Town of Kennebunkport or a quasi-public organization, including by way of illustration and without limitation, municipal buildings, schools, public parks and recreational facilities, fire stations, ambulance services and sewage treatment plants.

Conditional Use: A conditional use is a structure or use which is generally inappropriate without restrictions in a given zone, which if controlled as to location, size and off-site impacts may have no adverse effects upon the public health, safety or welfare. The only structures or uses which shall be permitted as conditional uses are those listed as conditional uses in Article 4 or specifically described as conditional uses in other provisions of this Ordinance.
Contract Zoning: The process by which the property owner, in consideration of the rezoning of that property owner’s property, agrees to the imposition of certain conditions and restrictions not imposed on other zoned proprieties.

Cross-sectional Area: The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight-line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH: The diameter of a standing tree measured 4.5 feet from ground level.

Deck: A level structure adjacent to a building elevated above the surface of the ground which may have a railing and an awning or other covering, but not a roof.

Decorative Changes: Re-painting, re-siding, re-roofing; adding, removing or replacing trim, railings, or other non-structural architectural details.

Demolition: The act of destroying or pulling down a building or structure.

Development: A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability: Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness. This also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of Shoreline Integrity: The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Dock: See Pier

Driveway: A vehicular access-way for residential use. See Article 6.14 and 6.15.
Dwelling: Any building or structure or portion thereof containing one or more dwelling units, but not including a motel, hotel, inn or similar use.

a. Single Family Dwelling – A building designed or intended to be used exclusively for residential occupancy by one (1) family only and containing only one (1) dwelling unit, or one (1) dwelling unit with an accessory apartment as permitted under Article 7.1, including a modular home unit.

b. Two Family Dwelling – A building designed or remodeled to be used exclusively for residential occupancy to two (2) families living independently of one another and containing two (2) dwelling units. Each unit shall have not less than 650 square feet.

c. Multiplex Dwelling – A building 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 accessory apartments.

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. Recreational vehicles are not residential dwelling units. Within any Shoreland Zone, the term “dwelling unit” shall include seasonal rental units which meet the above definition, regardless of the time-period rented.

Earth: Topsoil, sand, gravel, clay, peat, rock or other minerals.

Elder Care Facility: A residential facility that is licensed in whole or in part as a residential care facility, congregate facility, or assisted living facility by the Maine Department of Human Services and occupied exclusively by elderly persons that provides accommodations, a program of supportive services appropriate to the needs of the residents, and shared community space and dining facilities for the use of residents of the facility. All residents of the facility shall be fifty-five (55) years of age or older or shall be a member of a household in which one member of the household was a least fifty-five (55) years of age at the time of entry to the facility. Facilities financed wholly or partially with federal funds may include units available for occupancy by handicapped persons who are not elderly provided that the number of such units is the minimum needed to establish eligibility for the financing program. To be considered an eldercare facility, at least sixty (60) percent of the residents shall be provided with a program of supportive services that, at a minimum, includes housekeeping assistance, personal care assistance, transportation, social and recreational activities, and one main meal per day served in a common or shared dining room.

The accommodations in an eldercare facility may consist of individual dwelling units, residential care units, or a combination of both. Residential care units shall contain at least two hundred and forty (240) but not more than seven hundred twenty (720) square feet of living area and may have a portable or compact kitchen but shall not have permanent, full kitchen facilities within the unit.
An eldercare facility may include a range of types of housing including, but not limited to, independent living units, congregate units, assisted living units, Alzheimer’s care units, boarding care units, respite care units, sub-acute care units, and similar living units. Nursing home facilities may be a part of an eldercare facility but a facility that provides nursing home accommodations exclusively shall not be considered to be an eldercare facility. An eldercare facility may include supportive facilities including, but not limited to, administrative facilities, common dining facilities, care facilities, common areas, temporary housing accommodations for visitors and relatives of residents, maintenance facilities, and similar facilities necessary for the operation of the facility or the provision of services to the residents of the facility and other elderly people and/or people with disabilities such as healthcare, restorative therapies, rehabilitation services, financial services, personal care services, and other services that meet the day-to-day needs of the residents of the facility.

**Emergency Operations:** Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

**Essential Services:** Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a Structure:** An increase in the floor area or volume of a structure, according to the provisions of Article 8 of this Ordinance.

**Expansion of Use:** The addition of one (1) or more months to a use’s operating season; or the use of more floor area or ground area devoted to a particular use. See Article 8 for specific standards and exemptions.

**Extractive Industries:** The excavation, processing or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

a. The excavation of material incidental to approved construction of buildings, driveways or parking areas.

b. The excavation of material incidental to and at the site of construction or repair of streets.

c. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one year period.

**Family:** One or more persons occupying a dwelling unit and living together as a single housekeeping unit where all occupants have common use and access to all living and eating areas, bathroom, and food preparation and serving areas.
Farm Stand: A roadside stand not exceeding four hundred (400) square feet in floor area selling only farm, garden, greenhouse, or nursery products and, between Labor Day and Christmas, cut Christmas trees, garlands, wreaths and wreath materials. In addition to products or produce raised or produced on the premises, farm and garden products may include:

a. Goods processed on the premises under a home food manufacturing license from the Maine Department of Agriculture; and

b. Fresh produce purchased off-site to supplement sales during the growing season and agriculturally related products provided that such produce and products do not occupy more than twenty-five (25%) percent of the space devoted to Farm Stand permitted sales.

For the purpose of the Ordinance, “agriculturally related products” includes such items as homemade jams and jellies, honey, cheese, dairy products, baked goods, herbs and spices, ice cream and maple syrup. These products are to be produced privately or by an approved home occupation. Retail sales only to include items that are wholesale purchased fresh produce or items defined under agriculturally related products. Any licenses, either State or Federal, are the owner/applicant’s responsibility to obtain and maintain. (Also, see Agriculturally Related Products).

Fishing Equipment: Personal property designed, intended or used in connection with commercial and/or recreational fishing activities including boats, nets, buoys, traps and line.

Fish Processing: The loading, unloading, packing, processing and packaging of edible fish and other seafood products but not including processing of fish wastes or fish by-products.

Floats: A floating structure, designed to rise and fall with the tide or wave action, which provides direct access to a watercraft secured alongside, and is usually connected to the shore or to a pier, dock or wharf by a ramp.

Floodway: The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one (1) foot in height.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks. See Article 8 for standards and exemptions when measuring floor area for the purpose of determining allowable expansions of nonconforming uses or structures.

Forest Management Activities: Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.
Forested Wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller. Forested wetlands of greater than two (2) contiguous acres, which are not adjacent to a surface water body, but nonetheless are found within any Shoreland Zone, are subject to inclusion in the Resource Protection District, pursuant to Article 5, but shall not require any Shoreland Zoning structure setbacks.

Forest Stand: A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Foundation: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

a. Of ten (10) or more contiguous acres, or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and

b. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

c. Freshwater wetlands may contain small stream channels or inclusion of land that do not conform to the criteria of this definition.

d. Freshwater or forested wetlands of less than ten (10) contiguous acres but greater than two (2) contiguous acres, which are not adjacent to a surface water body, but nonetheless are found within any Shoreland Zone, are subject to inclusion in the Resource Protection District, pursuant to Article 5, but shall not require any Shoreland Zoning structure setbacks. Freshwater or forested wetlands less than two (2) acres are not subject to inclusion in the Resource Protection District and shall not require any Shoreland Zoning structure setbacks.

Frontage, Shore: The horizontal distance, measured in a straight line, between the intersections of the side lot lines of a lot with the shoreline at the normal high water mark.

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.
**Functionally Water-Dependent Uses:** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters.

**Great Pond:** See “Body of Water”.

**Ground Cover:** Small plants, fallen leaves, needles and twigs and the partially decayed organic matter of the forest floor.

**Half Story:** That story of a building immediately beneath a sloping roof when not more than fifty (50%) percent of its floor space can accommodate a seven (7’) foot ceiling. A half story may be used for any purpose that is permissible for a full story.

**Hand Crafts:** The manufacturing of handcrafted articles, such as ceramics, leather goods and jewelry.

**Harvest Area:** The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting un-harvested areas greater than ten (10) acres within the area affected by a harvest.

**Health Institution:** A public or private facility that provides services for health maintenance of the diagnosis and/or treatment of human disease, pain, injury, or physical condition including but not limited to hospitals, health centers, clinics, treatment centers, and similar institutions. Health Institutions do not include facilities that provide long-term residential care such as nursing homes or eldercare facilities or the professional offices of doctors, psychiatrists, or other health care professionals.

**Height:** See Building Height.

**Home Occupation:** An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1): clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2): which employs no more than two (2) persons other than family members residing in the home. See Article 7.6 of this Ordinance.

**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.
Impervious Surface: That portion of a lot or site which is or will be improved with buildings, structures, driveways, parking lots, pedestrian walkways, signs and other improvements on the surface of the ground which are more impervious to water than the natural surface of the site.

Increase in Non-conformity of a Structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase non-conformity.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Inn: 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 to the lodgers and the general public.

Institutional: A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Invasive Plant Species: A non-native (adventitious) species that is capable of moving aggressively into a habitat and monopolizing resources such as light, nutrition, water, and space to the detriment of other species. (Note: For guidance consult the “Invasive Plant Atlas of New England”, Department of Ecology and Evolutionary Biology, University of Connecticut for the current approved listing of invasive plants or a list provided at the Town Office.)

Junkyard:
   a. Automobile graveyard: a yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out or junked automobiles.
   
   b. Junkyard: a yard, field or other area used as a place of storage for discarded, worn-out or junked plumbing, heating supplies, household appliances, furniture, discarded scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material, including garbage dumps, waste dumps and sanitary landfills.

Kennel: Any commercial establishment where dogs and/or cats are kept or boarded for a fee or where animal grooming is performed for a fee.

Land Management Road: A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.
Library: A non-profit facility, publicity or privately owned, open to all members of the public, where books, manuscripts, musical scores, or other literary and artistic materials are kept for use, as the principal use of the premises.

Licensed Forester: A forester licensed under Title 32 M.R.S.A. Chapter 76.

Lot: An area of land in one (1) ownership, or one (1) leasehold with ascertainable boundaries established by deed or other instrument of record, or a segment of land ownership defined by a lot boundary line on a subdivision plan duly approved by the Planning Board and recorded in the York County Registry of Deeds.

Lot Area: The total area located within the lines of a lot as measured on a horizontal plan. 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.

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

Lot Coverage: The percentage of the lot covered by structures. Within the Shoreland Zone, lot coverage shall include driveways, parking lots, and other non-vegetated surfaces.

Lot, Interior: Any lot other than a corner lot.

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 right of way containing a street or private road providing vehicular access to the lot or capable of providing vehicular access to the lot. On a corner or through lot, the line separating the lot from each right of way containing the street or private road providing vehicular access to the lot.

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.

Lot Minimum Area: See Minimum Lot Area.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the York County Registry of Deeds as of March 12, 1985, or as of the effective date of any amendment to this Ordinance as the case may be.
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.

Manufactured Home: A structure or structures having the meaning given to “manufactured housing” as defined in Title 30-A M.R.S.A. § 4358 (1) (A), provided that, for purposes of this Article, such structural units are transportable in no more than two sections.

Manufactured Housing: A structural unit designed for human occupancy, constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site, as defined more specifically in Title 30-A M.R.S.A. § 4358 (1) (A).

Manufacturing: The making of goods and articles by hand or machinery including assembly, fabrication, finishing, packaging and processing.

Marina: A business establishment having frontage on the navigable waters within the Town which offers for rent or sale to the boating public; moorings, dock space, boats and marine equipment, shower and laundry facilities, water, ice, diesel fuel, gasoline, oil and related products; and where boats may be hauled, stored, repaired and/or constructed.

Marina, Commercial: A business establishment having frontage on the navigable waters within the Town, which business establishment offers for rent or sale to persons engaged in commercial fishing, lobstering, or other harvesting of marine resources, but not to pleasure craft, some or all of the following: moorings, dock space, boats and marine equipment, shower and laundry facilities, water, ice, diesel fuel, gasoline, oil and related products; and where boats may be hauled, stored, repaired and/or constructed.

Marine Transport Services: The providing of marine transportation for consideration including, but not limited to, whale watches, fishing excursions, cruises with or without a specific destination, ferries, boat charter and excursion services.

Market Value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral Exploration: Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral Extraction: Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.
Minimum Lot Area: The lot area, less the area of any land subject to rights-of-way or drainage or storm water management easements, or any other easement other than utility easements servicing the lot and also excluding lands which are below the normal high water mark of any water body or wetlands, as defined by this Ordinance, regardless of size.

Minimum Lot Width: The closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland Zone, both lot lines shall be considered to be side lot lines.

Mobile Home: Any unit of manufactured housing constructed prior to June 15, 1976, or which is not included in the definition manufactured housing unit.

Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured homes.

Mobile Home Park Lot: The area of land on which an individual manufactured home is situated within a mobile home park and which is reserved for use by the occupants of that housing unit.

Modular Home: A structure or structures as defined in Title 30-A M.R.S.A. § 4358 (1)(A)(2), which are transportable in one or more sections, which are not constructed on a permanent chassis and which are designed to be used as dwellings on foundations when connected to required utilities. A modular home is a type of “manufactured housing” as defined herein and in Title 30-A M.R.S.A. § 4358 (1) (A).

Motel: See “Hotel”.

Multiplex: See “Dwelling”, definition c.

Museum: A non-profit institution operated principally for the purpose of preserving and exhibiting objects of historical, cultural, scientific or artistic interest and which may also engage in incidental retail sales of items related to its principal purpose.

Native: Indigenous to the local forests.

Net Residential Area: The area of a lot or site available for development determined by the Code Enforcement Officer by subtracting from the gross acreage of a lot the following:

a. Fifteen (15%) percent for roads and parking.

b. Land which is cut off from the main parcel by a road, existing land uses, or where no means of access has been provided so that it is isolated and unavailable for building purposes or for common use.

c. Land shown to be in the flood way or coastal high hazard area on a flood boundary and flood way map or flood insurance rate map prepared by the U.S. Department of Housing and Urban Development or its successor agency.
d. Other areas which are unsuitable for development in their natural state because of
topography, drainage or subsoil condition. Specific conditions include but are not
limited to:

1. Water table at or near the surface for all or part of the year.
2. Unstable soils such as Sebago mucky peat, coastal dune or tidal marsh.
3. Wetlands of any kind regardless of area.

e. Land in rights-of-way or drainage or storm water management or easements other than
utility easements serving the premises except tree maintenance easements granted to the
Town.

f. Land in the Resource Protection Zone.

g. Wetland that has been filled.

Net Residential Density: The number of dwelling units per area of net residential area.

Non-Conforming Condition: Non-conforming lot, structure or use which is allowed solely
because it was in lawful existence at the time this Ordinance or subsequent amendment took
effect.

Non-Conforming Lot: A single lot of record which, at the effective date of adoption or
amendment of this Ordinance, does not meet the area, frontage, or width requirements of the
district in which it is located.

Non-Conforming Structure: A structure which does not meet any one or more of the following
dimensional requirements; setback, height, or lot coverage, but which is allowed solely because
it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal High-Water Line (non-tidal waters): That line which is apparent from visible markings,
changes in the character of soils due to prolonged action of the water or changes in vegetation,
and which distinguishes between predominantly aquatic and predominantly terrestrial land.
Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and
hydric soils and that are at the same or lower elevation as the water level of the river or great
pond during the period of normal high-water are considered part of the river or great pond.

Normal High-Water Line (tidal waters): The upland edge of the “coastal wetland”, as defined by
this Ordinance

Nursing Home: A facility licensed by the Maine Department of Human Services that provides
skilled nursing care and medical services for convalescent or other patients who are not in need
of hospital care but do require licensed nursing supervision and related medical services
provided under the general direction of persons licensed to practice medicine in the State of
Maine.
**One Hundred (100) Year Flood Plain:** That area with a one (1%) percent chance of flooding in any given year, as depicted as the special flood hazard area on the most recent Flood Insurance Rate Map for the Town of Kennebunkport, prepared by the Federal Emergency Management Agency.

**Open Space:** The portion of a lot or site which is maintained in its natural state or planted with grass, shrubs, trees or other vegetation and which is not occupied by buildings, structures or other impervious surfaces.

**Parking, Commercial:** A business which offers parking facilities to the general public for a fee, when the parking facilities are the principal use on the lot.

**Parking Space, One:** An area of ten (10) feet x twenty (20) feet, exclusive of drives or aisles, for the parking of a vehicle.

**Parking, Temporary Overflow Public:** Parking of vehicles for the general public for no more than twenty-four (24) days per year per site, located on land owned, operated or controlled by the Town of Kennebunkport, as authorized by the Board of Selectmen.

**Patio:** A floored structure without any walls or roof that does not extend more than three (3) inches above the original ground level. A patio shall be considered to be a structure and shall be subject to setback requirements.

**Person:** An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having joint or common interest, or other legal entity.

**Pier (or Dock or Wharf), Accessory Residential:** A rigid platform, accessory to a structure or structures devoted to residential uses, extending from a shore over water and supported by piles or pillars, and used to secure, protect, and provide access to boats or other water-based activity. In order to access craft on tidal waters, the pier is usually connected to a float by a ramp.

**Piers, Docks, Wharves, Bridges and Other Structures and Uses extending over or beyond the normal high-water line or within a wetland:**

a. **Temporary:** Structures which remain in the water for less than seven (7) months in any period of twelve (12) consecutive months.

b. **Permanent:** Structures which remain in the water for seven (7) months or more in any period of twelve (12) consecutive months.

**Pond:** See “Body of Water”.

**Porch:** A structure that is attached to a building that consists of a floor and a wall or walls and which also contains framing that supports a roof, all of which (the total structure) is built to resist wind, rain and snow load and which structure may be open or enclosed by screening. A fabric-covered structure is not considered to be a porch under this definition.
Portable Toilet: A portable, enclosed, self-contained unit, with or without other utilities, whose purpose is the collection of human waste into self-contained tanks. Portable toilets consist of four (4) exterior walls, a roof, self-closing doors and may have more than one (1) bathroom unit under one (1) common roof.

Principal Building: The building in which the primary use of the lot is conducted.

Principal Use: The primary use to which the premises are devoted or for which the premises are arranged, designed or intended to be used.

Professional and Business Offices: The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance agents, psychiatrists, psychologists, counselors, and the like, or in which a business conducts its administrative, financial or clerical operations and also including providers of personal services such as barbers, hairdressers and beauticians.

Public Facility: Any facility not otherwise defined by this Ordinance, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Public Hospitality Facility: A public restroom facility and/or a facility offering information to the general public about the amenities, services and businesses in the Town of Kennebunkport or by a non-profit public service organization such as a Chamber of Commerce.

Public Hospitality Facility, Temporary: A public restroom facility consisting of portable toilet(s), operated by the Town of Kennebunkport on property owned or operated by the town or in a town right-of-way, placed for less than six (6) months per calendar year on a vacant lot or on a lot occupied by a pre-existing use/structure, and screened from view by landscaping and/or fencing, forming a visual barrier not less than five (5) feet in height along all public streets and exterior lot lines, except that the entrance(s) and appurtenances thereto of said facility may be kept open and unscreened to permit foot traffic to and from said facility.

Public Utility: Any person, municipal department or other entity authorized to furnish water, gas, electricity, waste disposal services, communication facilities or transportation to the public.

Recent Floodplain Soils: The following soil series as described and identified by the National Cooperative Soil Survey:

- Fryeburg
- Lovewell
- Alluvial
- Podunk
- Suncook
- Hadley
- Medomak
- Cornish
- Rumney
- Sunday
- Limerick
- Ondawa
- Charles
- Saco
- Winooski

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, other customary and usual recreational activities, excluding boat-launching facilities.
Recreational Vehicle: A vehicle or vehicular attachment designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home, or converted van or truck. In order to be considered as a recreational vehicle, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles. Recreational vehicles are not residential dwelling units or structures.

Replacement System (wastewater disposal): A system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structures; or 2) any existing overboard wastewater discharge.

Residential Mixed Use: A primary use to which a principal building may be devoted which blends and combines a residential use with a commercial use located within no more than one principal building on a lot. For purposes of minimum lot size calculations, outside of the Shoreland Zone, a Residential Mixed Use as defined shall be considered a single use.

Residential Rental Accommodation: The permitted accessory use of no more than two (2) bedrooms in a legally existing dwelling or dwelling unit. This dwelling unit shall be an owner-occupied dwelling. Rooms rented may be for either short term or long term rental to a roomer who may be unrelated to the owner or occupant of the unit. Individual rooms shall be rented no more than once per week. For purposes of this section a week shall be defined as Monday through Sunday.

Residual Basal Area: The average of the basal area of trees remaining on a harvested site.

Residual Stand: A stand of trees remaining in the forest following timber harvesting and related activities.

Resource Protection Zone: An overlay zone which intentionally covers one or more of the zones described in Article 3, as further defined in Article 3.3.L.

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

Retail Business: A business establishment engaged in the sale of goods or services to an ultimate consumer for direct use or consumption and not for resale, not including automobile oriented businesses, electronic, mechanical or video game arcades, or other retail businesses expressly defined elsewhere in this Article.

Riprap: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River: See “Body of Water”.
Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Roomer: A person residing in and paying rent for a room in a Residential Rental Accommodation whether or not the person eats meals on the premises. See Residential Rental Accommodation.

Salt Marsh: Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt Meadow: Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartine patens) and black rush; common three-square occurs in fresher areas.

School: An institution for education or instruction including a college, university, and public or private school conducting classes pursuant to a program approved by the State Board of Education or similar governmental agency, but not including commercially operated schools such as schools of beauty, culture, business, dancing, driving, music or recreation which shall be deemed retail businesses.

Seasonal Use: Occupancy or use for one hundred eighty (180) continuous days or less, but generally between April 15 and October 15 of each year.

Service Drop: Any utility line extension which does not cross or run beneath any portion of a water body provided that:

a. in the case of electric service:
   1. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
   2. the total length of the extension is less than one thousand (1,000) feet.

b. in the case of telephone service:
   1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
   2. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.
Setback: The horizontal distance from a lot line or right of way containing the street or private road providing vehicular access to the lot or capable of providing vehicular access to the lot to the nearest part of a structure.

Setback from Water: The horizontal distance from the normal high water line of a water body or tributary stream, or upland edge of a wetland, or the upland edge of the coastal wetland as defined by this Ordinance, to the nearest part of a structure, road, parking space or other regulated object or area.

Ship Chandlery: A retail store located within a marina selling supplies and equipment for boats.

Shore Frontage: The length of a lot bordering on streams, ponds, rivers, tidal waters, or coastal or freshwater wetlands, measured in a straight line between the points of intersection of the lot lines with the shoreline.

Shoreland Zone: The land area located within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within two hundred-fifty (250) feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream. For purposes of this Ordinance the entire Dock Square and Riverfront Zones as depicted on the Official Zoning Map shall also be considered as Shoreland General Development Districts, (see Article 3.1).

Shoreline: The normal high-water line, or upland edge of a freshwater or coastal wetland.

Sign: An object, device or display, or part thereof, situated outdoors or indoors, which is directed at persons outside the premises, used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

Skid Road or Skid Trail: A route repeatedly used by forwarding machinery or animals to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash: The residue, e.g., treetops and branches, left on the ground after a timber harvest.

Small Cell Facility: An antenna, radio, power source and meter, disconnect switch, fiber optic cable, and supporting equipment, if any, installed on a utility pole owned by a regulated public utility and installed within the public right of way.

Story: That portion of a building contained between any floor and the floor or roof next above it, but not including any portion so contained if more than one-half of such portion vertically is below the average mean finished grade of the ground adjoining such building.

Stream: See “Body of Water”.

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Street: An existing state, county, or town way or a street dedicated for public use and shown upon a subdivision plan duly approved by the Planning Board and recorded in the York County Registry of Deeds or a street dedicated for public use and shown on a plan duly recorded in the York County Registry of Deeds prior to the establishment of the Planning Board. The term “street” shall not include ways which have been discontinued or abandoned.

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

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind together with anything constructed or erected with a fixed location above, below or upon the surface of the ground or water. Not all structures are subject to setback requirements. See Article 6.1 for exemptions.

Substantial Start: Completion of thirty (30%) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks, disposal fields, grandfathered cesspools, holding tanks, pretreatment filter, piping, or any other fixture, mechanism or apparatus used for those purposes; does not include any discharge system licensed under Title 38 M.R.S.A. § 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained Slopes of Twenty (20%) percent, Areas of: A measurable land area with steep topography, where a change in elevation of twenty (20%) percent or twenty (20) feet of vertical change per one hundred (100) feet of horizontal change, is substantially maintained or exceeded throughout.

Temporary Overflow Public Parking: See “Parking, Temporary Overflow Public”.

Tent: A portable shelter made of fabric or other like materials which is supported by one or more poles and stretched tight by cords or loops attached to pegs driven into the ground, except that a backyard tent used for sleeping is not considered a structure under this Ordinance.

Terrace: See “Patio”.

Theater: A fully enclosed building used for display or presentation to the public of films, plays or other kinds of performance.

Tidal Water: See “Body of Water”.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the Shoreland Zone on a lot that has less than two (2) acres within the Shoreland Zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Article 5.4.
**Timber Harvesting and Related Activities**: Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**Trailer**: A vehicle without motive power and not intended for human occupancy, designed to be towed by a motor vehicle including a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

**Tributary Stream**: See “Body of Water”.

**Upland Edge of a Wetland**: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the contour line, established as seven (7) feet above mean sea level, utilizing the National Geodetic Vertical Datum (NGVD) of 1929. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

**Use**: The purpose for which land or a building or structure is arranged, designed or intended, or for which it is occupied.

**Variance**: A relaxation of the terms of the zoning ordinance which impose restrictions of height, lot coverage, lot size, or setback as permitted by Article 9.2 of this Ordinance.

**Vegetation**: All live trees, shrubs and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and one half (4½) feet above ground level.

**Velocity Zone**: An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources, as shown on the most recent FEMA Flood Insurance Rate Map.

**Volume of a Structure**: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Warehouse**: A structure or building used primarily for the storage of articles, goods or materials.

**Water Body**: See “Body of Water”.

**Water Crossing**: Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Wetland**: Any of the various types of wetlands defined by this Ordinance.
Wetland Coastal: See “Coastal Wetland”.

Wetland, Forested: See “Forested Wetland”.

Wetland, Freshwater: See “Freshwater Wetland”.

Wetlands Associated with Great Ponds and Rivers: Wetlands contiguous with or adjacent a great pond or river, and which, during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway or similar feature less than one hundred (100) feet in width, and which have a surface elevation at or below the normal high water mark of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

Wetland, Inland: Areas enclosed by the normal high water of any inland body of water; areas which are identified as having very poorly drained soils by the Soil Survey of York County, Maine, issued June, 1982, by the U.S.D.A. Soils Conservation Service; and areas defined as freshwater wetlands by Title 38 M.R.S.A. § 406, et seq. to be shown on Inland Wetland Maps prepared by the Maine Department of Environmental Protection.

Wholesaling: A business establishment engaged in the bulk sale of goods or materials not manufactured or processed on the premises.

Windfirm: The ability of a forest stand to withstand storm winds and resist windthrow, wind rocking, and major breakage.

Wireless Telecommunications Facility: A facility that transmits, receives, distributes, provides or offers telecommunications services, radio or television signals, or any other spectrum-based transmissions/receptions, together, with the facility’s associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals; wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment buildings, generators, parking areas, utility services, driveways and roads and other accessory features.


Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

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

Zoning Envelope: The area of a lot within which a structure is permitted to be built, and which is defined by subtracting out those portions of the subject lot that fall within the required setbacks from the front, side, and rear property lines, and from the normal high water mark of any water body or coastal wetland, as defined in this Article.
ARTICLE 3: ESTABLISHMENT OF ZONES

3.1 Zoning Districts

For the purposes of this Ordinance, the Town shall be divided into the following zones:

A. The Village Residential Zone
B. The Village Residential East Zone
C. The Dock Square Zone
D. The Riverfront Zone
E. The Cape Arundel Zone
F. The Goose Rocks Zone
G. The Cape Porpoise East Zone
H. The Cape Porpoise Square Zone
I. The Cape Porpoise West Zone
J. The Free Enterprise Zone
K. The Farm & Forest Zone
L. The Shoreland Zone
M. The Resource Protection Zone
N. The Goat Island Light Contract Zone

The Dock Square and Riverfront Zones shall be considered as Shoreland General Development Districts for the purposes of compliance with the Maine DEP Shoreland Zoning Guidelines.

3.2 Official Zoning Maps

A. Signed Copies on File

The above zones are located as shown on the Official Zoning Maps, entitled “Kennebunkport Zoning Map”. The Official Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map. The Official Maps, and any subsequently amended copies, shall be certified by the attested signatures of both the Chair of the Planning Board and the Town Clerk within thirty (30) days of adoption by the Town Meeting, and shall be kept on file in the Municipal Offices as a public record. Said maps shall be available for inspection during normal business hours.

B. Authority to Interpret Maps

The Code Enforcement Officer shall have sole authority to interpret zoning maps, except where another municipal official or body is specifically empowered to administer a related provision of this Ordinance.
C. Rules for Interpreting Boundaries

When uncertainty exists with respect to district boundaries as shown upon the above maps, the following rules shall apply:

1. In case of any conflict between these maps and any specific descriptions of Zoning District boundaries in Article 3.3, the written description shall govern;

2. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

3. Boundaries indicated as approximately following well-established lot lines shall be construed as following such lot lines;

4. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;

5. Boundaries indicated as following shorelines shall be construed to follow the normal high water mark, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline;

6. Boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center line;

7. Boundaries indicated as being parallel to or extensions of features indicated in paragraphs 1 through 6 above shall be so construed;

8. Distances not specifically indicated on the Zoning Map or in Article 3.3 shall be determined by the scale of the map; and

9. Where physical or cultural features existing in the field are at variance with those shown on the Zoning Map, or in any situation where the interpretation of zoning boundaries or the location of the normal high water mark is problematic, the Code Enforcement Officer may require the applicant to provide a field determination by a suitably qualified person or firm. The depictions of the Resource Protection Zone, and the Shoreland Zone are merely illustrative of their general locations. In the event of a dispute, the boundaries of these districts shall be measured in the field by a suitable qualified person or firm, at the applicant’s expense, according to the distances in Article 3.3 from the actual field location of the normal high water mark.
D. **Code Officer’s Interpretation May be Appealed**

In the event that a dispute cannot be resolved by the use of the rules in Article 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 Article 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 Article 9.3.

### 3.3 Description of Zone Boundaries

**A. Village Residential Zone:** Beginning at a point, being the intersection of the channel of Goff’s Mill Creek and the channel of the Kennebunk River, and proceeding northerly by said channel of Goff’s Mill Creek, being the Town Line, to the intersection of said creek and Arundel Road, thence easterly by Arundel Road to a granite stone post at the easterly corner of Merrill Cemetery, thence generally southerly and easterly to a granite post on the southerly corner of land now or formerly of Palmer Clough and on the westerly side of North Street, thence south on North Street to the intersection of Beachwood Avenue, thence by Beachwood Avenue northeast to the northerly corner of land now or formerly of Moore, thence southeasterly by land of said Moore and of Fred Merrill to the southerly corner of land of Fred Merrill at land of Bishop Hutchins, thence northeasterly on the line between the said Merrill and Hutchins lands to a corner, thence southeasterly on the line between said Merrill and Hutchins lands and a projection thereof to the transmission line of Central Maine Power Company, thence by said transmission line southerly to the southerly border of land now or formerly of Aline Frink and turning northeast to by said line one hundred and five (105) rods, thence southeasterly by southwesterly bound of said Frink a distance of forty (40) rods more or less, thence southwesterly by northwesterly bound of land now or formerly of John Smith a distance of thirty (30) rods, thence southeasterly by southwesterly bound of John Smith land a distance of sixty-two (62) rods to School Street (Buttonwood Road), thence directly across said School Street to the Old William Cluff Farm Road, thence southerly by said Farm Road to the end of an ancient right-of-way leading by easterly boundary of Old District No. 13 School to the Wildes District Road, thence westerly by said Wildes District Road to land formerly of Kenneth Roberts, thence southerly by a stone wall between Roberts and (formerly) Rankin six hundred and ninety-five (695) feet, thence easterly nearly at right angles on a line between Roberts and Rankin three hundred and eighty-eight (388) feet, thence southerly by a stone wall marking the boundary between Roberts and land now or formerly of Wildes to a corner and land of the Kennebunkport Seashore Company, thence southwesterly by land formerly of Roberts and northerly bound of land of Kennebunkport Seashore Company to land now
or formerly of Oscar Cox, thence by easterly bound of Cox and westerly bound of Roberts by a wall and land of Cox to the northeasterly corner of land of Cox, thence by northerly bound of Cox and southerly bound of Roberts and in part by a stone wall to the land of Henry W. Hoagland, thence by northerly bound of Hoagland to South Main Street, thence southerly by Maine Street (South) to Fairfield’s Creek at the juncture of a way once land out as Glen Haven Avenue, thence directly to the thread of Fairfield’s Creek at a point being the intersection of the northwesterly line of land on the northeasterly side of King’s Highway of the Kennebunkport Seashore Company (and Braun) extended, thence by said thread of Fairfield’s Creek generally northerly to Ocean Avenue, thence in a northerly direction along the center line of Ocean Avenue to the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 8, Block 1, Lot 14 (now or formerly owned by Gourley); thence in a westerly direction along the southerly boundary of said Gourley lot and a projection of said bound to the thread of the Kennebunk River, thence upriver along the thread of the Kennebunk River to the intersection of said bound with a westerly projection of the northerly bound of the lot shown on the 1980 town of Kennebunkport Assessors Maps as Map 8, Block 1, Lot 20 (now or formerly owned by Edmands), thence easterly along said projection and said northerly bound to Ocean Avenue, thence by Ocean Avenue northerly to Chestnut Street, thence easterly by Chestnut Street to the westerly bound of land shown on the 1980 Town of Kennebunkport Assessors Maps as Map 8, Block 1, Lot 14 (now or formerly owned by Gourley); thence northwesterly by said Lot 14 to Lot 20 (now or formerly owned by Edmands); then northeasterly by Lot 10 and Lot 9 (now of Port Building Trust) to the easterly corner of Lot 9; thence northwesterly by the northeasterly side of Lot 9 to Union Street, thence by Union Street easterly to Cross Street, thence northerly by Cross Street to Spring Street, thence easterly by Spring Street to Temple Street, thence by Temple Street northerly to the southerly bound of land now or formerly of the Olympian Club, thence westerly by land of Olympian Club to southwesterly bound of land of said Olympian Club, thence northerly by land of Olympian Club and continuing across the exit from the Municipal Parking Lot to the northerly bound of said exit, thence by the northerly bound of said exit and by the northerly bound of the Municipal Parking Lot to the Town boundary at the thread of the Kennebunk River, thence by said Town boundary to the point of beginning.

B. Village Residential East Zone: Beginning at the intersection of the center line of the Wildes District Road with the centerline of the Perkin’s Road (now Land’s End Road), thence generally southerly by the center line of said Perkin’s Road extended to the flats at Cross Creek at a granite monument now fallen, thence on said line to the thread of Turbats Creek, thence in a southerly direction along the thread of Turbats Creek to the Atlantic Ocean, thence westerly by the Atlantic Ocean to the northeasterly boundary of the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 20, Block 1, Lot 77, thence along the northeasterly boundary of said lot and of the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 20, Block 1, Lot 19 to Ocean Avenue, thence crossing Ocean Avenue and proceeding northwesterly on the northeast side of the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 20, Block 4, Lot 5 (now or formerly of Kashey), thence continuing on this line northwesterly on the northeast boundary of the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 20, Block 4, Lot 4 (now or formerly of Kennebunkport Seashore
Company), thence southwesterly on the line between said Seashore Company lot and the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 20, Block 4, Lot 35 (now or formerly of Matthews), thence northwesterly on the southwest side of the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 20, Block 4, Lot 35, thence northwesterly on the southwest side of the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 21, Block 1, Lot 8, thence westerly three hundred eighty-eight (388) feet along the boundary between land formerly of Roberts shown on the 1980 Town of Kennebunkport Assessors Maps as Map 8, Block 3, Lot 18 and land formerly of Rankin, thence nearly at a right angle northerly by a stone wall six hundred ninety-five (695) feet along the boundary between land formerly of Roberts shown on the 1980 Town of Kennebunkport Assessors Maps as Map 9, Block 10, Lot 23 and land formerly of Rankin to the centerline of the Wildes District Road, thence easterly along the center line of the Wildes District Road to its point of intersection with an extension of the easterly sideline of the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 9, Block 4, Lot 31, thence northerly along the westerly sideline of a private right-of-way lying on the easterly boundary of the lots shown on the 1980 Town of Kennebunkport Assessors Maps as Map 9, Block 4, Lots 31 and 28, and an extension thereof to the intersection of the westerly sideline of said private right-of-way with a line running five hundred (500) feet northerly of and parallel to the centerline of the Wildes District Road, thence northeasterly along said line running five hundred (500) feet northerly of and parallel to the centerline of the Wildes District Road to the centerline of the Perkin’s Road, thence southeasterly along the centerline of the Perkin’s Road to its point of intersection with the centerline of the Wildes District Road at the point of beginning.

C. **Dock Square Zone:** Beginning at a point being the intersection of the southerly bound of land now or formerly of Nedeau and Thompson and Ocean Avenue, thence westerly by said southerly bound and continuing on the same course to the thread of the Kennebunk River and Town Line, thence generally northerly by said thread and Town Line to the intersection of the northerly bound of the Kennebunkport Municipal Parking Lot continued, thence by said northerly bound generally northerly and easterly to the southerwesterly bound of land formerly of the Olympian Club extended across westerly entrance to Municipal Parking Lot, thence by said line and southwesterly bound of Olympian Club to southerly bound of land of Olympian Club, thence by southerly bound of Olympian Club generally easterly to Temple Street, thence by Temple Street to Spring Street, thence westerly by Spring Street to Cross Street, thence southerly by Cross Street to Union Street, thence by Union Street to the northerly corner of land of Port Building Trust shown on the 1980 Kennebunkport Tax Assessors Maps as Map 11, Block 9, Lot 9, thence southeasterly to the easterly corner of Lot 9; thence southwesterly by Lot 9 to the westerly bound of land now or formerly of Frank Thompson, thence generally southerly by westerly bound of land of Thompson to Chestnut Street, thence by Chestnut Street to Ocean Avenue (westerly), thence northerly by Ocean Avenue to a point of beginning.
D. **Riverfront Zone:** Beginning at a point being the intersection of the southerly bound of land of the Boughton Hotel Corporation and the Atlantic Ocean, thence by said southerly bound of land of said Boughton generally easterly to Arlington Avenue, thence northeasterly to King’s Highway (by Arlington Avenue) thence westerly by King’s Highway to the northwesterly bound of land now or formerly of Braun (from Schnorr), thence northeasterly by said line of Braun (and southeasterly bound of land of Boughton Hotel Corporation on east side of King’s Highway) and northwesterly bound of land of Kennebunkport Seashore Company to the thread of Fairfield’s Creek, thence northerly (north-northwest) by said thread of the Creek to the easterly side of Ocean Avenue, thence by Ocean Avenue northerly to the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 8, Block 1, Lot 14 (now or formerly owned by Gourley), thence in a westerly direction along the southerly boundary of said Gourley lot and a projection of said bound to the thread of the Kennebunk River, thence upriver along the thread of the Kennebunk River to the intersection of said thread with a westerly projection of the northerly bound of the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 8, Block 1, Lot 20 (now or formerly owned by Edmands); thence easterly along said projection and said northerly bound to Ocean Avenue, and thence by Ocean Avenue northerly to the southerly bound of land now or formerly of Nedeau and Thompson, thence by said southerly bound westerly to the thread of the Kennebunk River and the Town boundary, thence southerly by Kennebunk River and the Town boundary to the Atlantic Ocean generally southeasterly to the point of beginning.

E. **Cape Arundel Zone:** Beginning at a point on the northerly bound of land of the Kennebunkport Seashore Company at the intersection of land formerly of Roberts and the land now or formerly of Wildes and proceeding easterly between land of Wildes and land of Kennebunkport Seashore Company to a stone wall at the easterly bound of Kennebunkport Seashore Company land, thence southerly by a stone wall and the easterly bound of Kennebunkport Seashore Company to the Shore Road and continuing southerly by a stone wall and the easterly boundary of land now or formerly of one Larsen to the Atlantic Ocean, thence generally westerly by the Atlantic Ocean to the southerly bound of land of Boughton Hotel Corporation, thence by southerly bound of said Boughton land generally easterly to Arlington Avenue, thence northeasterly to King’s Highway (by Arlington Avenue), thence westerly by King’s Highway to the northwesterly bound of land now or formerly of Braun (from Schnoor), thence northeasterly by said line of Braun (and southeasterly bound of land of Boughton Hotel Corporation on east side of King’s Highway) and northwesterly bound of Kennebunkport Seashore Company to the thread of Fairfield’s Creek, thence directly (easterly) to South Main Street (at the juncture of a way once laid out as Glen Haven Avenue), thence northerly by South Main Street to northerly bound of Hoagland, thence by northerly bound of Hoagland to the intersection of land of Cox and formerly of Roberts to a wall, thence by said wall and easterly bound of Cox and westerly bound of Roberts generally southerly to the intersection of land of Kennebunkport Seashore Company, thence by generally southerly line of Roberts and generally northerly line now or formerly of Kennebunkport Seashore Company generally northeasterly to the point of beginning.
F. **Goose Rocks Zone:** Beginning at the center of the channel at the mouth of the Batson River, thence generally northwesterly by the thread of the River to a point five hundred (500) feet northwest of the centerline of the traveled portion of Route #9, thence generally northeasterly five hundred (500) feet from and parallel to the centerline of Route #9 to the Biddeford town line, thence southeasterly on the town line through the middle of the Island in Little River, thence southerly on the town line down the thread of Little River to the Atlantic Ocean, thence southwesterly by the Atlantic Ocean to the point of beginning. Also, a portion of land beginning at the same point southerly by the edge of the marsh and upland to the channel of Samson’s Cove, thence by said channel or thread easterly to the Atlantic Ocean, thence northerly by the Atlantic Ocean to a point northeasterly of Marshall’s Point, thence westerly by the Atlantic Ocean to the channel of the Batson River and to the point of beginning, said zone being approximately four hundred (400) feet in width westerly from the mean high water mark of the Atlantic Ocean.

G. **Cape Porpoise East Zone:** Beginning at the east side of Mills Road at the intersection of Eel Bridge Road, thence generally northerly by the east bound of Mills Road to the Marshall Point Road, thence easterly by said Marshall Point Road to a point four hundred (400) feet westerly of mean high water mark of the Atlantic Ocean, thence by the marsh and southerly and, in general, four hundred (400) feet westerly of the high water mark of the Atlantic Ocean, to the flats in Samson’s Cove, thence southwesterly across the flats following the Kennebunk, Kennebunkport and Wells Water District line to the marsh at the northeasterly terminus of Fishers Lane, thence by the flats and generally southerly and easterly around Bickford Island to the Pier Road’s most southerly extension at the flats, thence by Pier Road and generally northerly to the intersection of the Pier Road causeway and the easterly bound of Cape Porpoise Harbor, thence by the edge of the flats along the easterly bound of Cape Porpoise Harbor to the northerly bound of Crowell thence easterly by land of said Crowell to the Pier Road, thence northerly by Pier Road to the southerly bound of Bradbury, thence easterly by said southerly bound to easterly bound of C.M. Bradbury, thence northerly by said easterly bound to Beech Street, thence northerly by Beech Street and land of C.M. Bradbury to the flats, thence northwesterly across the flats to the terminus of Eel Bridge on the east side of Back Cove, thence by Eel Bridge Road generally northwesterly to the point of beginning. **Notwithstanding** the preceding language, this zone shall include a five hundred (500) foot-wide strip of land parallel to and lying on the generally northwesterly sideline of Route 9/Mills Road, across the road from the existing Cape Porpoise East Zone, and running from the Eel Bridge Road intersection to the Marshall Point Road intersection, as shown on the attached Zoning Map amendment.

H. **Cape Porpoise Square Zone:** Beginning at the intersection of Route #9 and the westerly bound of the Atlantic Engine Company and proceeding northeasterly by the land of Bradbury three hundred and eight (308) feet, more or less, to the land of now or formerly Clarabel Hutchins heirs, thence northerly through Hutchins land to the westerly corner of land of Freemont Ridlon, thence by land of said Ridlon northeasterly ninety-two (92) feet, more or less, to the northerly corner of Ridlon at land of Harry Emmons, thence northwesterly by land of Emmons four hundred seventy-seven (477) feet, more or less, to the land of E.V. Roberts heirs, thence northeasterly by said Roberts bound two
hundred seventy-three (273) feet to the northeasterly bound of said Emmons, thence southeasterly by said northeasterly bound of Emmons four hundred forty (440) feet to Route #9 (Mills Road), thence directly across Mills Road to Eel Bridge Lane, thence generally southeasterly to Old Eel Bridge Lane to Creek (Back Cove), thence by the flats to the land of C.M. Bradbury at its northwesterly corner, thence by northerly and easterly bounds of C.M. Bradbury and Beech Street to land of Howarth at its easterly corner, thence southerly bound of said Bradbury to the Pier Road, thence southerly by Pier Road to the northerly bound of Crowell, thence westerly by land of Crowell to Cape Porpoise Harbor, thence across the Harbor to a point near the rear of Seth Pinkham’s store two hundred (200) feet southerly to the Pier Road, thence by a line parallel with and two hundred (200) feet distant from Pier Road southerly and westerly to a stone wall at land of Emery Huff, thence following the stone wall southeasterly to the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 30, Block 1, Lot 25 (now or formerly of Emery Huff); thence northwesterly on the line as it runs between said Lot 25 (Huff) and Lot 24 (Troost) to the Langsford Road, thence southerly by the westerly side of Langsford Road to the southerly boundary of land now of David H. Wright (formerly Deinstadt), thence west by said Wright southerly bound to southwesterly bound of Wright land, thence northerly by westerly bound of Wright and westerly bound of land now or formerly of Raymond Nunan and continuing by westerly bound of Bradbury (Brothers) to Route #9, thence easterly by Route #9 to the point of beginning.

Also, a portion of land beginning at the bridge on Pier Road crossing to Bickford Island and proceeding southerly by said Pier Road to its intersection (extended) beyond the southerly end of the Pier, thence generally northerly by the flats and channel of Cape Porpoise Harbor to the point of beginning.

I. Cape Porpoise West Zone: Beginning at a point on the southerly side of Route #9 being the intersection of the Bradbury (Brothers) westerly bound and Route #9, thence generally westerly by Route #9 over Crow Hill passing the Three Strings to the former Perkins Road, thence generally southerly by Perkins Road to the Wildes District Road, thence generally southerly by the former Perkins Road (now Land’s End Road) extended to the flats at Cross Creek a granite monument now fallen, thence by the flats and the northerly side of Cross Creek generally northeasterly and crossing Paddy Creek to the shore line in front of the former Langsford House (G. W. Wood), thence northeasterly and northerly by the flats on the westerly shore of Cape Porpoise Harbor to a point two hundred (200) feet southerly of the Pier Road, thence westerly by a line parallel with and two hundred (200) feet from said Pier Road southerly and westerly to a stone wall at land of Emery Huff, thence following the stone wall southeasterly to the lot shown on the 1980 Town of Kennebunkport Assessors Maps as Map 30, Block 1, Lot 25 (now or formerly of Emery Huff); thence northwesterly on the line as it runs between said Lot 25 (Huff) and Lot 24 (Troost) to the Langsford Road, thence westerly across Langsford Road, and thence southerly by the westerly side of said Langsford Road to the southerly boundary of land now of David H. Wright (formerly Deinstadt), thence west by said Wright southerly bound to southwesterly bound of Wright land, thence northerly by westerly bound of Wright and westerly bound of land now or formerly of Raymond Nunan and continuing by westerly bound of Bradbury (Brothers) to Route #9 and point
of beginning. **Notwithstanding** the preceding language, this zone shall include a five hundred (500) foot-wide strip of land parallel to and lying on the generally northwesterly sideline of Route 9/Main Street, across the road from the existing Cape Porpoise West Zone, and running from a point on the Old Cape Road near its intersection with Route 9/Main Street to the westerly boundary of Lot 41 on Tax Map 22, Block 9, but not including said Lot 41 (Currently the Cape Porpoise House of Pizza), as shown on the attached Zoning Map amendment.

J. Free Enterprise Zone: Beginning at a granite post in the easterly corner of the Merrill Cemetery, thence in a northeasterly direction along the Arundel Road to the Town House Square, and including the Old Town House Property now or formerly of Brigham and Garrett, thence in a southeasterly direction along the Springer Hill Road (Old Cape Road) to its intersection with the Beachwood Avenue, thence in a generally northeasterly direction along the Beachwood Avenue to its intersection with Stone Road, thence northerly along the Stone Road to the Goose Rocks Road, thence northeasterly along the Goose Rocks Road to the Oak Ridge Road, thence northerly along the Oak Ridge Road to the Town Line. All property lying in a southerly direction of this boundary line not already included in the preceding zones is in the Free Enterprise Zone.

**Notwithstanding** the preceding language, this zone shall not include a five hundred (500) foot-wide strip of land parallel to and lying on the generally northwesterly sideline of Route 9/Mills Road, across the road from the existing Cape Porpoise East Zone, and running from the Eel Bridge Road intersection to the Marshall Point Road intersection; nor shall it include a five hundred (500) foot-wide strip of land parallel to and lying on the generally northwesterly sideline of Route 9/Main Street, across the road from the existing Cape Porpoise West Zone, and running from a point on the Old Cape Road near its intersection with Route 9/Main Street to the westerly boundary of Lot 41, Tax Map 22, Block 9, but not including said Lot 41 (currently the Cape Porpoise House of Pizza), as shown on the attached Zoning Map amendment.

K. Farm and Forest Zone: The Farm and Forest Zone shall include all of the Town of Kennebunkport except those areas included within the preceding zones.

L. Shoreland Zone: The Shoreland Zone includes the following areas outside of the Dock Square and Riverfront Zones, which meet the following criteria:

1. Lands lying with two hundred fifty (250) feet of the normal high water mark of the following bodies of water:

   a. Tidal water;
   b. Smith Brook, downstream of Goose Rocks Road;
   c. The Batson River, downstream of Arundel Road
   d. Tyler Brook, downstream of the abandoned right-of-way of the Atlantic Shore Railway Company;
   e. Beaver Pond; and
   f. The pond on property formerly of Kenneth Roberts located between the Shore Road and Wildes District Road.
2. The one hundred (100) year flood plain, adjacent to non-tidal or non-riverine waters, as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

3. Lands lying within seventy-five (75) feet of the normal high water mark of any stream, other than those named in paragraph 1 above.

4. Lands lying within two hundred fifty (250) feet of the upland edge of coastal and freshwater wetlands.

M. Resource Protection Zone:

The Resource Protection Zone shall include the following areas:

1. All islands in the Atlantic Ocean with the exception of Bickford and Goat Island.

2. Freshwater and coastal wetlands, as defined in Article 2.

3. Land below the normal high water mark of Lake of the Woods.

4. All land within the Town of Kennebunkport below the normal high water mark of any tidal water.

5. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with rivers, including Lake of the Woods, which are rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIFW) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIFW or the DEP. For the purposes of this paragraph “wetlands associated with rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a river, and have a surface elevation at or below the water level of the river during the period of normal high water. “Wetlands associated with rivers” are considered to be part of that river.

6. Outside of the Dock Square and Riverfront Zones, the one hundred (100) year flood plains adjacent to tidal waters and along rivers, as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

7. Within the limits of the Shoreland Zone, areas of two or more contiguous acres with sustained slopes of twenty (20%) percent or greater.
8. Within the limits of the Shoreland Zone areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a body of water during normal spring high water.

9. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

N. **Goat Island Light Contract Zone:** A certain tract of land or island lying at the mouth of Cape Porpoise Harbor in the Town of Kennebunkport in the County of York, known by the name of Goat Island, said land or island being the same where the lighthouse has been built.
ARTICLE 4: ZONE REGULATIONS

4.1 Permitted Uses

Permitted land uses in all zones shall conform to all applicable standards and requirements. Article 5 contains performance standards for the Shoreland and Resource Protection Zones, Article 6 for all land uses, and Article 7 specific standards for specific land uses. Where the specific standards contain dimensional requirements different than those listed in this Article, the stricter requirement shall apply.

4.2 Prohibited Uses

Any land use which is not listed as a permitted use or a conditional use shall be prohibited. The land uses permitted in each zone are listed below. Except as otherwise provided, any accessory use is permitted in each zone subject to the same approvals and requirements as are applicable to the principal use to which the accessory use is subordinate.
### 4.3 Village Residential Zone

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review</th>
<th>Conditional Uses Subject to Appeals Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Animal Husbandry</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Cemetery</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Essential Services</td>
<td>Church</td>
<td>Residential Rental Accommodation</td>
</tr>
<tr>
<td>Farm Stand</td>
<td>Community Building</td>
<td></td>
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<tr>
<td>Single Family Dwelling</td>
<td>Community Use</td>
<td></td>
</tr>
<tr>
<td>Storage and Repair of Fishing Equipment</td>
<td>Eldercare Facility</td>
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<tr>
<td>Parking of motor vehicles limited to</td>
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<tr>
<td>any publicly owned lot in excess of</td>
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<tr>
<td>two (2) acres in size, with frontage</td>
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<td>on and access from a state controlled</td>
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<td>highway. The maximum number of</td>
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<tr>
<td>parking spaces for this use may not</td>
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<td>exceed one hundred fifty (150), and</td>
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<td>there shall be no bus or large</td>
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<td>recreational vehicle parking on the</td>
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<td>lot. Further, with the exception of</td>
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<td>road frontage, dense vegetative</td>
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<td>buffering, a minimum of six (6)</td>
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<td>feet in height, is required beginning</td>
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<td>at the property line and extending</td>
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<td>inward for a distance of ten (10)</td>
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<td>feet.</td>
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<tr>
<td>Parking, Temporary Overflow Public</td>
<td>Library</td>
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<tr>
<td>Timber Harvesting</td>
<td>Multiplex</td>
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<tr>
<td>Timber Management</td>
<td>Museum</td>
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<tr>
<td>Two Family Dwelling</td>
<td>Park</td>
<td></td>
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<tr>
<td></td>
<td>School</td>
<td>*See Article 7.1.J</td>
</tr>
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</table>

*See Article 7.1.J*
### 4.3 Village Residential Zone

<table>
<thead>
<tr>
<th>Land Use Activity</th>
<th>Min Lot Area *1 (sq ft)</th>
<th>Min Lot Width (feet)</th>
<th>Max Lot Coverage</th>
<th>Min. Net Residential Area per Dwelling Unit (sq ft)</th>
<th>Min Setbacks Front (feet)</th>
<th>Min Setbacks Side (feet)</th>
<th>Min Setbacks Rear (feet)</th>
<th>Min Open Space</th>
<th>Max Building Ht. (feet)</th>
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</thead>
<tbody>
<tr>
<td>Single Family Dwelling (one per lot) or Other Use Art. 4.16</td>
<td>40,000</td>
<td>100</td>
<td>20%</td>
<td>40,000</td>
<td>20</td>
<td>15</td>
<td>15</td>
<td>20%</td>
<td>35</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>40,000</td>
<td>100</td>
<td>20%</td>
<td>20,000</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>20%</td>
<td>35</td>
</tr>
<tr>
<td>Multiplex</td>
<td>60,000</td>
<td>150</td>
<td>20%</td>
<td>20,000</td>
<td>25</td>
<td>50</td>
<td>20%</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>Public Libraries</td>
<td>40,000</td>
<td>100</td>
<td>75%</td>
<td>20,000</td>
<td>20</td>
<td>15</td>
<td>15</td>
<td>5%</td>
<td>35</td>
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</table>

*1 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in Article 4.16.
4.4 Village Residential East Zone

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
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</thead>
<tbody>
<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Animal Husbandry</td>
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<tr>
<td>Agriculture</td>
<td>Cemetery</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Essential Services</td>
<td>Church</td>
<td>Residential Rental Accommodation</td>
</tr>
<tr>
<td>Farm Stand</td>
<td>Community Building</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>Community Use</td>
<td></td>
</tr>
<tr>
<td>Storage and Repair of Fishing Equipment</td>
<td>Elder Care Facility</td>
<td></td>
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<tr>
<td>Timber Harvesting</td>
<td>Hotel &amp; Motel Expansion</td>
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</tr>
<tr>
<td>Timber Management</td>
<td>Library</td>
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<tr>
<td>Two Family Dwelling</td>
<td>Multiplex</td>
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<td>Museum</td>
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<td>Park</td>
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<td></td>
<td>School</td>
<td>*See Article 7.1.J</td>
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<td>4.4 Village Residential East</td>
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<tr>
<td></td>
<td>Min Lot Area *2 (sq ft)</td>
<td>Min Lot Width (feet)</td>
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<tr>
<td>Single Family Dwelling (one per lot) or Other Use Art. 4.16</td>
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<td>100</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>40,000</td>
<td>100</td>
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<tr>
<td>Multiplex</td>
<td>90,000</td>
<td>150</td>
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</table>

*2 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in Article 4.16.
### 4.5 Dock Square Zone

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
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<tbody>
<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment**</td>
<td>Childcare Center</td>
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<tr>
<td>Essential Services</td>
<td>Bed &amp; Breakfast</td>
<td>Hand Crafts</td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>Boatyard</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Storage and Repair of Fishing Equipment</td>
<td>Club</td>
<td>Residential Rental Accommodation</td>
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<tr>
<td>Two Family Dwelling</td>
<td>Commercial Center</td>
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<td></td>
<td>Park</td>
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<td></td>
<td>Parking, Commercial</td>
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<td></td>
<td>Professional &amp; Business Offices</td>
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<tr>
<td></td>
<td>Public Hospitality Facility</td>
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<td></td>
<td>Restaurant</td>
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<td></td>
<td>Retail Business</td>
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<td></td>
<td>Ship Chandlery</td>
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<tr>
<td></td>
<td>Theater</td>
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<table>
<thead>
<tr>
<th>Financial Institution</th>
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<tbody>
<tr>
<td>Hotel</td>
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<td>Inn</td>
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<td>Marina</td>
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<tr>
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<td>Multiplex</td>
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<td>Park</td>
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<tr>
<td>Parking, Commercial</td>
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<tr>
<td>Professional &amp; Business Offices</td>
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<tr>
<td>Public Hospitality Facility</td>
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<tr>
<td>Restarant</td>
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<tr>
<td>Retail Business</td>
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<tr>
<td>Ship Chandlery</td>
</tr>
<tr>
<td>Theater</td>
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</tbody>
</table>

*Note: Exceptions to the requirement for Planning Board Site Plan Review Approval are set forth in Article 10.2.B.3

**See Article 7.1.J

*Note: Exceptions to the requirement for Planning Board Site Plan Review Approval are set forth in Article 10.2.B.3

**See Article 7.1.J
4.5 Dock Square Zone

<table>
<thead>
<tr>
<th></th>
<th>Min Lot Area *3 (sq ft)</th>
<th>Min Lot Width (feet)</th>
<th>Max Lot Cov</th>
<th>Min, Net Residential Area per Dwelling Unit (sq ft)</th>
<th>Min Setbacks Front (feet)</th>
<th>Min Setbacks Side (feet)</th>
<th>Min Setbacks Rear (feet)</th>
<th>Coastal Wetland Setback (feet)</th>
<th>Min Open Space</th>
<th>Max Building Ht. (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling (one per lot) or Other Use Art. 4.16</td>
<td>20,000</td>
<td>100</td>
<td>70%</td>
<td>20,000</td>
<td>20</td>
<td>15</td>
<td>15</td>
<td>25</td>
<td>20%</td>
<td>30</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>20,000</td>
<td>100</td>
<td>70%</td>
<td>10,000</td>
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<td>20</td>
<td>20</td>
<td>25</td>
<td>20%</td>
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<tr>
<td>Multiplex</td>
<td>30,000</td>
<td>150</td>
<td>70%</td>
<td>10,000</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>25</td>
<td>20%</td>
<td>30</td>
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</tbody>
</table>

*3 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in Article 4.16.
### 4.6 Riverfront Zone

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Childcare Center</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Bed &amp; Breakfast</td>
<td>Home Crafts</td>
</tr>
<tr>
<td>Essential Services</td>
<td>Boatyard</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Farm Stand</td>
<td>Club</td>
<td>Residential Rental Accommodation</td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>Commercial Center</td>
<td></td>
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<tr>
<td>Storage and Repair of Fishing</td>
<td>Community Building</td>
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<tr>
<td>Equipment</td>
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<tr>
<td>Two Family Dwelling</td>
<td>Community Use</td>
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<td>Financial Institution</td>
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<td>Fish Processing</td>
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<td>Library</td>
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<td>Marine Transport Svcs</td>
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<td>Motel</td>
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<td>Professional &amp; Business Offices</td>
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<td>Residential Mixed Use</td>
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<td>Restaurant</td>
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<td>Retail Business</td>
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<td>School</td>
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<tr>
<td>Ship Chandlery</td>
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<td>Theater</td>
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<td>*See Article 7.1.J</td>
</tr>
<tr>
<td>Permitted Uses</td>
<td>Conditional Uses Subject to Site Plan Review*</td>
<td>Conditional Uses Subject to Zoning Board of Appeals Review</td>
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</tr>
<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Childcare Center</td>
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<tr>
<td>Agriculture</td>
<td>Bed &amp; Breakfast</td>
<td>Hand Crafts</td>
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<tr>
<td>Essential Services</td>
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<td>Home Occupation</td>
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<td>Single Family Dwelling</td>
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<td>Storage and Repair of Fishing Equipment</td>
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<td>Ship Chandlery</td>
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</tr>
<tr>
<td></td>
<td>Theater</td>
<td>*See Article 7.1.J</td>
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### 4.6 Riverfront Zone

<table>
<thead>
<tr>
<th></th>
<th>Min Lot Area *4 (sq ft)</th>
<th>Min Lot Width (feet)</th>
<th>Max Lot Cov</th>
<th>Min. Net Residential Area per Dwelling Unit (sq ft)</th>
<th>Min Setbacks Front (feet)</th>
<th>Min Setbacks Side (feet)</th>
<th>Min Setbacks Rear (feet)</th>
<th>Coastal Wetland Setback (feet)</th>
<th>Min Open Space</th>
<th>Max Building Ht. (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling (one per lot) or Other Use Art. 4.16</td>
<td>20,000</td>
<td>100</td>
<td>20%</td>
<td>20,000</td>
<td>20</td>
<td>15</td>
<td>15</td>
<td>75</td>
<td>20%</td>
<td>30</td>
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<tr>
<td>Two-Family Dwelling</td>
<td>20,000</td>
<td>100</td>
<td>20%</td>
<td>10,000</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>75</td>
<td>20%</td>
<td>30</td>
</tr>
<tr>
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<td>60,000</td>
<td>150</td>
<td>20%</td>
<td>20,000</td>
<td>25</td>
<td>50</td>
<td>50</td>
<td>75</td>
<td>20%</td>
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*4 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in Article 4.16.
### 4.7 Cape Arundel Zone

<table>
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<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
</tr>
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<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Cemetery</td>
<td>Residential Rental Accommodations</td>
</tr>
<tr>
<td>Essential Services</td>
<td>Church</td>
<td></td>
</tr>
<tr>
<td>Farm Stand</td>
<td>Museum</td>
<td></td>
</tr>
<tr>
<td>Library</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Park</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>Commercial Center</td>
<td></td>
</tr>
<tr>
<td>Storage and Repair of Fishing Equipment</td>
<td>Community Building</td>
<td></td>
</tr>
<tr>
<td>Timber Harvesting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Timber Management</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two Family Dwelling</td>
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<td>*See Article 7.1.J</td>
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### 4.7 Cape Arundel Zone

<table>
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<tr>
<th></th>
<th>Min Lot Area *5 (sq ft)</th>
<th>Min Lot Width (feet)</th>
<th>Max Lot Cov</th>
<th>Min Net Residential Area per Dwelling Unit (sq ft)</th>
<th>Min Setbacks Front (feet)</th>
<th>Min Setbacks Side (feet)</th>
<th>Min Setbacks Rear (feet)</th>
<th>Min Open Space</th>
<th>Max Building Ht. (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling (one per lot) or Other Use Art. 4.16</td>
<td>40,000</td>
<td>100</td>
<td>20%</td>
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<td>20</td>
<td>15</td>
<td>15</td>
<td>20%</td>
<td>35</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>40,000</td>
<td>100</td>
<td>20%</td>
<td>20,000</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>20%</td>
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*5 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements of Article 4.16.
## 4.8 Goose Rocks Zone

<table>
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<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Childcare Center</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Cemetery</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Essential Services</td>
<td>Club</td>
<td>Residential Rental Accommodations</td>
</tr>
<tr>
<td>Farm Stand</td>
<td>Community Building</td>
<td></td>
</tr>
<tr>
<td>Public Hospitality Facility, Temporary</td>
<td>Community Use</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>Library</td>
<td></td>
</tr>
<tr>
<td>Storage and Repair of Fishing Equipment</td>
<td>Museum</td>
<td></td>
</tr>
<tr>
<td>Timber Harvesting</td>
<td>Park</td>
<td></td>
</tr>
<tr>
<td>Timber Management</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two Family Dwelling</td>
<td></td>
<td>*See Article 7.1.J</td>
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### 4.8 Goose Rocks Zone

<table>
<thead>
<tr>
<th></th>
<th>Min Lot Area *6 (sq ft)</th>
<th>Min Lot Width (feet)</th>
<th>Max Lot Cov</th>
<th>Min. Net Residential Area per Dwelling Unit (sq ft)</th>
<th>Min Setbacks Front (feet)</th>
<th>Min Setbacks Side (feet)</th>
<th>Min Setbacks Rear (feet)</th>
<th>Min Open Space</th>
<th>Max Building Ht. (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling (one per lot) or Other Use Art. 4.16</td>
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<td>100</td>
<td>20%</td>
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<td>20</td>
<td>15</td>
<td>15</td>
<td>20%</td>
<td>30</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>40,000</td>
<td>100</td>
<td>20%</td>
<td>20,000</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>20%</td>
<td>30</td>
</tr>
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</table>

*6 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in Article 4.16.
4.9 Cape Porpoise East & Cape Porpoise West Zones

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Boatyard</td>
<td>Residential Rental Accommodations</td>
</tr>
<tr>
<td>Essential Services</td>
<td>Commercial Marina</td>
<td></td>
</tr>
<tr>
<td>Farm Stand</td>
<td>Community Use</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>Eldercare Facility</td>
<td></td>
</tr>
<tr>
<td>Storage and Repair of Fishing Equipment</td>
<td>Fish Processing</td>
<td></td>
</tr>
<tr>
<td>Timber Harvesting</td>
<td>Library</td>
<td></td>
</tr>
<tr>
<td>Timber Management</td>
<td>Museum</td>
<td></td>
</tr>
<tr>
<td>Two Family Dwelling</td>
<td>Park</td>
<td></td>
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<tr>
<td></td>
<td>Residential Mixed Use</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ship Chandlery</td>
<td>*See Article 7.1.J</td>
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</tbody>
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<table>
<thead>
<tr>
<th><strong>4.9 Cape Porpoise East &amp; Cape Porpoise West Zones</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Single Family Dwelling (one per lot) or Other Use Art. 4.16</strong></td>
</tr>
<tr>
<td>Min Lot Area *7 (sq ft) 20,000</td>
</tr>
<tr>
<td><strong>Two-Family Dwelling</strong></td>
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<tr>
<td>Min Lot Area *7 (sq ft) 30,000</td>
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*7 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in Article 4.16.
## 4.10 Cape Porpoise Square Zone

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<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
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<tbody>
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<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Childcare Center</td>
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<tr>
<td>Agriculture</td>
<td>Automobile Repair Shop</td>
<td>Hand Crafts</td>
</tr>
<tr>
<td>Essential Services</td>
<td>Automobile Service Station</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Farm Stand</td>
<td>Bed &amp; Breakfast</td>
<td>Residential Rental Accommodation</td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>Boatyard</td>
<td></td>
</tr>
<tr>
<td>Storage and Repair of Fishing Equipment</td>
<td>Church</td>
<td></td>
</tr>
<tr>
<td>Two Family Dwelling</td>
<td>Club</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial Center</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Commercial Marina</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Community Building</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Community Use</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Financial Institution</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Fish Processing</td>
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<tr>
<td></td>
<td>Inn</td>
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<tr>
<td></td>
<td>Library</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Multiplex</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Museum</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Park</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Professional &amp; Business Offices</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Restaurant</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Retail Business</td>
<td></td>
</tr>
<tr>
<td></td>
<td>School</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ship Chandlery</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Theater</td>
<td>*See Article 7.1.J</td>
</tr>
</tbody>
</table>

*See Article 7.1.J
<table>
<thead>
<tr>
<th>Use</th>
<th>Min Lot Area (sq ft)</th>
<th>Min Lot Width (feet)</th>
<th>Max Lot Cov</th>
<th>Min Net Residential Area per Dwelling Unit (sq ft)</th>
<th>Min Setbacks Front (feet)</th>
<th>Min Setbacks Side (feet)</th>
<th>Min Setbacks Rear (feet)</th>
<th>Min Open Space (feet)</th>
<th>Max Building Ht. (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling</td>
<td>20,000</td>
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<td>20,000</td>
<td>20</td>
<td>15</td>
<td>15</td>
<td>20%</td>
<td>30</td>
</tr>
<tr>
<td>(one per lot) or Other</td>
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<td></td>
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<td>Two-Family Dwelling</td>
<td>20,000</td>
<td>100</td>
<td>20%</td>
<td>10,000</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>20%</td>
<td>30</td>
</tr>
<tr>
<td>Multiplex</td>
<td>60,000</td>
<td>150</td>
<td>20%</td>
<td>20,000</td>
<td>25</td>
<td>50</td>
<td>50</td>
<td>20%</td>
<td>30</td>
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</table>

*8 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in Article 4.16
### 4.11 Free Enterprise Zone

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Childcare Center</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Automobile Oriented Business</td>
<td>Hand Crafts</td>
</tr>
<tr>
<td>Animal Husbandry</td>
<td>Automobile Repair Shop</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Essential Services</td>
<td>Automobile Service Station</td>
<td>Residential Rental Accommodation</td>
</tr>
<tr>
<td>Farm Stand</td>
<td>Bed &amp; Breakfast</td>
<td></td>
</tr>
<tr>
<td>Manufactured Housing</td>
<td>Boatyard</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>Campground</td>
<td></td>
</tr>
<tr>
<td>Storage and Repair of Fishing</td>
<td>Cemetery</td>
<td></td>
</tr>
<tr>
<td>Equipment</td>
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</tr>
<tr>
<td>Timber Harvesting</td>
<td>Club</td>
<td></td>
</tr>
<tr>
<td>Timber Management</td>
<td>Commercial Center</td>
<td></td>
</tr>
<tr>
<td>Two Family Dwelling</td>
<td>Commercial Complex</td>
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</tr>
<tr>
<td>Parking, Temporary Overflow Public</td>
<td>Commercial Recreation, Indoor</td>
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</tr>
<tr>
<td></td>
<td>Commercial Recreation, Outdoor</td>
<td></td>
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<tr>
<td></td>
<td>Community Building</td>
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</tr>
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<td></td>
<td>Community Use</td>
<td></td>
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<tr>
<td></td>
<td>Eldercare Facility</td>
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</tr>
<tr>
<td></td>
<td>Extractive Industry</td>
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<td></td>
<td>Financial Institution</td>
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<td></td>
<td>Funeral Home</td>
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<td></td>
<td>Golf Course</td>
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</tr>
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<td></td>
<td>Health Institution</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hotel</td>
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<td>Kennel</td>
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## 4.11 Free Enterprise Zone (continued)

<table>
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<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
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<tr>
<td>Motel</td>
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<tr>
<td>Museum</td>
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<td></td>
</tr>
<tr>
<td>Nursing Home</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Park</td>
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<td></td>
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<tr>
<td>Parking, Commercial</td>
<td></td>
<td></td>
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<tr>
<td>Professional &amp; Business Offices</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Utilities</td>
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<tr>
<td>Residential Mixed Use</td>
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<tr>
<td>Restaurant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail Business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>School</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ship Chandlery</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Theater</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Veterinary Clinic</td>
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<td>Warehouse</td>
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<td>Wireless Telecommunications Facilities</td>
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<td>Wholesaling</td>
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### 4.11 Free Enterprise Zone

<table>
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<tr>
<th></th>
<th>Min Lot Area *9 (sq ft)</th>
<th>Min Lot Width (feet)</th>
<th>Max Lot Cov</th>
<th>Min Net Residential Area per Dwelling Unit (sq ft)</th>
<th>Min Setbacks Front (feet)</th>
<th>Min Setbacks Side (feet)</th>
<th>Min Setbacks Rear (feet)</th>
<th>Min Open Space</th>
<th>Max Building Ht. (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling (one per lot) or Other Use Art. 4.16</td>
<td>40,000</td>
<td>100</td>
<td>20%</td>
<td>40,000</td>
<td>20</td>
<td>15</td>
<td>15</td>
<td>20%</td>
<td>35</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>40,000</td>
<td>100</td>
<td>20%</td>
<td>20,000</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>20%</td>
<td>35</td>
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</table>

*9 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirement set forth in Article 4.16
4.12 Farm and Forest Zone

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessory Apartment</td>
<td>Accessory Apartment*</td>
<td>Childcare Center</td>
</tr>
<tr>
<td>Agriculture</td>
<td>Bed &amp; Breakfast</td>
<td>Hand Crafts</td>
</tr>
<tr>
<td>Animal Husbandry</td>
<td>Boatyard</td>
<td>Home Occupation</td>
</tr>
<tr>
<td>Essential Services</td>
<td>Campground</td>
<td>Residential Rental Accommodation</td>
</tr>
<tr>
<td>Farm Stand</td>
<td>Cemetery</td>
<td></td>
</tr>
<tr>
<td>Manufactured Housing</td>
<td>Club</td>
<td></td>
</tr>
<tr>
<td>Single Family Dwelling</td>
<td>Commercial Recreation, Outdoor</td>
<td></td>
</tr>
<tr>
<td>Storage and Repair of Fishing Equipment</td>
<td>Community Building</td>
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</tr>
<tr>
<td>Timber Harvesting</td>
<td>Community Use</td>
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<td>Timber Management</td>
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<td>Two Family Dwelling</td>
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<td></td>
<td>Funeral Home</td>
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<td></td>
<td>Golf Course</td>
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<tr>
<td></td>
<td>Health Institution</td>
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<td></td>
<td>Hotel</td>
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<td></td>
<td>Kennel</td>
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<td></td>
<td>Library</td>
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<td></td>
<td>Manufacturing</td>
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<td></td>
<td>Mobile Home Park</td>
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<td></td>
<td>Motel</td>
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<td></td>
<td>Museum</td>
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<td></td>
<td>Nursing Home</td>
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<td></td>
<td>Park</td>
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<td></td>
<td>Professional &amp; Business Offices</td>
<td></td>
</tr>
</tbody>
</table>
### 4.12 Farm and Forest Zone (continued)

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
<th>Conditional Uses Subject to Zoning Board of Appeals Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Utilities</td>
<td></td>
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<tr>
<td>Restaurant</td>
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<tr>
<td>Retail Business</td>
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<tr>
<td>Theater</td>
<td></td>
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<tr>
<td>Veterinary Clinic</td>
<td></td>
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<tr>
<td>Warehouse</td>
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<tr>
<td>Wholesaling</td>
<td>*See Article 7.1.J</td>
<td></td>
</tr>
</tbody>
</table>

#### 4.12 Farm and Forest Zone

<table>
<thead>
<tr>
<th></th>
<th>Min Lot Area *10 (sq ft)</th>
<th>Min Lot Width (feet)</th>
<th>Max Lot Cov</th>
<th>Min. Net Residential Area per Dwelling Unit (sq ft)</th>
<th>Min Setbacks Front (feet)</th>
<th>Min Setbacks Side (feet)</th>
<th>Min Setbacks Rear (feet)</th>
<th>Min Open Space</th>
<th>Max Building Ht. (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling</td>
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<tr>
<td>(one per lot) or Other</td>
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<tr>
<td>Use Art. 4.16</td>
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</tr>
<tr>
<td></td>
<td>3 acres/130,680 sq. ft.</td>
<td>200</td>
<td>10%</td>
<td>130,680</td>
<td>20</td>
<td>15</td>
<td>15</td>
<td>20%</td>
<td>35</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3 acres/130,680 sq. ft.</td>
<td>100</td>
<td>20%</td>
<td>65,340</td>
<td>40</td>
<td>20</td>
<td>20</td>
<td>20%</td>
<td>35</td>
</tr>
</tbody>
</table>

*10 Note: Land use activities within the Shoreland Zone shall conform to the minimum lot size and shore frontage requirements set forth in Article 4.16
4.13 Uses Permitted Without a Permit: Shoreland and Resource Protection Zones

A. Activities and Land Uses allowed in both the Shoreland and Resource Protection Zones without a permit:

1. Non-intensive and non-commercial recreational uses not requiring structures, such as hunting, fishing and hiking.

2. Motorized vehicular traffic on roads and established trails.

3. Timber management activities, except timber harvesting.

4. Fire prevention activities.

5. Wildlife management practices.


7. Mineral exploration disturbing less than one hundred (100) square feet of ground surface area.

8. Surveying and resource analysis.

9. Emergency operation, as defined.

10. Essential services accessory to permitted uses.

11. A temporary public hospitality facility, provided that the following conditions are met:

   a. Such facility is located within the Goose Rocks Zone;

   b. Such facility is anchored or secured so as to prevent it from tipping or becoming dislodged;

   c. Such facility will be removed by the Town just prior to a storm, tide or other event that is anticipated to cause the water level to rise to the elevation level of the facility; and

   d. Such facility is located on land that is currently developed and that no longer exists in its natural state.
4.14 Uses Permitted; Shoreland Zone

In those portions of the Shoreland Zone which are not within the Resource Protection Zone only those uses permitted in the underlying zone shall be permitted. In addition to permits required elsewhere in this Ordinance, the following activities shall require permits as follows:

A. Activities and Land Uses Requiring a Permit from the Code Enforcement Officer issued in accordance with the provisions in Article 1.

1. Filling or other earthmoving activity and involving no more than five (5) cubic yards of earth within any twelve-month period.

2. Clearing of vegetation for approved construction and other allowed uses.

3. Mineral exploration activities disturbing less than one hundred (100) square feet of ground surface.

4. Single and two family dwellings including driveways.

5. Structures accessory to allowed uses.

6. Uses similar to uses requiring a CEO permit.

B. Activities and Land Uses Requiring approval from the Planning Board issued in accordance with the provisions in Article 10.

1. Road construction.

2. Mineral extraction including sand and gravel.

3. Essential services (except that non-roadside or cross country distribution lines involving ten (10) or fewer poles in the Shoreland Zone may be approved by the CEO).

4. Public and private recreational areas involving minimal structural development.

5. Parking facilities.

6. Any commercial, industrial, governmental or institutional use permitted in the underlying zone.

7. Campgrounds.
8. Marinas.

9. Piers, docks, wharves, bridges, or other structures and uses extending over or below the normal high water line of a body of water or within a wetland.

10. Any use similar to uses requiring approval from the Planning Board.

4.15 Uses Permitted: Resource Protection Zone

A. Activities and Land Uses Requiring approval from the Code Enforcement Officer. The following activities may occur in the Resource Protection Zone with approval from the Code Enforcement Officer issued in accordance with the provisions in Article 11:

1. Timber harvesting.

2. Clearing of vegetation for approved construction or other allowed uses.

3. Filling or other earthmoving activity of less than five (5) cubic yards within any twelve (12) month period.

4. Uses similar to uses allowed without a permit.

5. Uses similar to uses requiring approval from the Code Enforcement Officer.

B. Activities and Land Uses Requiring approval from the Planning Board. The following activities and land uses may occur in the Resource Protection Zone with a permit from the Planning Board issued in accordance with the provisions in Article 10:

1. Agriculture.

2. Road and driveway construction for access to a use permitted within the Resource Protection Zone as allowed by the standards in Article 5.12.

3. Structures accessory to permitted uses, but not the accompanying principal structures.

4. Non-residential facilities for educational, scientific, or nature interpretation purposes.

5. Filling or other earthmoving activity of more than five (5) cubic yards within any twelve (12) month period.
6. Public and private parks and recreation areas involving minimal structural development.

7. Piers, docks, wharves, bridges, causeways and uses projecting into the water.

8. Public utilities and essential services.

9. Mineral extraction including sand and gravel extraction.

10. Uses similar to uses requiring approval from the Planning Board.

4.16 Lot Standards

A. All permitted or conditional uses allowed in the underlying zone shall, if conducted within the Shoreland Zone, conform with the stricter of the requirements in the underlying zone or the following provisions:

<table>
<thead>
<tr>
<th>Minimum Lot Standards</th>
<th>Minimum Lot Area (sq. ft.)</th>
<th>Minimum Shore Frontage (ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential per dwelling unit</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Within the Shoreland Zone</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjacent to Tidal Areas</td>
<td>40,000</td>
<td>150</td>
</tr>
<tr>
<td>2. Within the Shoreland Zone</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjacent to Non-Tidal Areas</td>
<td>40,000</td>
<td>200</td>
</tr>
<tr>
<td><strong>Community and Commercial Recreation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Within the Shoreland Zone</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjacent to Tidal and Non-Tidal Areas</td>
<td>40,000</td>
<td>200</td>
</tr>
<tr>
<td><strong>Water dependent uses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Within the Shoreland Zone</td>
<td>same as underlying zone</td>
<td>same as underlying zone</td>
</tr>
</tbody>
</table>
Other uses

5. Within the Shoreland Zone
   Adjacent to Tidal Areas  40,000  200

6. Within the Shoreland Zone
   Adjacent to Non-Tidal Areas  60,000  300

B. Land below the normal high water mark of a body of water or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

C. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

D. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

E. If one or more residential dwelling unit, principal governmental, institutional, commercial or industrial structure, or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each dwelling unit, principal structure or use.

4.17 Structures and Setbacks

A. All structures in the Shoreland Zones shall be set back at least seventy-five (75) feet horizontal distance from the normal high water mark of bodies of water, tributary streams, and from the upland edge of a wetland, except that in the Dock Square Zone, the setback shall be at least twenty-five (25) feet, horizontal distance. In areas zoned Resource Protection, the setback requirement shall be two hundred fifty (250) feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.
In addition:

1. The body of water, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the body of water or wetland as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses. Only water-dependent uses and structures may be located below the normal high-water mark of tidal waters within the Town’s geographic boundaries, provided that all necessary permits and approvals are obtained. A tributary stream may be perennial or intermittent. Where a tributary stream is present within the Shoreland Zone, setback standards from that tributary stream are applicable.

2. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required body of water, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

3. A building or structure built on or over a pier, dock, wharf or other structure extending beyond the normal high water mark of a body of water or within a wetland, which was in existence on March 12, 1985, and which contained a principal use which was not water dependent on that date, may be used for any other use which is allowed in the underlying zone, except a residential use.

4. All structures shall conform to the height restrictions set forth in Article 6.2 of this Ordinance. The lowest floor elevation or openings of all buildings and structures (except for accessory structures as defined in the Flood Plain Management Ordinance), including basements, shall be elevated at least two (2) feet above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils.

5. The total foot print area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland Zone shall not exceed twenty (20%) percent of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed, except in the Dock Square Zone, where lot coverage shall not exceed seventy (70%) percent.
6. Permanent structures, and expansions thereof, projecting into or over bodies of water shall require a permit from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A. § 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

7. Notwithstanding the requirement stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

8. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

a. The site has been previously altered and an effective vegetated buffer does not exist;

b. The wall(s) is(are) at least twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

d. The total height of the wall(s), in the aggregate, is no more than twenty-four (24) inches;

e. Retaining walls are located outside of the one hundred (100)-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps of Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils;
f. The area behind the wall is re-vegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

g. A vegetated buffer area is established within twenty-five (25) feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking, the area must be supplemented with leaf or bark mulch.

ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;

iii. Only native species may be used to establish the buffer area;

iv. A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

v. A footpath not to exceed the standards in Article 5.4 B 2, may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within seventy-five (75) feet, horizontal distance, of a body of water, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.
## 4.18 Goat Island Light Contract Zone

<table>
<thead>
<tr>
<th>Permitted Uses</th>
<th>Conditional Uses Subject to Site Plan Review*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activities listed under Article 4.13 and 4.15 Uses Permitted: Resource Protection</td>
<td>Activities listed under Article 4.18 - Goat Island Contract Zone</td>
</tr>
</tbody>
</table>
Goat Island Light Contract Zone

Contract Zoning Agreement Between
the Town of Kennebunkport and
the Kennebunkport Conservation Trust

This Contract Agreement is made this 9th day of June, 2009 by and between the Town of Kennebunkport, a body corporate and politic located in the County of York and State of Maine (hereinafter the “Town”) and the Kennebunkport Conservation Trust, a body corporate located in the County of York and State of Maine (hereinafter the “Trust”).

WHEREAS, the Kennebunkport Conservation Trust is the owner of a parcel of real estate located in Kennebunkport, Maine which is shown on Tax Map 29, Block 5, Lot 4 (hereinafter the “Property”) and is shown on Exhibit 1 attached hereto and incorporated herewith.

WHEREAS, all of the property is located in the Farm and Forest, Resource Protection and Shoreland Zones.

WHEREAS, the property is improved with a lightkeepers house, light tower, boat house with boat ramp, electrical utility building, and a seasonal dock, which are operated as such and portions thereof are legal conforming uses in these zones.

WHEREAS, the Trust desires to reconstruct a number of buildings that have historically existed on Goat Island for the purpose of preserving a significant part of Kennebunkport history, while providing educational and recreational opportunities for the public.

WHEREAS, the Trust is proposing to reconstruct a number of historically significant structures as portrayed on Exhibit 1A.

WHEREAS, the Trust is not able to reconstruct such buildings due to restrictions imposed by the Kennebunkport Flood Plain Management Ordinance and Land Use Ordinance.

WHEREAS, the Trust wishes to create a separate zone known as the Goat Island Light Contract Zone which will enable the reconstruction of a number of historically significant structures while also allowing for recreational and educational opportunities for the general public, with appropriate conditions and restrictions to protect the public.

WHEREAS, the Town has the authority to enter into a contract rezoning for the Property pursuant to Title 30-A M.R.S.A. § 4352 and Article 13 of the Kennebunkport Land Use Ordinance.
WHEREAS, after notice and hearing and due deliberation on the contract rezoning, the Kennebunkport Planning Board recommends the contract rezoning of the Property to the Board of Selectmen.

WHEREAS, the Planning Board and the Board of Selectmen have determined that the rezoning will be pursuant to and consistent with the Town’s Comprehensive Plan.

WHEREAS, the rezoning has been authorized at Town Meeting.

NOW THEREFORE, in consideration of the mutual promises made to each other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Ordinance and map to create and make reference to the Goat Island Light Contract Zone as identified on Exhibit 1.

2. Subject to final Site Plan approval of the Planning Board and after public hearing, the Trust will be authorized to further develop the Property according to the specifications and conditions below in this Contract Zone and as depicted in Exhibit 1 and Exhibit 1A which is incorporated herewith:

   A. To construct a single-story structure no larger than 14’ x 26” for storage.

   B. To construct a covered walkway 10’ x 125’ between the existing lightkeepers house and the existing light tower.

   C. To construct a 20’ x 20’ Bell Tower.

   D. No structure on the island is to exceed forty (40’) feet in height.

   E. To allow the continued operation of the light house along with recreational and educational opportunities for the public.

   F. To allow the operation of a museum for display of artifacts and other items to the public.

   G. To allow the continued residential use for the lighthouse keeper and guests.

   H. To allow special events to be hosted under the direction of the Trust.

   I. To allow excursion boats access to the island in conjunction with Trust sponsored activities.
J. Public access to the island is encouraged with discretion given to the Trust to set hours and conditions of operation.

K. All structures and uses shall fully comply with restrictions imposed by the Maine Historic Preservation Commission.

3. In reviewing any application involving the Property, the Planning Board will apply the standards set forth in the Kennebunkport Land Use Ordinance except as modified by the provisions of this Goat Island Light Contract Zone.

4. The Trust shall record the Contract Zoning Amendment in the York County Registry of Deeds and shall submit proof of recording to the Town’s Code Enforcement Officer before any site work is undertaken or any building permits are issued.

5. The provisions of this Contract Zoning Amendment shall be deemed restrictions on the use of the Property and shall be amended only upon further written agreement of the Trust and/or its successors in interest to the Property and upon approval of a Town Meeting.

6. The above restrictions, provisions and conditions are an essential part of the rezoning. They shall run with the Property and shall bind the Trust, its successors in interest and any assigns of the Property or any party in possession or occupancy of the Property or any part thereof and shall inure to the benefit of and be enforceable by the Town.

7. If any of the restrictions, provisions, conditions or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portions shall be deemed as separate, distinct and independent provisions and such determination shall not affect the validity of the remaining portions hereof.

8. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Town of Kennebunkport Land Use Ordinance.

9. The Town shall have the right to enforce the terms of this contract zone in a court of competent jurisdiction.
ARTICLE 5: SHORELAND AND RESOURCE PROTECTION PERFORMANCE STANDARDS

In addition to the Town-wide Regulation in Article 6, and the Performance Standards for Specific Activities and Land Uses in Article 7, the following performance standards shall apply to land uses in Shoreland, Stream Protection and Resource Protection.

5.1 Purpose

To further the maintenance of safe and healthful conditions and general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty.

5.2 Agriculture

A. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (Title 7 M.R.S.A. § 4201-4209).

B. There shall be no new tilling of soil within twenty-five (25) feet, horizontal distance of tributary streams and freshwater wetlands; nor within seventy-five (75) feet, horizontal distance, from other bodies of water and coastal wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

C. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the Shoreland Zone, shall require a Conservation Plan to be filed with the Planning Board, which meets the standards of the State Soil and Water Conservation Commission, and is approved by the York County Soil and Water Conservation District. Non-conformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.

D. Manure shall not be stored or stockpiled within seventy-five (75) feet, horizontal distance, of bodies of water, tributary streams, or wetlands. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
E. Newly established livestock grazing areas shall not be permitted within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands; nor within seventy-five (75) feet, horizontal distance, of other bodies of water and coastal wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a York County Soil and Water Conservation Plan and filed with the Planning Board.

5.3 Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State Licensing Procedures and the following:

A. Recreational vehicle and tenting areas shall meet the following criteria:

1. The site of the campground shall contain a total area of at least five thousand (5,000) square feet per recreational vehicle, tent, or shelter, not including roads and driveways. Land supporting wetland vegetation, and land below the normal high water mark of a body of water shall not be included in calculating land area per site.

2. Each recreational vehicle, tent or shelter site shall be provided with a trash receptacle and fireplace.

3. No recreational vehicle, trailer or tent shall be allowed to remain in a campground on a permanent basis.

B. The areas intended for placement of recreational vehicles, tents or shelters, and utility and service buildings shall be set back a minimum of seventy-five (75) feet, horizontal distance, from the normal high water line of bodies of water and tributary streams, and the upland edge of a freshwater or coastal wetland; and a minimum of one hundred (100) feet from the other exterior lot lines of the campground.

C. All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than twenty-five (25) feet in width containing evergreen shrubs, trees, fences, walls, or any combination thereof which forms an effective visual barrier of not less than six (6) feet in height.
5.4 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

A. In a Resource Protection Zone cutting or removal of vegetation shall be limited to uses expressly authorized in the Zone.

Within the Shoreland, and Resource Protection Zones, invasive species may be removed by manual or hand tools or other methods as approved by the Department of Environmental Protection. Where necessary to control erosion, a replanting with native plants is required to replace any removed invasive species.

B. In the Shoreland Zone other than Resource Protection areas, and except to allow for the development of permitted uses, within a strip of land seventy-five (75) feet, horizontal distance, from any body of water, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

1. Existing lawn areas may not be expanded or relocated. Gardens may be moved or expanded within existing lawns, provided no invasive species are used.

2. There shall be no cleared area greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

3. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For purposes of this section, a “well-distributed stand of trees” shall be defined as maintaining a rating score of 16 or more in each 25 foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system:

   Diameter of Tree at 4½ feet Above:

<table>
<thead>
<tr>
<th>Ground Level (Inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - &lt; 4 in.</td>
<td>1</td>
</tr>
<tr>
<td>4 - &lt; 8 in.</td>
<td>2</td>
</tr>
<tr>
<td>8 - &lt; 12 in.</td>
<td>4</td>
</tr>
<tr>
<td>12 in. or greater</td>
<td>8</td>
</tr>
</tbody>
</table>

5-3
The following shall govern in applying this point system:

a. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

b. Each successive plot must be adjacent to, but not overlap a previous plot;

c. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

d. Any plot not containing the required points must have no vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

e. Where conditions permit, no more than fifty (50%) percent of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For purposes of this Article “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, selective cutting of no more than forty (40%) percent of the total volume of trees four (4) inches or more in diameter, measured at four and one half (4 ½ ) feet above ground level, may be removed in any ten (10) year period.

4. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered or removed, except to remove an invasive plant species or to provide for a footpath or other permitted uses as described in paragraphs 2 and 3 above.

5. Pruning of tree branches, on the bottom one third (⅓) of the tree is allowed.
6. In order to maintain a buffer strip of vegetation, when the removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

7. No activity shall result in accelerated erosion or sedimentation with the buffer strip.

This Article does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

C. At distances seventy-five (75) feet, or greater horizontal distance, from the normal high-water line of any body of water, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40%) percent of the volume of trees four (4) inches or more in diameter, measured four and one half (4½) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40%) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area. In no event, shall cleared openings for any purpose, including but not limited to principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate twenty-five (25%) percent of the lot area within the Shoreland Zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Dock Square and Riverfront Zones.

D. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty.

E. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

F. Fields and other cleared openings which have reverted to primarily shrubs, trees or other woody vegetation shall be regulated under the provisions of this section.

5.5 Construction of Beaches

Construction of a beach on any great pond, river, stream, brook or coastal wetlands shall require a permit from the Department of Environmental Protection.
5.6 **Erosion and Sedimentation Control**

A. All activities which involve filling/grading, excavation or other similar activities which result in un-stabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

1. Mulching and re-vegetation of disturbed soil.
2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
3. Permanent stabilization structures such as retaining walls or riprap.

B. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

C. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

D. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until vegetation is established.
2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
4. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions.
5. Fill shall be stabilized according to accepted engineering standards.
6. Fill shall not restrict a natural drainage way, a flood way, or destroy the storage capacity of a flood plain.

7. Sides of a channel or artificial waterway shall be stabilized to prevent slumping.

8. Sides of channels or artificial watercourses shall be constructed with slopes of two (2) feet horizontal to one (1) foot vertical or less steep, unless bulkheads or riprapping are used.

5.7 Essential Services

A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

B. The installation of essential services, other than dry hydrants for drawing water for fire protection purposes and other road-side distribution lines, is not allowed within seventy-five (75) feet of the normal high water mark of a stream (exclusive of those areas within two hundred and fifty (250) feet of the upland edge of tidal water, or the upland edge of a freshwater or coastal wetland) or in the Resource Protection or Stream Protection Zone. Notwithstanding this general prohibition, the installation of essential services shall be allowed to provide services to a permitted use within said areas, if the applicant can demonstrate that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

C. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

5.8 Historical and Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.
5.9 Mineral Exploration and Extraction

A. Mineral exploration to determine the nature of extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measure, so as to restore disturbed areas and to protect the public health and safety.

B. Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph 4 below.

2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any body of water, tributary stream, or upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal of any property line, without written permission of the owner of such adjacent property.

3. Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the Shoreland Zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.

4. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

   a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site. See NOTE below.

   b. The final graded slope shall be two and one-half to one (2 ½:1) slope or flatter.
c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

5. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operation on surrounding uses and resources.

NOTE: The State of Maine Solid Waste Laws, the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection’s regulations may contain other applicable provisions regarding disposal of materials.

5.10 Parking Areas

A. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the zone in which such areas are located, except that parking areas for commercial or public piers in conjunction with adjoining commercial areas, may be located no less than twenty-five (25) feet, horizontal distance, from the shoreline. Lot coverage in conjunction with these parking areas may cover up to seventy (70%) percent of the lot provided all other standards are met. The setback for public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

B. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a body of water, tributary stream or wetland and where feasible, to retain all runoff on-site.

C. Parking Space: Dimensional Requirement: ten (10) feet wide and twenty (20) feet long, except parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

5.11 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High Water Line of a Body of Water or Within a Wetland.

A. Any new permanent, temporary, or material expansion or alteration of a pier, dock, wharf, bridge, or other structure or use extending over or below the normal high water line of a body of water or within a wetland shall require a Site Plan Review and approval by the Planning Board. Any new permanent structure, or expansion thereof, shall require a permit from the Department of Environmental Protection (DEP) pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A. § 480-C. Permits may also be required from the Army Corps of
Engineers if located in navigable waters. Applicants shall also be required to obtain, when necessary, other approvals including, but not limited to, U.S. Fish and Wildlife Service, Maine Departments of Inland Fisheries and Wildlife, Marine Resources, Conservation, and the Board of Selectmen. The applicant shall present a copy of a submerged land lease from the Maine Bureau of Public Lands, if applicable. The Board of Selectmen, in consultation with the Harbormaster and the Waterfront Advisory Committee having jurisdiction, shall review and approve the proposed project according to the procedures and standards set forth in Title 38 M.R.S.A. § 1021 through 1027, before the application may be submitted to the Planning Board.

B. In addition to all required Federal or State permits, structures and uses shall also conform to the following:

1. For the purpose of the protection of property against flood and/or storm damage and the protection of identified sensitive environmental habitats, accessory residential piers, docks, wharves walkways, ramps or floats shall not be permitted in any areas identified as Velocity Zones as shown on the most recent Flood Insurance Rate Map produced by FEMA or as determined by FEMA via the Letter of Map Amendment process (LOMA).

2. No new permanent, temporary or material alteration of a pier, dock, wharf, bridge or other structure shall be permitted within the wildlife habitat of species considered endangered or threatened by the Maine Department of Inland Fisheries and Wildlife or the U.S. Fish and Wildlife Service.

3. Piers, docks, wharves, walkways, ramps and floats shall be constructed to meet the standards for “Appurtenant Structures” as set forth in FEMA 55, Coastal Construction Manual, third edition, June 2000, or as amended. The area of a float or floats shall not exceed two hundred (200) square feet, except that when shared by two or more abutting property owners as delineated in Article 5.11.B.4, two such floats may be used.

4. Accessory residential piers, docks, wharves walkways, ramps or floats require the lot to have a minimum of sixty (60) feet of shore frontage. If a property owner does not meet this standard, the applicant may co-apply with an abutter or abutters, and must demonstrate that in combination with such abutting property, this standard will be met. The agreement for partitioning, maintenance, and repair costs, outlining pier location and partitioning access, including any property easements, must be recorded with the York County Registry of Deeds, in the deeds of all affected properties. Once a property owner has entered into a shared pier agreement, that property owner forfeits the right to build his or her own pier, or to enter into an agreement with another abutter for a second pier.
Notwithstanding Section 6.1.B.2.E, the Planning Board may include a part of the lot that is part of a right-of-way in satisfying the minimum shore frontage requirement of this paragraph B.4 only, provided that the accessory residential pier, dock, wharf, walkway, ramp or float may be located in a manner that does not interfere with the use of the right-of-way and the Planning Board determines that including the part of the lot that is part of a right-of-way for this purpose would not interfere with any other provision of this ordinance. If such modification is approved, the Planning Board shall include the modification in the Site Plan Review’s written Findings of Fact and the applicant shall record the Findings of Fact with the York County Registry of Deeds before commencing any work or before receiving a building or land use activity permit from the Code Enforcement Officer. Subdivisions and Condominium Homeowner Associations with sixty (60) feet or more frontage are allowed to build only one pier and if the frontage is at least one hundred (100) feet may have a maximum of two floats.

5. No portion of a pier or float shall be within twenty-five (25) feet of a property line or property line extension seaward, unless the pier is a shared pier as per Article 5.11.B.4.

6. Access from the shore shall be developed on soils and appropriate for such use and constructed so as to control erosion and avoid adverse impact on coastal or freshwater vegetation. Any ramp, walkway or pier shall be at least one (1) foot above the ground, as measured from the lowest part of the structure. Deck boards shall be a maximum of six (6) inches in width and spaced one half (½) inch apart. Paint, stains and water proofing shall be applied in accordance with EPA standards as not to contaminate surrounding areas. Coastal banks shall be protected from erosion by the use of suitable stairs no wider than four (4) feet.

7. The location of any structure shall not interfere with existing developed or natural beach areas, nor impede legitimate passage along a beach.

8. The facility shall be located so as to minimize adverse effects on fisheries.

9. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A noncommercial ramp, pier, walkway, dock or wharf shall not be wider than four (4) feet. Pairs of pilings or supports shall be no closer than ten (10) feet.

10. Lighting shall be to illuminate walkways, ramps and floats only. Spotlights and floodlights or any other fixture that casts a direct beam are specifically prohibited.
11. No new structure shall be built on, over or abutting a pier, dock, or other structure extending beyond the normal high waterline of a body of water or within a wetland unless the structure requires direct access to the body of water or wetland as an operational necessity.

12. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the DEP, pursuant to the Natural Resources Act, Title 38 M.R.S.A. § 480-C.

13. No existing structures built on or over a pier, dock, wharf or other structure extending beyond the normal high waterline of a body of water or within a wetland shall be converted to residential dwelling units in any district.

14. Except in the Riverfront and Dock Square Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high waterline of a body of water or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

15. Any accessory residential pier, walkway, dock or wharf, including ramps and floats, shall be no longer than a total length of one hundred (100) feet nor extend more than one fifth (1/5) of the way across a body of water. The Planning Board may, upon review, modify the length requirement if it is demonstrated that no other reasonable alternative exists to provide water access from the lot.

16. Off-season storage of temporary floats, ramps or walkways must be on upland areas so as to not damage marine or freshwater vegetation. Caution must be exercised to avoid damage to shoreline banks and shoreline vegetation. Ramps may be stored on piers or docks. All stored items must be properly and safely secured so as not to become a wind or wave borne hazard in a severe storm or hurricane.

17. Accessory residential piers, docks, wharves, walkways, ramps and floats shall not be used for any commercial purposes, other than permitted commercial fishing or lobstering conducted by the landowner.

18. Enlargements, alterations, repairs, or the rebuilding of non-conforming piers, docks, walkways, wharves, ramps or floats shall be governed by the provisions of Article 8 of this Ordinance.
5.12 Roads and Driveways

The following standards shall apply to the construction of all roads and/or driveways and drainage systems, culverts and other related features in the Shoreland Zone:

A. All roads and driveways shall be set back at least seventy-five (75) feet, horizontal distance from the upland edge of bodies of water, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the body of water, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the body of water, tributary stream, or wetland.

On slopes of greater than twenty (20%) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5%) percent increase in slope above twenty (20%) percent.

This paragraph does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this Article except that portion of the road or driveway necessary for direct access to the structure.

B. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a body of water, tributary stream or wetland.

C. New roads and driveways are prohibited in the Resource Protection Zone except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the zone.

D. Road crossings of watercourses shall be kept to the minimum number necessary.

E. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Article 5.6.

F. Road and driveway grades shall be no greater than ten (10%) percent except for segments of less than two hundred (200) feet.
G. In order to prevent road and driveway surface drainage from directly entering bodies of water, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an un-scarified buffer strip at least fifty (50) feet plus two (2) times the average slope in width between the outflow point of the ditch or culvert and the normal high water mark of a body of water, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an un-scarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

H. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto un-scarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:

1. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<table>
<thead>
<tr>
<th>Grade (percent)</th>
<th>Spacing (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21+</td>
<td>40</td>
</tr>
</tbody>
</table>

2. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10%) percent or less.

3. On sections having slopes greater than ten (10%) percent, ditch relief culverts shall be placed at approximately a thirty (30°) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

4. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

I. Bottoms of culverts shall be installed at streambed levels.

J. All cut or fill banks and areas of exposed mineral soil shall be re-vegetated or otherwise stabilized as soon as possible.
K. Bridges or culverts of adequate size and design shall be provided for all road and driveway crossings of water courses which are to be used when surface waters are unfrozen. The requirement for a bridge or culvert may be waived by the Planning Board upon a finding that it is not required to meet the standards contained in this Ordinance regarding erosion, sedimentation, and drainage.

L. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

5.13 Septic Waste Disposal

All subsurface disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

1. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than one hundred fifty (150) feet, horizontal distance from the upland edge of a body of water or wetland, unless installed under the provisions of Article 5.13.4.

2. A holding tank is not allowed for a first-time residential use in the Shoreland Zone.

3. Replacement of an existing subsurface wastewater disposal system is authorized if the replacement is required by law and there is no suitable area further away from the upland edge of a body of water or wetland.

4. Installation of a new subsurface wastewater disposal system field, including fill extensions, shall be permitted no closer than one hundred fifty (150) feet, horizontal distance from the upland edge of a body of water for first-time development on lots within the Shoreland Zone, unless no reasonable alternative exists as determined by the Licensed Plumbing Inspector. If no other reasonable alternative exists, the Licensed Plumbing Inspector may reduce the setback requirement to no less than one hundred (100) feet upon a clear showing that appropriate measures will be taken to minimize any negative impacts to the body of water.

5.14 Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial developments and other similar intensive land uses, shall require a soils report based on any on-site investigation and be prepared by state-
certified professionals. Certified persons may include Maine Certified Soil Scientist, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soils and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitation where they exist.

See also Article 6.3 Soil Suitability – Town Wide Regulations

5.15 Storm Water Runoff

A. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm waters.

B. Storm water runoff control systems shall be maintained as necessary to ensure proper function.

5.16 Water Quality

A. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the body of water tributary stream or wetland.

B. No person shall convert a seasonal dwelling to a year-round or principal dwelling without first obtaining a seasonal conversion permit from the Local Plumbing Inspector.

5.17 Timber Harvesting

A. In a Resource Protection Zone abutting a great pond, timber harvesting shall be limited to the following:

1. Within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

   a. The ground is frozen;

   b. There is no resultant soil disturbance;
c. The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the seventy-five (75) foot strip of land;

d. There is no cutting of trees less than six (6) inches in diameter; no more than thirty (30%) percent of the trees six (6) inches or more in diameter, measured at four and one half (4½) feet above ground level, are cut in any ten (10) year period; and a well-distributed stand of trees and other natural vegetation remains; and

e. Licensed Professional Forester has marked the trees to be harvested prior to a permit being issued by the municipality.

2. Beyond the seventy-five (75) foot strip referred to in Article 5.17.A above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over four and one half (4½) inches in diameter at four and one half (4½) feet above ground level be reduced to less than thirty (30) square feet per acre.

B. Except in areas as described in Article 5.17.A above, timber harvesting shall conform with the following provisions:

1. Selective cutting of not more than forty (40%) percent of the total volume of trees four (4) inches or more in diameter measured at four and one half (4½) feet above ground level on any lot in any ten (10) year period is permitted. In addition:

   a. Within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA and within seventy-five (75) feet, horizontal distance, of the upland edge of bodies of water, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

   b. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA and greater than seventy-five (75) feet, horizontal distance, from the normal highwater line of other bodies of water or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall
be at least one hundred (100) feet, horizontal distance, apart. Such clear cut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

2. Timber harvesting operations exceeding the forty (40%) percent limitation in subparagraph a. above may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine Licensed Professional Forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purpose of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board’s decision.

3. No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal-high water line of a body of water. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a body of water or tributary stream shall be removed.

4. Timber harvesting equipment shall not use stream channels as travel routes except when:
   
a. Surface waters are frozen; and

b. The activity will not result in any ground disturbance.

5. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

6. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary steam. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.

7. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located so that an un-scarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10%) percent shall be retained between the exposed mineral soil and the normal high-water line of a body of water or upland edge of a wetland.
For each ten (10%) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the body of water or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet, horizontal distance, from the normal high-water line of a body of water or the upland edge of a wetland.

C. Anticipatory Repeal of Municipal Timber Harvesting Regulation.

In accordance with Title 38 M.R.S.A. § 438-B, it is the intent of the Town to cease municipal regulation of timber harvesting activities in the Shoreland Zone when statewide timber harvesting standards go into effect, at which time the State of Maine Department of Conservation’s Bureau of Forestry shall administer and enforce those standards within the Town. Accordingly, upon notification by the State that statewide timber harvesting standards have gone into effect, the Town shall, at the next annual or special town meeting, authorize the repeal of all provisions in this Ordinance (including but not limited to Article 5.17.A and 5.17.B above) that regulate timber harvesting activities within the Shoreland Zone, and shall notify the Director of the Bureau of Conservation of the repeal.

NOTE: The statutory date established under Title 38 M.R.S.A. § 438-A (5) is the effective date of state-wide timber harvesting standards. That date is “the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commission of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards. Title 38 M.R.S.A. § 438-A (5) further provides that “the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards”.

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ARTICLE 6: TOWN WIDE REGULATIONS

6.1 General Provisions

A. No structures shall be erected or used, and no lot shall be used or divided, unless in conformity with the provisions of this Ordinance. All structures and lots, and uses of structures and lots, which fail to conform with the provisions of this Ordinance are prohibited, except as provided herein.

B. All structures, as defined in this Ordinance, shall be required to meet dimensional setback requirements unless exempted as set forth below: (Setbacks and/or restrictions may differ in the Shoreland and Resource Protection Zones.)

1. The following structures shall be exempt from meeting the front, side and rear property line setbacks except where prohibited in the Shoreland and Resource Protection Zones:

   a. Any combination of materials covering less than ten (10) square feet constructed or erected above, below or upon the surface of the ground or water such as mailboxes, light poles and the like;

   b. Walls or fences;

   c. An awning or tent for a specific event(s) that meets the requirements of 11.2.L;

   d. A retractable awning or shade used solely to screen a door or window;

   e. Backyard tent used for sleeping;

   f. An enclosed, self-contained portable toilet, such as a “Portapotty” by Portables, Inc. and the like placed on a site for less than six (6) months per calendar year or as long as necessary for approved construction.

2. The following structures shall be exempt from meeting setback requirements from any wetlands or from the normal high water mark of water bodies in all zones including the Shoreland and Resource Protection Zones. Any structures other than those listed below shall be required to meet any required setbacks from bodies of water or wetlands.
a. A temporary ramp, placed on a site for less than six (6) months per calendar year, and used for the purpose of providing public access to publicly owned property in accordance with the Americans with Disabilities Act.

C. When a lot is situated in part in the Town of Kennebunkport and in part in an adjacent municipality, the provisions of this Ordinance shall be applied to that portion of such lot as lies in the Town of Kennebunkport in the same manner as if the entire lot were situated in Kennebunkport.

D. When a lot is divided by a zone boundary, the requirements and standards of this Ordinance shall apply as follows:

1. When the lot area is equal to or less than 20,000 square feet, the provisions of the more restrictive zone shall apply to the lot as a whole.

2. When the lot area is more than 20,000 square feet, the provisions of this Ordinance which apply to the larger portion of the lot may be applied to that part of the smaller portion of the lot which is within thirty (30) feet of the zone boundary.

E. No part of any lot which is below the normal high water mark of any body of water, no part of any lot which is part of a right-of-way, other than utility easements servicing the lot or tree maintenance easements granted to the Town, and also excluding lands which are below the normal high water mark of any body of water or wetlands, as defined by this Ordinance, regardless of size shall be used for the purpose of computing lot area or any size, setback, frontage, or density requirement of this Ordinance.

F. Land within the lines of a right-of-way or street on which a lot abuts shall not be counted as part of such lot for the purpose of meeting the area requirements of this Ordinance even though the fee to such land may be in the owner of such lot.

G. No new lot may be created with less than the minimum lot area, as defined in this Ordinance that is required for the zone in which it is located. No part of any lot that is excluded from the gross lot area shall be used for the purpose of computing lot area of any size, setback, frontage or density requirement of this Ordinance. This section is not intended to circumvent the operation of laws relating to pre-existing non-conformities or other laws affecting the use and/or development of lots that do not meet the current minimum lot size requirements in this Ordinance.

H. If a lot in separate ownership is reduced in area or dimension below the minimum lot size or lot width requirements of this Ordinance as a result of the taking of a portion of the lot by eminent domain, or a result of a conveyance of a portion of the lot for a purpose for which the land could have been taken by eminent
domain, such transfer shall not be deemed to violate the minimum lot size or minimum lot width requirements of this Ordinance; and the portion of the lot remaining after the transfer may be used for any use permitted in the applicable zone provided that applicable setback, lot coverage and building dimensional requirements are met. An existing structure located on the remaining portion of such a lot may be expanded or enlarged provided that the expansion or enlargement complies with applicable setback and dimensional requirements and does not result in a violation of lot coverage requirements.

6.2 Height Restrictions

In the Village Residential, Village Residential East, Cape Arundel, Free Enterprise and Farm and Forest zones, no structure or building shall exceed two and one-half (2½) stories or thirty-five (35) feet in building height as measured from the average elevation of the original ground level on all sides within twenty (20) feet of the building, not including such building features as chimneys, decorative cupolas, spires or similar non-inhabitable appurtenances. In the Dock Square, Riverfront, Goose Rocks, Cape Porpoise East, Cape Porpoise Square and Cape Porpoise West zones, no structure or building shall exceed two and one-half (2½) stories or thirty (30) feet in building height as measured from the average elevation of the original ground level on all sides within twenty (20) feet of the building, not including such building features as chimneys, decorative cupolas, spires or similar non-inhabitable appurtenances. These restrictions shall not apply to farm buildings not used for human habitation, municipal salt or sand sheds, church steeples, water towers, flagpoles, windmills, or antennae provided that such structures are not used for human occupancy and are set back from all property lines a distance at least equal to their height.

6.3 Soil Suitability

In all districts, the approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal, and where on-site septic disposal is proposed, shall be subject to presentation of a completed site evaluation form (HHE-200) which evidences adequate soil conditions for sewage disposal prior to issuance of a building permit. As of June 13, 2006, any lot that has not received prior Planning Board review and approval must be served by a septic system located entirely within its boundaries.

6.4 Water Quality

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quality, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant or aquatic life.
6.5 **Dust, Fumes, Vapors and Gases**

Emission of dust, dirt, fly ash, fumes, vapors or gases, which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of a commercial or industrial establishment creating such emission, shall be prohibited.

No land use or building shall produce offensive or harmful odors perceptible beyond the lot lines so as to create a public or private nuisance.

6.6 **Explosive Materials**

All flammable or explosive liquids, solids or gases shall be stored in a manner and location which is in compliance with the rules and regulations of the Maine Department of Public Safety and other federal and state regulations.

6.7 **Construction in Flood Hazard Areas**

In areas designated within the 100-year flood plain, all new construction, additions, and modifications to existing structures, including piers, docks, wharves, bridges and causeways, shall conform to the Town’s Flood Plain Management Ordinance.

6.8 **Outdoor Display**

No merchandise, banners, displays or similar objects shall be permitted on or about the outside of structures except signs permitted by Article 6.12 of this Ordinance and yard sales on residential property for no more than three (3) days in any ninety (90) day period.

Upon application by an association representing merchants in any particular district, the Code Enforcement Officer may permit the outside display of merchandise for no longer than three (3) consecutive days in any ninety (90) day period for special promotional events involving more than three (3) merchants.

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

A. Except in the Dock Square Zone, the following standards shall apply to all new uses or establishments, and also to all existing uses or establishments which expand or increase their volume or intensity of use, whether such expansion occurs inside or outside of a building. All new or enlarged off-street parking, loading or vehicular service facilities including driveways shall also conform to this section.
1. Required off-street parking for all land uses shall be located on the same lot as the principal building or facility or within one hundred (100) feet measured along lines of access.

2. The Planning Board may approve the joint use of a parking facility by two (2) or more principal buildings or uses where it is clearly demonstrated that said parking facility would substantially meet the intent of the requirements of this Ordinance by reason of variation in the probable time of maximum use by patrons or employees of such establishments and where said parking facility is located within one hundred (100) feet of each establishment.

3. Parking spaces shall be provided as required and made available for use before the issuance of an occupancy permit under Article 11.8.

4. All parking areas shall be located off the street so that vehicles can be turned around without backing into the street.

5. Loading facilities shall be located so that trucks, trailers, and containers shall not be parked upon any town way. The following loading requirements shall be met:

   a. Office buildings, hotels and motels with a gross floor area of more than 100,000 square feet require one bay.

   b. Retail, wholesale, warehouse and manufacturing operations with a gross floor area of more than 5,000 square feet require the following:

      | Gross Floor Area          | Required Bays |
      |---------------------------|---------------|
      | 5,001 to 40,000 sq. ft.   | 1 bay         |
      | 40,001 to 100,000 sq. ft. | 2 bays        |
      | 100,001 to 160,001 sq. ft.| 3 bays        |
      | 160,001 to 240,000 sq. ft.| 4 bays        |
      | 240,001 to 320,000 sq. ft.| 5 bays        |
      | 320,001 to 400,000 sq. ft.| 6 bays        |

   c. Each 90,000 square feet over 400,000 square feet requires one additional bay.

6. Off-street parking, either by means of open air spaces or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any district.
The following minimum off-street parking requirements shall be provided and maintained:

<table>
<thead>
<tr>
<th>Use</th>
<th>Minimum Required Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boatyards</td>
<td>1 space/employee</td>
</tr>
<tr>
<td>Campgrounds</td>
<td>1 space/campsite</td>
</tr>
<tr>
<td>Churches, Theaters, Auditoria and Clubs</td>
<td>1 space/3 seats for every 100 sq ft of assemblage space if no fixed seats</td>
</tr>
<tr>
<td>Commercial Centers, Commercial Complexes, Retail Businesses and Ship Chandleries</td>
<td>1 space/200 sq ft of floor area used for retail area used for retail trade of display</td>
</tr>
<tr>
<td>Day Care Centers</td>
<td>1 space/4 children</td>
</tr>
<tr>
<td>Financial Institutions</td>
<td>1 space/150 sq ft of floor area</td>
</tr>
<tr>
<td>Funeral Homes</td>
<td>1 space/2 seats</td>
</tr>
<tr>
<td>Health Institutions</td>
<td>1 space/3 beds</td>
</tr>
<tr>
<td>Hotels, Motels and Inns</td>
<td>1 space/sleeping room</td>
</tr>
<tr>
<td>Libraries, Municipal Buildings, Museums and Public Utilities</td>
<td>1 space/600 sq ft of floor area</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>1 space/employee based on the largest number of employees at any time</td>
</tr>
<tr>
<td>Marinas</td>
<td>1 space/slip</td>
</tr>
<tr>
<td>Marine Transport Services</td>
<td>1 space/2 passengers of capacity</td>
</tr>
<tr>
<td>Medical Offices</td>
<td>1 space/100 sq ft of floor area</td>
</tr>
<tr>
<td>Professional and Business Offices (other than Medical)</td>
<td>1 space/200 sq ft of floor area</td>
</tr>
<tr>
<td>Public Libraries in the Village Residential Zone</td>
<td>1 space/800 sq ft of floor area without any requirement for employee parking</td>
</tr>
<tr>
<td>Residential Mixed Use</td>
<td>Parking for the non-Residential Component based on the requirements listed in this section</td>
</tr>
<tr>
<td>Restaurants and Eating &amp; Drinking</td>
<td>1 space/3 seats</td>
</tr>
<tr>
<td>establishments</td>
<td></td>
</tr>
<tr>
<td>Schools</td>
<td>5 spaces/room used for purpose of instruction</td>
</tr>
<tr>
<td>Warehouses and Wholesaling Operations</td>
<td>1 space/employee based on above largest number of employees at any time</td>
</tr>
</tbody>
</table>
8. One (1) space for every two (2) employees on the largest shift shall be provided in addition to the above requirements, unless these requirements reference the number of employees.

9. For any structure or use not specifically provided for in Article 6.9.A.7 above, the Planning Board shall determine the number of off-street parking spaces required in order that the necessity of parking in the street may be eliminated.

10. Where floor area is to be used in calculation the number of required spaces, gross floor area shall be used unless otherwise noted.

11. Where not enclosed in a building and unless otherwise permitted by the Kennebunkport Planning Board in the course of Site Plan Review of Libraries in the Village Residential Zone, off-street parking and loading spaces shall be screened from view by a continuous landscaped area not less than six (6) feet in width, forming a visual barrier not less than five (5) feet in height along all public streets and exterior lot lines adjacent to residential uses, except that driveways shall be kept open as required in Article 10.7.B.1.d.

12. All applications for building permits for non-residential uses shall include an off-street parking and loading plan showing all elements necessary to indicate that the requirements above are fulfilled.

13. Unless otherwise permitted by the Kennebunkport Planning Board in the course of Site Plan Review of Libraries in the Village Residential Zone, parking spaces shall have a minimum width of ten (10) feet and a minimum length of twenty (20) feet when angular parking is permitted, the minimum width being measured along an imaginary line perpendicular to the lines marking the length of the space, and minimum length then being measured from that imaginary line parallel to the lines marking the spaces. In addition, parking area access lanes shall be a minimum of twelve (12) feet wide for one-way driving lanes and a minimum of twenty (20) feet wide for two-way driving lanes. Access lane widths are to be calculated from the end of the stripes in one bank of spaces to the end of stripes in the bank of spaces directly across the access lane. Spaces designated for use by the handicapped must be no less than the twelve (12) feet wide and no less than twenty (20) feet long.

14. Any parking accessory to a Community Use, where the principal community use was in existence on November 4, 2003, shall be exempted from the requirements of Article 6.9.A.4 (no backing into the street) and from the requirements of Article 6.9.A.11 (screening), but shall not be exempted from the other requirements in Article 6.9 or from the site plan review requirements of Article 10, where applicable. Such accessory
parking to a Community Use may be offered to the general public during hours when the Community Use is not in full operation, with the prior authorization of the Board of Selectmen. If so authorized, such parking for the general public during hours when the Community Use is not in full operation shall not be considered a separate use, notwithstanding the requirements of Article 1.6 and Article 4.

15. Any temporary overflow public parking, as defined by this Ordinance, shall be exempted from the requirements of this section. Such temporary overflow public parking may be offered to the general public only with the prior authorization of the Board of Selectmen, for a maximum of twenty-four (24) days per year per site, on property owned, operated or controlled by the Town of Kennebunkport. If so authorized, such temporary overflow public parking shall not be considered a separate principal use, notwithstanding the requirements of Article 1.6 and Article 4.

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.

6.10 Residential Parking Standards

1. Each single dwelling shall be provided with two off-street parking spaces. Accessory apartments shall be provided with parking in accordance with subsection 2.b below.

2. Each multiplex shall meet the following standards:

a. The design, layout, size, area, construction, and screening standards of Articles 7.11 and 10.7 shall be met.

b. Parking spaces shall be provided to conform with the number required in the following schedule:

c.  

<table>
<thead>
<tr>
<th>Bed Configuration</th>
<th>Required Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 bedroom units</td>
<td>1 space per unit</td>
</tr>
<tr>
<td>2 bedroom units</td>
<td>2 spaces per unit</td>
</tr>
<tr>
<td>3 and 4 bedroom units</td>
<td>2 spaces per unit</td>
</tr>
</tbody>
</table>


3. Off-street parking shall be provided for eldercare facilities in accordance with the following schedule:

   1 space for each employee on the shift with the greatest number of employees

   Plus

   1 space for each independent living unit in which the occupant receives no supportive services

   Plus

   1 space for every two-congregate living or similar units in which the occupant receives only a basic level of supportive services

   Plus

   1 space for every three-assisted living or similar units or beds in a nursing home in which the occupant receives a high level of supportive services.

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.

5. Parking for residential components of Residential Mixed Use shall be as follows:

   1 Bedroom Unit  1 Parking Space

   2 or more Bedroom Unit  2 Parking Spaces

6. Parking for a Residential Rental Accommodation shall include one (1) additional off-street parking space per room rented, in addition to the minimum parking spaces required for the dwelling unit.

6.11 Sanitary Provisions

A. Connection to Public Facilities

All plumbing shall be connected to public collection and treatment facilities when required by other ordinances.
B. Subsurface Sewage Disposal

1. No plumbing Permit shall be issued for a subsurface disposal system unless:

   a. The system meets the requirements of the State of Maine Subsurface Wastewater Disposal rules, C.M.R. Chapter 241; A second disposal site that meets the State Rules is not required unless mandated by other law. Any such site shall be shown on the permit application as a reserve area and be set aside on the plot plan for possible future use as a disposal site; and

   b. Any other optional provisions adopted by the town have been complied with.

6.12 Signs and Billboards

A. General

Except for business directional signs permitted under paragraph B, all signs shall relate to goods and services available on the premises on which the sign is located, or to the availability of the premises themselves for sale, rent or lease.

B. Off-premise directional signs and official business directional signs as defined in Title 23 M.R.S.A. § 1903 shall not be permitted, except that directional signs not larger than six (6) inches in width and twenty-four (24) inches in length are permitted on posts provided for that purpose by the Town without the necessity of a permit. Such directional signs shall be placed on the Town posts on a space-available basis.

C. Size, Location and Illumination

1. No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or working, the sign or billboard may interfere with, obstruct the view of, or be confused with any authorized sign, signal or device, or otherwise constitute a hazard to pedestrian or vehicular traffic.

2. Roof mounted signs are prohibited.

3. No sign or portion of a sign structure shall exceed twenty (20) feet in height measured from the adjacent road surface.
4. Illuminated signs shall be permitted, subject to the following restrictions and prohibitions:

   a. There shall be no intermittently illuminated, traveling light, animated, flashing light, or internally illuminated signs.

   b. All illuminated signs shall be shielded or hooded so the light source itself is not visible off of the premises.

5. In all zones, allowable square footage of signage per building occupant shall be based on the gross square footage of unit floor space and no sign shall exceed the area as permitted in Section 6.12.H.

6. All signs overhanging a sidewalk or public way shall be no less than ten (10) feet from the surface of the pavement.

7. No signs shall be posted on trees which are under the jurisdiction of the Tree Warden of the Town.

8. The area of a sign shall be calculated by measuring the area of the smallest rectangle capable of enclosing the sign in every plane. If a three-dimensional sign has a depth of more than one (1) foot, the area of the sign shall be calculated by measuring the total surface area of the smallest box capable of enclosing the entire sign.

9. Window lettering displaying information such as business name, hours of operation, website, etc. are permitted to occupy up to 35% of the glazed area per window. Lettering governed by this subsection shall not be considered signage for purposes of calculating the area of allowable square footage or number of signs. (See Section 6.12.H)

10. Signs erected or installed in the interior of a structure which form an integral part of a bona fide window display which is related to merchandise or services available within the structure shall not be considered signs for purposes related to this section.

D. Number of Signs

1. Except as expressly prohibited under this Ordinance, in all zones each business occupant or non-profit organization may erect sign(s) attached to the building. Freestanding signs shall be limited based on the specifications set forth in this Ordinance.

2. No free-standing sign shall be located within five (5) feet of the lot line adjacent to the street. However, a setback of less than five (5) feet is permitted upon prior written approval by the Chief of Police after a
determination that the sign does not create any sight distance or safety issues.

3. In addition to the signs permitted under subparagraph 1, and except as expressly prohibited under this Ordinance, on-premise signs advertising the availability of the premises for sale, rent or lease shall be permitted.

E. Home Occupations Signs

One (1) sign identifying the name, address and profession of a permitted home occupation or a lawfully existing non-conforming home occupation shall be allowed provided such sign does not exceed two (2) square feet in area and is not illuminated.

F. Temporary Signs

The following temporary signs (in addition to those specified in Section 6.12.H) not exceeding six (6) square feet in area, may be posted in any zone for no longer than thirty (30) days:

1. Temporary Signs Giving Notice.

   Signs of a temporary nature such as political posters, advertisements of charitable functions, notices of meetings and other non-commercial signs of a similar nature, are permitted for a period not to exceed thirty (30) days and shall be removed by the person(s) who posted the signs. Temporary signs specified in this section shall not be attached to fences, trees, utility poles, or the like and shall not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.

2. Temporary Development or Construction Sign.

   One (1) temporary development or construction sign, attached to a building or free standing, may be erected provided such sign shall be limited to a general identification of the project and shall be removed within thirty (30) days after completion of the project.

3. Once removed, no temporary sign shall be posted within thirty (30) days of the removal date.

4. Street banners may exceed six (6) square feet but be no larger than fifty (50) square feet.

5. Temporary signs do not require a permit but must conform to all provisions of this Ordinance.

6-12
G. The above regulations shall not apply to the following:

1. Flags and insignia of any government.

2. Traffic control signs, signs designating route numbers or other informational signs erected or required by governmental bodies.

3. Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or moving or flashing lights.

4. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

H. Commercial Sign Dimensions and Number

<table>
<thead>
<tr>
<th>Commercial Unit Size (gross sq. footage)</th>
<th>0-500</th>
<th>500-1000</th>
<th>1000-2500</th>
<th>2500+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Window Lettering (% of window covered)</td>
<td>35</td>
<td>35</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>Window Display</td>
<td>permitted</td>
<td>permitted</td>
<td>permitted</td>
<td>permitted</td>
</tr>
<tr>
<td>Menu (sq. footage) Restaurant/Take out Only</td>
<td>15</td>
<td>15</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Total sq. footage of signage (Excluding window lettering, window displays and menus) for all zones</td>
<td>50</td>
<td>70</td>
<td>90</td>
<td>100</td>
</tr>
<tr>
<td>Maximum gross area per sign in all zones</td>
<td>20</td>
<td>20</td>
<td>30</td>
<td>40</td>
</tr>
<tr>
<td>Number of Attached Signs</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Number of Free Standing Signs</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Temporary sale, special events, daily menu (10 sq. feet)</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>
6.13 **Tillage of Soil**

Where soil in excess of twenty thousand (20,000) square feet is tilled, such tillage shall be carried out in conformance with the provisions of a Conservation Plan, which meets the standards of the State Soil and Water Conservation Commission and is approved by the York County Soil and Water Conservation District. The number of the plan shall be filed with the Planning Board. Non-conformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.

6.14 **Road Construction, Filling, Grading**

A. On lots greater than five (5) acres in area, the construction of a road, or grading or filling of the land may not commence prior to site plan review under Article 10, unless the planned land use is to serve no more than two residential units, or a use accessory to an existing single-family home. On lots of five (5) acres or less, and on any lot when the planned use is to serve no more than two residential units, or a use accessory to an existing single-family home, such construction, grading or filling requires a permit from the Code Enforcement Officer.

B. A driveway/private road over fifty (50) feet long for a single-family or two-family dwelling that the Code Enforcement Officer may permit, shall not be less than twelve (12) feet wide, with a minimum five (5) foot setback from the lot line.

C. A driveway/private road for a three (3) unit multiplex, or for three (3) detached dwellings, must be approved by the Planning Board, and the right-of-way shall not be less than two (2) rods (which is 33 feet) in width. The traveled way shall not be less than sixteen (16) feet in width of gravel, of hard durable particles free from vegetative matter, sixteen (16) inches thick after compaction. Drainage swales must have slopes no steeper than 3:1. The centerline of the roadway shall not be more than three (3) feet off the centerline of the right-of-way.

D. A driveway/private road for four (4) or more detached dwellings must be approved by the Planning Board, and the right-of-way shall not be less than fifty (50) feet in width. The traveled way shall not be less than twenty (20) feet in width of gravel, of hard durable particles free from vegetative matter, sixteen (16) inches thick after compaction. Drainage swales must have slopes no steeper than 3:1. The centerline of the roadway shall not be more than three (3) feet of the centerline off the right-of-way.
E. The Planning Board may reduce or modify the driveway/private road standards where strict adherence to the limitations cannot be met when considering a pre-existing right-of-way, or cannot be met due to environmental concerns. If such a modification is approved, the Planning Board shall include the modification in the Site Plan Review’s written Findings of Fact, and the applicant shall record the Findings of Fact with the York County Registry of Deeds before commencing any work or before receiving a building or land use activity permit from the Code Enforcement Officer.

6.15 Entrance to Public Ways

A. Permit Requirement:

Any person proposing an entry to a public way shall fill out an application for a permit clearly describing such entry whether or not further development or use is a part of that application. The grant or denial of a permit request for an entry to a public way may be appealed to the Board of Appeals as an administrative appeal.

B. In considering an application including an entrance to a public way, the Code Enforcement Officer, in cooperation with other agencies of the Town, including fire, police and highway, shall apply the following criteria:

1. When an entrance and exit driveway or curb cut serves a residential use:
   a. The width of said entrance or exit at its entrance to the public way shall not be less than ten (10) feet nor more than twenty (20) feet.
   b. No such driveway, entrance or curb cut shall be located within twenty (20) feet of any intersection of ways at its entry to a public way.
   c. The Code Enforcement Officer shall consider traffic volume and conditions, both vehicle and pedestrian, on the public way into which entrance is sought.
   d. The Code Enforcement Officer shall determine that there is no obstruction to the view of any person using said proposed driveway or curb cut.
2. When an entrance and exit driveway or curb cut serves a business, commercial or industrial use:

   a. The width of said entrance or exit at its entrance to the public way shall be not less than ten (10) feet nor more than twenty-six (26) feet, except for direct access to parking for Libraries in the Village Residential Zone, approved by the Planning Board, in which event said width shall be as approved by the Planning Board.

   b. Whenever possible, no such entrance or exit at its entrance to the public way shall be located within two hundred (200) feet of any intersection, similar entry or exit, or within a like distance as measured along a public way from any playground, school, church, hospital, place of public assembly, fire station or other municipal structure.

C. Minimum Sight Distance Required

After November 4, 2003, no property owner may erect any structure, fence, wall, sign, or install any landscaping features that would diminish any existing driveway’s sight distance below a minimum sight distance of at least ten (10) feet for every mile per hour of posted speed limit on the street. Sight distance shall be measured from the driver’s seat of a vehicle that is located ten (10) feet behind the curb or edge of the shoulder line of the street, with the height of the driver’s eye 3.5 feet above the pavement, to an object with a height of 4.25 feet, located within any travel lane of the street. The minimum sight distance requirement shall apply regardless of whether said driveway is located on the property owner’s own property or on a different property.

6.16 Sound Pressure Levels

A. The maximum permissible sound pressure level of any continuous, repetitive or frequent source of sound produced by any activity shall be established for daily time periods as set forth below. Sound pressure levels shall be measured at or beyond the lot lines of the lot on which the source of the sound is located at a height of a least four (4) feet above the surface of the ground or water.

1. Sound Pressure Level Limits Measured in Decibels

   | 7 am - 7 pm | 7 pm - 7 am |
   | dB(A) | dB(C) | dB(A) | dB(C) |
   | 60   | 72    | 50    | 62    |

2. Either or both of the dB(A) and dB(C) scales may be used, and a violation of the standard for either scale shall be a violation of this Ordinance.
B. Sound shall be measured with a sound level meter meeting the Type 1 or 2 performance requirements of the American National Standards Institute (ANSI S1. 4-1983) “American National Standard Specifications for Sound Level Meters”. Sound levels shall be measured by the maximum reading on a sound level meter set to the A or C weighted scale and the slow response.

C. No person shall engage in, cause or permit construction activities on a site abutting any residential use between the hours of 10 p.m. one day and 7 a.m. of the following day in violation of the sound pressure level limits established under this section.

1. The following uses and activities shall be exempt from sound pressure level regulation under this section:

   a. Railroad equipment which is subject to federal noise regulations.
   b. Aircraft operations which are subject to federal noise regulations.
   c. Registered and inspected vehicles.
   d. Water craft.
   e. Bells, chimes and carillons.
   f. Occasional sporting, cultural, religious or public events allowed by the Town.
   g. The un-amplified human voice and other sounds of natural origin.
   h. Farming, fishing and aquacultural activity.
   i. Forest management, harvesting and transportation activities.
   j. Operation of lawn mowers, snow blowers, chain saws and garden tractors.
   k. Snow removal, landscape and street sweeping activities.
   l. Emergency maintenance and repairs.
   m. Warning signals and alarms.
   n. Safety and protective devices installed in accordance with code requirements.
o. Test operations of emergency equipment occurring in the daytime and no more frequently than once per week.

p. Boiler start-up, testing and maintenance operations occurring no more frequently than once per month.

q. A force majeure event and other causes not reasonably within the control of the owners or operators of the source of the sound.

r. Blasting in connection with construction projects between the hours of 7:00 a.m. and 7:00 p.m.

s. Other noises created by construction activities between 7:00 a.m. and 10:00 p.m.

D. The sound pressure level standards established in this section shall be enforceable by law enforcement officers of the Town of Kennebunkport and by the Code Enforcement Officer of the Town of Kennebunkport in accordance with the procedures and provisions of Articles 11.9 and 11.10.

6.17 Blasting

No blasting shall be done as part of any excavation or mineral extraction operation, nor as part of any approved construction activity, without first obtaining a permit to blast from the Code Enforcement Officer pursuant to this section.

The application for a license to blast shall include:

1. A completed application form for a permit to blast;

2. A site plan showing where the blasting will take place;

3. A statement of the purposes and extent of the blasting, further indicating the approximate dates and times the blasting will occur;

4. Identification by name, address, and telephone number of the entity that will actually perform the blasting operation;

5. Proof that the entity applying for the permit to blast is properly licensed by the State of Maine and in compliance with Title 25 M.R.S.A. § 2471 et seq. and State Fire Marshal Rules, Chapter 31, and any other applicable State statutes and regulations;
6. Evidence that notice of the proposed blasting operation has been sent by certified mail to all landowners abutting the subject property of the application within five hundred (500) feet of the proposed blast site. Said notice shall indicate the location of the proposed blasting; approximate date and times that blasting will occur; and name, address, and telephone number of the entity that will actually perform the blasting operation; and

7. A blasting permit fee will be established in accordance with Article 11.6 of this Ordinance.

The Code Enforcement Officer shall issue a license to blast within ten (10) days of the receipt of a complete application form, fee, and all supporting evidence as set forth above.

6.18 Maine Uniform Building and Energy Code

A. The Town of Kennebunkport adopts and enforces the Maine Uniform Building and Energy Code (“MUBEC”), as authorized by Title 10 M.R.S.A., § 9724 (1-A). The Code Enforcement Officer of the Town of Kennebunkport shall serve as the building official as defined in Title 25 M.R.S.A., § 2371 and shall be responsible for issuing building permits and certificates of occupancy. The Code Enforcement Officer shall be responsible for inspecting all permitted construction for compliance with all components of MUBEC, as such components may be revised from time to time. Administration and enforcement of MUBEC, including permits, fees, violations, penalties and appeals, shall be in accordance with MUBEC along with Article 11 of the Town of Kennebunkport Land Use Ordinance.

B. Any person who violates a provision of this Code or fails to comply with any of the requirements thereof, or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of the Ordinance, shall be subject to penalties in accordance with Title 30-A M.R.S.A., § 4452. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

C. The fee for a building permit and certificate of occupancy hereunder shall be as specified in Article 11.6 of the Kennebunkport Land Use Ordinance.

D. This Section and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby be effective June 12, 2012.
6.19 Dwellings

A. Single Family Dwellings

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 Dwellings

Each unit in a two-family dwelling shall have not less than 650 square feet. The two-family 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 (1) dwelling shall be subordinate in size. A Home Occupation shall not be permitted in the subordinate unit. A two-family dwelling shall be constructed on one continuous foundation and under one continuous roof; no part of the dwelling units shall be located in a detached building or structure.
ARTICLE 7: PERFORMANCE STANDARDS FOR SPECIFIC ACTIVITIES, LAND USES, AND ZONES

7.1 Accessory Apartments

Accessory apartments may only be located in a single-family dwelling, shall not be defined as a two-family or a multiplex, are allowed as a permitted use in all zones, except where otherwise noted in Article 7.1.J, and are subject to the limitations below:

A. A request for an accessory apartment requires submittal of a site plan that shall include the property owner with deed reference, lot boundaries and dimensions to scale and the location and setbacks of all buildings and parking areas.

B. A request for an accessory apartment shall include a plan of the entire building showing a separate floor layout of all finished levels identifying the use of all rooms and the location of all entrances/exit.

C. The dwelling shall have only one (1) front entrance and all other entrances shall be either on the side or in the rear of the dwelling. An entrance leading to a foyer with interior entrances leading from the foyer to the two (2) dwelling units is permitted. The living area of the dwelling must be at least one thousand six hundred twenty-five (1,625) square feet, including basement and attic spaces that have a ceiling height greater than seven (7) feet. The living area of an accessory apartment shall be a minimum of six hundred (600) square feet, and a maximum of forty (40%) percent of the living area of the dwelling or eight hundred (800) square feet, whichever square footage is less. An accessory apartment may not have any living space on a third story unless it meets the minimum Life Safety requirements as defined in the Building Code.

D. Accessory apartments are not permitted in the Shoreland Zone unless the lot on which it will be located has at least double the lot size for that zone, double the minimum lot size, and double the shore frontage for that zone.

E. Only one (1) accessory apartment shall be permitted per lot.

F. Either the primary residence or converted accessory apartment shall be occupied by the owner of the property as the owner’s primary residence (primary residence shall be defined as more than six (6) months per year). Both the primary residence and accessory apartment shall be occupied as primary residences.
When requesting an accessory apartment, the property owner must provide proof of primary residency, to include possession of a State of Maine driver’s license, current registration of a motor vehicle in Maine, and current registration to vote in Maine. If the property owner does not have a valid motor vehicle license in Maine or any other political jurisdiction, or does not have a motor vehicle currently registered in Maine or any other political jurisdiction, alternative evidence of primary residency may be accepted subject to the discretion of the Board of Appeals, or the Code Enforcement Officer.

G. A home occupation is allowed in either the primary dwelling or the accessory apartment, but not in both. Such home occupation shall be subject to approval as a conditional use.

H. No permit for an accessory apartment shall be legal until the owner files the following notice with the Code Enforcement Officer and in the Registry of Deeds: “A permit for an accessory apartment has been issued to the owner of this property. This permit does not run with the land, and is automatically invalidated by the sale, grant, devise, conveyance or transfer of this property.”

I. Accessory apartments 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.

J. An accessory apartment located in a detached accessory structure that conforms to property setback requirements is allowed as a permitted use subject to all requirements below. An accessory apartment constructed within an existing structure that is legally non-conforming due to setbacks is allowed as a conditional use subject to Planning Board review per Article 10 of the Land Use Ordinance. The following requirements must be met, in addition to the requirements of Article 7.1.A-I above:

1. Calculation of floor area for the detached accessory apartment’s living space is based on forty (40%) percent of the living space of the primary structure to include the basement and attic spaces that have a ceiling height greater than seven (7) feet.
2. If the primary dwelling is located on a non-conforming lot, at least fifty (50%) percent of the floor area of the detached accessory structure must be devoted to uses other than living space which are accessory to the principal structure, such as storage or parking, and must be available for use by the occupants of the principal structure.

7.2 Automobile Service Stations

A. All structures, including underground storage tanks, shall be no less than fifty (50) feet from any property line.

B. Point of ingress and egress shall be located not less than fifty (50) feet from the nearest intersecting street centerlines, measured along the street centerline.

C. All fuel storage tanks shall be located underground, and shall be constructed of fiberglass or corrosion protected steel.

7.3 Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State Licensing Procedures and the following:

A. Recreational vehicle and tenting areas shall meet the following criteria:

1. The site of the campground shall contain a total area of at least five thousand (5,000) square feet per recreational vehicle, tent, or shelter, not including roads and driveways. Land supporting wetland vegetation, and land below the normal high water mark of a body of water shall not be included in calculating land area per site.

2. Each recreational vehicle, tent, or shelter site shall be provided with a trash receptacle and fireplace.

3. No recreational vehicle, trailer or tent shall be allowed to remain in a campground on a permanent basis.

B. The areas intended for placement of recreational vehicles, tents or shelters, and utility and service buildings shall be set back a minimum of one hundred (100) feet from the normal high water line of a great pond; a minimum of seventy-five (75) feet from the normal high water line of other bodies of water and tributary streams, and the upland edge of a freshwater or coastal wetland; and a minimum of one hundred (100) feet from the other exterior lot lines of the campground.
7.4 Cluster Development

A. Purpose

The purpose of Cluster Development shall be to encourage housing which will result in:

1. Open space and recreation areas.
2. A pattern of development which preserves trees, outstanding natural topography and geologic features and prevents soil erosion.
3. An efficient use of land resulting in small networks of utilities and streets, and in lots which are contiguous.

B. Uses Permitted

The use of the land in a cluster development shall not differ from the uses permitted in the zone in which the plan is located; and all cluster developments shall meet the requirements of the Kennebunkport Subdivision Ordinance. The minimum site size for a cluster development shall be ten (10) acres in the Farm and Forest Zone and five (5) acres in all other zones.

C. Lot Size

Notwithstanding other provisions of this Ordinance relating to minimum lot size, lot width and setback in single family detached dwelling developments, the Planning Board, in reviewing proposed residential developments, may modify said provisions related to minimum lot size, lot width and setback, to permit innovative approaches to housing and environmental design, provided that minimum requirements for shore frontage and setback from the normal high water mark shall not be reduced under this Article. The Planning Board may reduce minimum lot sizes under this Article only if a net residential area at least equal in area to the cumulative lot size reduction is maintained as common open space, provided that the developer may request an open space density bonus in accordance with Paragraph H of this Article.
D. Open Space

Where a cluster development abuts a body of water, a portion of the shoreline, as well as access to it, shall be a part of the common open space. Open space shall be owned either jointly or in common by the owners of the building lots, by a trust or association which has as its principal purpose the conservation or preservation of land in essentially its natural conditions, or by the Town. Further subdivision of the common open space or its use for other than non-commercial recreation or conservation, except for easement for underground utilities, shall be prohibited by deed restrictions or recorded easements. Structures and buildings accessory to non-commercial recreation or conservation uses may be erected on common open space.

E. Water Supply

All dwelling units in a cluster development shall be connected to a common water supply and distribution system, either public or private, unless the developer clearly demonstrates to the Planning Board that:

1. The costs of providing a common water supply and distribution system are prohibitive;

2. Adequate ground water is available at all locations proposed for individual water systems; and

3. The ground water source(s) proposed for individual water systems is safe from both on-site and off-site contamination.

F. Waste Disposal

All structures with required plumbing in the development shall be connected to a public sanitary sewer system if available, or to a private central collection and treatment system in accordance with minimum standards set forth in the State of Maine Plumbing Code, unless the developer shall clearly demonstrate to the Planning Board that:

1. The costs of connection to a public sanitary sewer system or of providing a central collection and treatment system are prohibitive;

2. Adequate soils and land area are available at all locations proposed for individual septic systems;

3. The proposed individual septic systems shall in no way endanger ground water supplies which are currently being utilized as a water source for any existing development; and
4. The proposed individual septic systems shall in no way endanger ground water supplies which will be utilized by any proposed common or individual water system in the cluster development.

G. Buildings

Buildings in cluster developments shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development and will be compatible in terms of physical size, visual impact, intensity of use, proximity to other structures, and density of development with other uses within the zone.

H. Open Space and Density Bonus

The total area of common open space within the cluster development shall be equal to or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the zone, except that the developer shall be entitled to a Density Bonus increasing the total number of building lots allowed in a proposed cluster development by ten (10%) percent if more than sixty (60%) percent of the land in the cluster development is dedicated to common open space.

I. Procedure

The Planning Board shall review the proposed cluster development under the Site Plan Review regulations in Article 10 simultaneously with its review of the development under the Town of Kennebunkport Subdivision Ordinance.

J. Submissions

1. Preliminary Plan

In addition to all information requested in the Town of Kennebunkport Subdivision Ordinance, the following information shall be provided at the time of the submission of a Preliminary Plan:

a. Proposed location, size, and type of all structures;

b. Proposed traffic circulation, parking areas and pedestrian walks;

c. Proposed landscaping plan, including site grading and landscape planting;
d. Proposed construction sequence for buildings, parking spaces and landscaping area, including preliminary drawings of building to be constructed in the current phase; and

e. Proposed use, ownership and maintenance of all common land.

2. Other Information

The Planning Board may request additional information necessary to determine if the proposed development meets the provisions of this Ordinance.

7.5 Eldercare Facilities

Notwithstanding other provisions of the Land Use Ordinance, an eldercare facility shall be governed by the following performance standards:

A. Minimum Lot Size

An eldercare facility shall be located on a lot with a minimum lot area of two hundred thousand (200,000) square feet.

B. Minimum Lot Width

The lot shall meet the minimum lot width requirement of the zone in which it is located.

C. Setbacks

An eldercare facility shall conform to the following setback requirements:

1. Buildings with less than five thousand (5,000) square feet of gross floor area:

   Front: 50 feet  
   Side: 50 feet  
   Rear: 50 feet

2. Buildings with five thousand (5,000) or more square feet of gross floor area:

   Front: 75 feet  
   Side: 100 feet  
   Rear: 100 feet
3. The area of the required front setback shall be maintained as a landscaped area. This area may be crossed by access drives and pedestrian facilities, but shall not be used for parking or service areas.

D. Height

Notwithstanding the provisions of Article 6.2, Height Restrictions, the height of all buildings associated with an eldercare facility shall be limited to a maximum of two (2) stories and thirty (30) feet. The Planning Board may permit an increase in the height to a maximum of thirty-five (35) feet as part of the site plan review if the applicant demonstrates that the additional height is needed to accommodate a pitched roof, in accordance with Subsection G.

E. Density

The minimum lot area for each dwelling unit and each residential care unit in an eldercare facility shall be:

- **Dwelling Units**: 2,500 square feet of net residential area
- **Residential Care Units**: 1,500 square feet of net residential area

F. Sewer and Water Supply

All eldercare facilities shall be connected to the public sewer and water supply systems. No eldercare facility shall dispose of sewage by means of an on-site sewage disposal (septic) system or other private sewage disposal system.

G. Architectural Appearance

All new construction of eldercare facilities shall have pitched roofs, which may include a gable roof, hip roof, or gambrel roof. If a gable roof or hip roof is used, the roof pitch shall be at least four (4) feet in twelve (12) feet. All new construction shall use exterior materials compatible with other structures in the surrounding area.

H. Buffering and Landscaping

1. An eldercare facility regardless of size, shall submit a landscape plan for the parking areas that serve the development as part of its application for site plan review. The plan shall be prepared by a landscape architect licensed in the State of Maine. The plan shall show adequate provisions for screening the parking, loading/unloading, and service areas from adjacent properties.
2. In addition, an eldercare facility with more than fifteen (15) dwelling units, residential care units, and/or nursing home beds that abuts a lot in a residential district or in residential use shall comply with the following standards:

   a. The first fifty (50) feet of the side or rear setback, measured from the property line, shall be retained in its natural vegetated state to the maximum extent possible to provide a visual screen between the abutting lot and the project.

   b. When natural buffering does not exist, cannot be fully retained as a visual screen or, in the sole judgment of the Planning Board, is not sufficient to achieve an effective visual screen, the first fifty (50) feet of the side or rear setback shall be landscaped to create a visual screen.

   c. In addition to the landscaping of side and rear yards required to serve as buffers between the development and abutting lots in residential districts or residential use the applicant shall submit a landscape plan, prepared by a landscape architect licensed in the State of Maine, for other yard areas, parking areas, public areas, and site entrances.

I. Outdoor Lighting

   Outdoor lighting shall be compatible with the project’s location. Outdoor lighting shall be designed to provide only the minimum lighting necessary to ensure adequate vision, safety, and comfort in pedestrian and vehicle areas and to not cause glare beyond the limits of the property boundaries. Lighting shall conform to the Town’s Outdoor Lighting Ordinance.

7.6 Home Occupation

   A. Any home occupation or profession which is accessory to and compatible with a residential use may be permitted as a conditional use by the Board of Appeals provided that:

      1. It is customarily carried on in a dwelling unit or in a structure customarily accessory to a dwelling unit.

      2. It is carried on primarily by a member or members of the family residing in the dwelling unit.

      3. It does not materially injure the character or usefulness of the dwelling unit or accessory structure for normal residential purposes.
B. All home occupations shall conform with the following conditions:

1. The home occupation shall be carried on wholly within the dwelling or accessory structure.

2. The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit. Not more than two (2) persons, other than family members residing in the dwelling unit, shall be employed on the premise in connection with the home occupation.

3. There shall be no exterior display, no exterior signs other than those permitted in Article 6.12.E, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

4. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours, shall not be permitted.

5. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.

6. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours. Parking for more than one (1) vehicle used primarily for the home occupation shall require explicit approval of the Board of Appeals.

7. The home occupation may utilize:

   a. Not more than twenty (20%) percent of the dwelling unit floor area, provided that for the purposes of this calculation, unfinished basement and attic space are not included.

   b. Unfinished attic and basement spaces.

   c. One accessory structure. The floor area utilized in the accessory structure shall not exceed the floor area of the dwelling unit as calculated under subparagraph “a” above.
8. Except in the Free Enterprise and Farm and Forest Zones, a home occupation shall not be permitted in a single-family dwelling in which there is an accessory apartment.

9. Only one (1) home occupation shall be permitted per dwelling unit.

7.7 Hotels, Motels, Bed & Breakfasts, and Inns

A. Except in the Dock Square Zone where the minimum property line setbacks in Section 4.5 shall apply, no part of any building used for a Hotel, Motel, Bed & Breakfast, or Inn shall be closer than forty (40) feet to the property line, provided that any such building used for a Hotel, Motel, Bed & Breakfast, or Inn constructed prior to January 1, 2015, shall be exempt from applicable dimensional requirements only to the extent necessary to achieve compliance with Americans with Disabilities Act (ADA) and Life Safety requirements for stairwells and elevator assemblies. An area of open space, not less than twenty (20) feet wide, shall be maintained and planted with grass, bushes, flowers or trees, all along each lot line and along the street, except for entrance and exit driveways and except as needed for construction or renovation of ADA and Life Safety compliant stairwells and elevator assemblies. The open space shall not be used for automobile parking.

B. The size and location of water lines and fire hydrants on the property shall be approved in writing by the Fire Chief and the Kennebunk, Kennebunkport and Wells Water District.

C. Prior to the issuance of a building permit, building construction plans shall be approved in writing by the State Fire Marshal’s office.

D. The total area of Motel, Hotel, Bed & Breakfast, or Inn buildings plus the total area of parking spaces and driveways, taken together, shall not exceed one third (\(\frac{1}{3}\)) of the total area of the lot, in the case of single story buildings, nor exceed one quarter (\(\frac{1}{4}\)) of the total area of the lot, in the case of two story buildings.

E. Where a hotel or motel provides kitchens or kitchenettes in guest rooms of less than one thousand one hundred (1,100) square feet in area, such guest rooms shall not be considered dwelling units for purposes of this Ordinance so long as the guest rooms are occupied exclusively by hotel or motel guests who occupy such guest rooms for no more than one hundred twenty (120) days in any calendar year. Except that within any Shoreland Zone hotels and motels must meet the minimum residential lot size requirements per guest room if the room contains a kitchen or kitchenette. Units containing a kitchen or a kitchenette may not be used to establish residency and are limited to a maximum stay of no more than one hundred twenty (120) days in any calendar year per guest.
F. Any Hotel, Motel, or Inn constructed after January 1st 2011 shall be required to
hook up to Municipal sewer and water, except that parcels containing existing
Hotels, Motels or Inns may be expanded within the standards allowed without
complying with this requirement. Parcels described by this subsection may not
be deeded additional land that would circumvent the purposes of this Ordinance.
Bed and Breakfasts are intentionally omitted from this subsection and would be
permitted to utilize a subsurface waste system, or municipal facilities.

7.8 Kennels

Structures or pens for housing or containing the animals in a kennel shall be set back at
least one hundred (100) feet from the property lines of the lot on which the kennel is
located.

7.9 Mobile Homes

No mobile home or manufactured housing unit constructed prior to June 15, 1976, shall
be brought into the Town after the effective date of this Ordinance.

7.10 Mobile Home Parks

A. Design and Performance Standards

Mobile home parks are subject to Planning Board Site Plan Review. Except as
stipulated below, mobile home parks shall also meet all the requirements for a
residential subdivision, and shall conform to all applicable State laws and local
ordinances or regulations. Where the provisions of this section conflict with
specific provisions of the Kennebunkport Subdivision Regulations, the
provisions of this section shall prevail. The plan presented to the Planning Board
shall designate all lots to be used within the proposed mobile home park.

B. Lot Area and Lot Width Requirements

Notwithstanding the dimensional requirements located in Article 4 of this
Ordinance, lots in a mobile home park shall meet the following lot area and lot
width requirements:

1. Lots served by public sewer:
   Min. lot area: 6,500 square feet
   Min. lot width: 50 feet

2. Lots served by individual subsurface waste water disposal systems:
   Min. lot area: 20,000 square feet
   Min lot width: 100 feet
3. Lots served by a central on-site subsurface waste water disposal system approved by the Maine Department of Human Services:
   Min. lot area: 12,000 square feet
   Min. lot width: 75 feet

4. The overall density of any park served by any subsurface waste water disposal system shall not exceed one (1) dwelling unit per twenty thousand (20,000) square feet of total park area.

5. Lots located within any Shoreland Zoning district shall meet the lot area, lot width and shore frontage requirements for that district.

6. No part of any lot which is part of a road right-of-way, part of a required buffer strip, part of a required open space, or part of a required shoreland setback shall be used for the purpose of computing lot area or any size, setback, frontage or other dimensional requirement which may be imposed.

C. Unit Setback Requirements

1. On lots ten thousand (10,000) square feet in area or larger, structures shall not be located less than fifteen (15) feet from any boundary lines of an individual lot. On lots less than ten thousand (10,000) square feet in area, structures shall not be located less than ten (10) feet from any boundary lines of an individual lot.

2. On lots which abut a public way either within the park or adjacent to the park, structures shall meet the front setback provisions of this Ordinance. On lots which are located within the Shoreland Zoning district, structures shall meet the applicable setback from high water mark requirements of this Ordinance or the Kennebunkport Subdivision Regulations, whichever provisions are stricter.

D. Buffering

If a mobile home park is proposed with a residential density of at least twice the density of residential development on immediately adjacent parcels of land, or at least twice the net residential density permitted in the zoning district in which the park is located if the immediately adjacent parcels of land are undeveloped, the park shall be designed with a continuous landscaped area not less than fifty (50) feet in width which shall contain no structures, streets or utilities, except that utilities may cross a buffer strip to provide service to the mobile home park. For the first twenty-five (25) feet of the buffer strip as measured from the exterior boundaries of the park, the Planning Board shall consider natural buffering which forms an effective visual barrier to be located on all exterior lot lines of the park,
except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park. When natural features such as topography, gullies, stands of trees, shrubbery or rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.

E. Open Space Reservation

An area no less than ten (10%) percent of the total area of those lots with a lot area of ten thousand (10,000) square feet or less shall be reserved as common open space. Common open space shall be owned either jointly or in common by the owners or residents of the mobile home park, by an association of the residents of the mobile home park, by a trust or association which has as its principle purpose the conservation or preservation of land in essentially its natural condition, or by the Town. The Planning Board may waive the requirement for open space when the park is located within one-half mile of a publicly owned recreation area.

F. Road Design, Circulation and Traffic Impacts

Streets within a park shall be designed by a Professional Engineer, registered in the State of Maine.

1. Streets which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Kennebunkport Subdivision Regulations.

2. Streets which the applicant proposes to remain private ways shall meet the following minimum geometric design standards:
   a. Minimum right-of-way width: 23 feet
   b. Minimum width of paved way: 20 feet

3. Any mobile home park expected to generate average daily traffic of two hundred (200) trips per day or more shall have at least two (2) street connections with existing public streets. Any street within a park with any average daily traffic of two hundred (200) trips per day or more, shall have at least two (2) street connections leading to existing public streets, other streets within the park or other streets shown on an approved subdivision plan.

4. No individual lot within a park shall have direct vehicular access onto an existing public street.
5. The intersection of any street within a park and an existing public street shall meet the following standards:

a. Angle of intersection. The desired angle of intersection shall be ninety (90°) degrees. The minimum angle of intersection shall be seventy-five (75°) degrees.

b. Maximum grade within seventy-five (75) feet of intersection. The maximum permissible grade within seventy-five (75) feet of the intersection shall be two (2%) percent.

c. Minimum sight distance. A minimum sight distance of ten (10) feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distance shall be measured from the driver’s seat of a vehicle that is ten (10) feet behind the curb or edge of shoulder line with the height of the eye three-and-one half (3 ½) feet above the pavement and the height of object four-and-one-quarter (4 ¼) feet.

d. Distance from other intersections. The centerline of any street within a park intersecting an existing public street shall be no less than one hundred twenty-five (125) feet from the centerline of any other street intersecting that public street.

6. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on a recognized methodology of the kind relied on by transportation engineers. If the park is projected to generate more than four hundred (400) vehicle trip ends per day, the application shall also include a traffic impact analysis by a registered professional engineer with experience in transportation engineering.

G. Ground Water Impacts

1. Assessment submitted. The application for approval of any mobile home park which is not served by public sewer shall include an analysis of the impacts of the proposed mobile home park on ground water quality. The hydro-geologic assessment shall be prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology and shall contain at least the following information:

a. A map showing the basic soils types.

b. The depth of the water table at representative points throughout the mobile home park.
c. Drainage conditions throughout the mobile home park.

d. Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.

e. An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at a distance of one thousand (1,000) feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development’s impact on ground water phosphate concentrations shall also be provided.

f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the mobile home park and within two hundred (200) feet of the mobile home park boundaries.

2. The proposed mobile home park shall not, alone or in conjunction with existing activities, render the groundwater unfit as a public or private drinking water supply as determined by applicable regulations.

3. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Plan.

H. No development or subdivision which is approved under this section as a mobile home park may be converted to another use without the approval of the Planning Board, and without meeting the appropriate lot size, lot width, setback and other requirements. The plan to be recorded at the Registry of Deeds and filed with the municipality shall include the following restrictions as well as any other notes or conditions of approval:

1. The land within the park shall remain in unified ownership and the fee to lots or portions of lots shall not be transferred.

2. No dwelling unit other than a manufactured home shall be located within the park.
I. Non-Permitted Areas

Mobile home parks are not permitted in the following areas which are deemed not reasonably suitable as indicated in Title 30-A M.R.S.A. § 4358 (3) (M):

1. Land zoned as Resource Protection.


3. Land rated as high for wildlife diversity by the State Department of Inland Fish and Wildlife.

4. Land included under Maine’s Tree Growth Tax Law, Title 36 M.R.S.A. § 571 to 584-A, as amended; or under Maine’s Farm and Open Space Tax Law, Title 36 M.R.S.A. § 1101-1121 as amended.

J. Subsurface Waste Water Disposal

The following provisions apply in the case of parks not served by public sewer:

1. In addition to any other requirements, including the State of Maine Subsurface Waste Water Disposal Rules, no subsurface waste water disposal system may be located on land with any of the following soils which have “severe” limitations for “septic tank absorption”, as indicated in Table 11 of the 1982 Soil Survey of York County, USDA, SCS:

   Adams (AdD)
   Becket (BcB, BcC, BcD, BeB, BeC, DeD)
   Biddeford (Bm)
   Brayton (BrB, BsB)
   Buxton (BuB, BuC, BuD)
   Chocorua (Ch)
   Colton (CoD, CoE)
   Croghan (CrB, CuB)
   Elmwood (EmB, EmC)
   Hermon (HeD, HmD, HnC, HnE)
   Lyman (LnB, LnC, LnD, LyB, LyC, LyE)
   Madawaska (MaB)
   Marlow (MrB, MrC2, MrD2, MvB, MvC, MvD)
   Naumburg (Na)
   Ondawa (On)
   Peru (PeB)
   Podunk (Po)
   Raynham (Ra)
   Rumney (Ru)
   Saco (Sa)
2. When a central on-site subsurface waste water disposal system is proposed, the applicant must demonstrate that suitable land area with suitable soils exists on the property to provide for a replacement system. Such replacement system must also be approved by the Local Plumbing Inspector and, if required under the State of Maine Subsurface Waste Water Disposal Rules, by the Maine Department of Human Services. The location for that replacement system must be located on the site plan. The area devoted to the replacement system may not be used for any other purpose.

7.11 Multiplex

A. A multiplex building shall contain no more than eight (8) dwelling units. In a site with more than one (1) multiplex building, the total number of dwelling units shall not exceed an average of six (6) dwelling units per building. Multiplex buildings shall be located at least forty (40) feet apart from each other. All living area shall be located entirely or substantially above grade.

B. All multiplex buildings shall be connected to a central water supply and distribution system (either public or private) at no expense to the municipality. The applicant shall demonstrate by actual test, or by a signed letter from an authorized representative of the servicing water company, that water can be supplied at the rate of at least eight hundred fifty (850) gallons per day per dwelling unit and at an adequate pressure for firefighting purposes.

C. Fire hydrants shall be located so that they are not more than five hundred (500) feet from any building, as hose is laid in the street.

D. All multiplex buildings shall be connected to a public sewer or to a central sewage disposal system, in accordance with the provisions of The Maine State Plumbing Code.

E. It shall be the responsibility of the developer, the owner, or an owners’ association to provide for rubbish disposal, snow removal and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry screen at least four (4) feet in height.
F. Garages or other accessory buildings shall not be located between multiplex buildings and the front lot line. Accessory buildings shall be located so as not to inhibit the access of emergency vehicles and fire apparatus to any side of a residential building.

G. Buildings shall be so designed and laid out to protect bedroom windows from night invasion by vehicle headlights or glare from existing outdoor lighting or illuminated signs, insofar as practicable. However, orientation of buildings for passive solar heat or views shall take precedence.

H. An area of open space not less than twenty (20) feet wide shall be maintained with grass, bushes, flowers or trees all along the side and rear lot lines and (except for entrance and exit driveways) along the entire front line of each lot. Such open space area shall not be built on or paved or used for parking or storage.

I. No existing building or structure may be converted to multiplex use without Planning Board Site Plan Review Approval under Article 10 or without complying with the standards of this section. Prior to the conversion of dwelling units in a multiplex or other spaces in a building to a condominium form of ownership, a plan of the proposed condominium units shall be submitted to the Code Enforcement Officer to enable him/her to determine whether structural changes will be made which require site plan review approval under Article 10.

7.12 Retail Sales

Unless otherwise provided for in this Ordinance, any use involving the retail sale of goods or services, whether as a retail business or other category of use, within the Dock Square and Riverfront Zones, shall comply with this section.

A. Each individual retail business shall contain no less than five hundred (500) square feet of gross floor area.

B. The creation of separate areas under this section within existing structures, or as a part of proposed structures, is subject to site plan review by the Planning Board under the provisions of Article 10.

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 setbacks 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.

7.14 Residential Rental Accommodations

A. Purpose. The purpose of allowing Residential Rental Accommodations is to authorize the use of legally-existing single-, two-, and multi-family structures for the accommodation of roomers, for compensation, while ensuring the safety of the occupants and minimizing the impact of such use on the surrounding neighborhood. Such rentals and the revenue they make to homeowner’s help make Kennebunkport affordable for persons on fixed or limited incomes; enhance and diversify accommodations available to visitors and tourists; and provide travelers with affordable accommodations from which to explore Kennebunkport and the Seacoast region. If not made the subject of appropriate, limited regulations, however, the use of residential properties for Residential Rental Accommodations may create adverse impacts on surrounding residential uses including, without limitation, increased levels of traffic, parking demand, light and glare, and noise. Such impacts are deleterious to the public health, safety, and welfare of the neighborhood and the Town because they impair the livability and desirability of Kennebunkport neighborhoods for residential uses.

B. Performance Standards

No more than two (2) rooms in a Residential Rental Accommodation may be let out to Roomers provided that:

1. No separate kitchen or cooking facilities are provided for or use by the roomers;

2. No sign is located on the premises advertising the availability of rooms for lease or rent to roomers;

3. No alteration or change of the dwelling unit in its exterior appearance is made to accommodate the presence of roomers;
4. The bedroom(s) being rented shall be inspected by the Code Enforcement Officer and shall have code compliant smoke and carbon monoxide detectors in addition to complying with current building code requirements for primary and secondary means of escape;

5. The rooms occupied by the roomers do not have a separate entrance from the outside;

6. The rooms occupied by the roomers are within the principal structure;

7. The roomers use utilities which are not separately metered from those used by the remaining occupants of the dwelling unit;

8. One (1) off-street parking space per room rented shall be required as per Article 6.10 6; and

9. The owner of the Residential Rental Accommodation shall remain in residence while rooms are being rented.

C. Approval; Permit; Appeal

1. Approval to operate a Residential Rental Accommodation shall be granted by the Zoning Board of Appeals contingent upon a successful property inspection by the Code Enforcement Officer subject to section B. above. Following such approval, the Code Enforcement Officer shall issue a permit. Such permit shall be issued to the property owner only, and is subject to sufficient evidence that the property is owner occupied.

2. A permit to operate a Residential Rental Accommodation shall expire upon a change in ownership or a change in owner residency status.

3. A single-family dwelling approved to accommodate Roomers prior to November 8th 2016 may continue to operate under the conditions of approval as specified by the Zoning Board of Appeals including the Land Use Ordinance requirements and restrictions in effect at the time of such approval.

4. Permit shall be revoked upon confirmation of a second (2nd) confirmed Noise or Barking Dog Citation related to use of a dwelling unit by a Roomer. Permit shall also be revoked upon any confirmed violation of the requirements contained within the definition of Residential Rental Accommodation located in Article 2. Any such permit having been revoked shall not be reissued to the same property owner within one (1) year (365 days) from the date of revocation, which shall require Zoning Board of Appeals re-approval.
5. An appeal from any decision of the Code Enforcement Officer related to the issuance, non-issuance, suspension or revocation of a Residential Rental Accommodation Permit shall be taken by an aggrieved party to the Zoning Board of Appeals within thirty (30) days of the decision.
ARTICLE 8: NON-CONFORMANCE AND VESTED RIGHTS

8.1 Purpose

It is the intent of this Ordinance to promote land use conformities; except that a nonconforming condition is permitted to continue as it existed prior to the date such condition became non-conforming under the provisions of this Ordinance, as amended. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

8.2 General

A. Transfer of Ownership. Non-conforming structures, lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.

B. Repair and Maintenance. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures.

8.3 Expansion of Non-Conforming Structures

A. Within any Zoning District, a non-conforming structure shall not be changed, extended or enlarged in any manner except as provided in this subsection, after obtaining a permit from the reviewing authority specified by this Ordinance.

1. A structure which is non-conforming due to lot coverage, height or setback requirements may be reconstructed, expanded or enlarged, provided the expansion, enlargement, or reconstruction is in accordance with the requirements in subsection B below. In no case shall a structure be enlarged, expanded or reconstructed so as to increase its non-conformity.

2. Any enlargement, expansion or reconstruction of a non-conforming structure which enlargement, expansion or reconstruction will be located between the lot lines and the setback lines (including setback from lot lines or high water or similar lines) or will not meet the lot coverage or height requirements of this Ordinance, and which cannot meet the requirements of subsection B below, shall not be permitted unless a variance is obtained in accordance with the requirements of Article 9.2. In no case shall a structure be enlarged, expanded or reconstructed so as to increase its nonconformity.

3. Neither the addition of steps for access to the ground floor nor the addition of exterior stairs for access to the second floor of a building shall constitute an enlargement or expansion of an existing use.
B. Within any zoning districts, non-conforming structures only may be expanded, relocated, reconstructed, or replaced, subject to the following conditions, in addition to those required by section A, above:

1. Determination of the Extent of Allowable Expansion.

   After January 1, 1989, if any portion of a structure is less than the required setback from a lot line or from the normal high water line of a body of water or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by thirty (30%) percent or more, during the lifetime of the structure. Footprint expansions are not permitted except that the existing area may be reconfigured as described in Article 8.3.B.3.a.

   a. Calculation of Basis of Floor Area. The basis of the floor area of the original structure, for determining the allowable expansion, shall be defined as follows:

      The total of the following areas:

      1. The sum of the horizontal areas of the floor or floors of the structure enclosed by exterior walls, plus
      2. The sum of the horizontal areas of unenclosed portions of the structure such as open porches and decks, plus
      3. The sum of the floor area of attached garages.

   b. Exclusions from Basis of Floor Area. The following areas shall be excluded from the basis of the floor area of the original structure, for determining the allowable expansion:

      1. Unfinished attics;
      2. Crawl spaces; and
      3. Basements, as defined in Article 2 of this Ordinance, whether finished or unfinished.

   c. Calculation of Basis of Volume. The basis of the volume of the original structure, for determining the allowable expansion, shall be defined as follows:
The total of the following volumes:

1. The volume of all portions of the structure enclosed by roof and fixed exterior walls, as measured from the exterior faces of these walls and roof; plus

2. The volume of attached garages.

d. Exclusions from Basis of Volume. The following volumes shall be excluded from the basis of the volume of the original structure, for determining the allowable expansion:

1. Crawl spaces; and

2. Basements, as defined in Article 2 of this Ordinance, whether finished or unfinished.

e. Conversions of Porches, Decks, or Basements. Enclosing an existing open porch or deck shall be considered an expansion of volume under this Article. Conversion of an unfinished basement to a finished basement shall not be considered an expansion of area or volume, unless the foundation is expanded below the threshold set in section 3 below.

f. Notice Requirements. In accordance with Article 10.8.C, the names and addresses of the owners of all properties within two hundred (200) feet of the property in question, as shown by the most recent tax records of all municipalities in which such properties lie, shall be submitted with the Building Permit or Site Plan applications. Notification of the receipt of a completed application for an expansion of non-conforming dwellings in any Shoreland Zoning District shall be sent via certified, return receipt mail to all owners of properties within said two hundred (200) feet of the property in question. The applicant shall pay a fee sufficient to cover one hundred (100%) percent of the postage cost for mailing said notices. A Building Permit for said expansion shall not be issued prior to ten (10) days of mailing said notification to said abutters, to allow said abutters the opportunity to review the application at issue. A complete list of all property owners so notified shall be maintained as a part of the Building Permit. Failure of any property owner to receive a notice shall not invalidate the action of the Code Enforcement Officer.
An expansion in accordance with this section shall be approved by permit from:

1. The Code Enforcement Officer, where expansion involves no change to the footprint, foundation or landscaping; or

2. The Planning Board in all other cases.

2. Thirty (30%) Percent Expansion Allowable One Time Only

If a replacement structure is erected in conformance with the requirements of section 5 below, and it is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by thirty (30%) percent in floor area and volume since that date.


Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in section 4, Relocation, below.

a. If a new, or replacement foundation is constructed under a non-conforming structure, the footprint of the new foundation may be reconfigured, provided that any changes are in conformance with the provisions of this Article. An overlay comparison of the two foundation plans shall indicate that the proposed new footprint will not, when superimposed deviate from the area of the existing footprint by more than two hundred fifty (250) square feet. The new footprint shall not exceed the square footage of the existing footprint. Any reconfiguration shall not increase the area of the structure towards any water body or wetland and shall meet the property line setbacks.

b. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with section 1 above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first-floor sill), it shall not be considered to be an expansion of the structure.
c. Repairs to existing foundations may be made without Planning Board approval.

4. Relocation of a Non-Conforming Structure.

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

a. Trees removed in order to relocate a structure must be replanted with at least one (1) native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one species of tree shall make up more than fifty (50%) percent of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be re-established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

5. Reconstruction or Replacement of a Non-Conforming Structure.

Any non-conforming structure which is located less than the required setback from a lot line or the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, damaged or destroyed by more than fifty (50%) percent of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the applicable setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to section 1 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with section 4 above.

Any non-conforming structure which is located less than the required setback from a lot line or a water body, tributary stream, or wetland and which is removed by fifty (50%) percent or less of the market value, or damaged or destroyed by fifty (50%) percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in section 3 above, the physical condition and type of foundation present, if any.
A structure to be reconstructed pursuant to this section can be lifted vertically and then moved horizontally and stored on the same lot for a period not to exceed one hundred eighty (180) days. The temporary storage location of the structure shall not be more non-conforming in terms of wetland, water body or stream setbacks unless permission to do so has been granted by the Planning Board.

[Note: The words “damaged” and “destroyed” include voluntary removal by owners, as well as “Acts of God” such as fire, flood, wind or other causes.]

8.4 Change of Use of a Non-Conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the body of water, tributary stream, or wetland, or on the subject of adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

8.5 Non-Conforming Due to Lack of Required Parking or Loading Space

A building or structure, other than a single-family dwelling, which is non-conforming as to the requirements for off-street parking and/or loading space shall not be extended or enlarged in any manner unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this Ordinance for both the addition or alteration and for the original building or structure.

8.6 Conversion of Use

Once converted to a conforming structure, use or lot, no structure, use or lot shall revert to a non-conforming status.

8.7 Non-Conforming Lots

A. A non-conforming lot of record, not adjoined by any other lot in common ownership, may be built upon, as a matter of right for a single-family dwelling, and without the need for a variance, subject to all the requirements of this Ordinance for the zone where located, except for those area and frontage requirements which made the lot nonconforming, provided that the owner can demonstrate that there is reasonable access to the site by emergency vehicles.
B. If any lot in separate and distinct ownership from abutting lots contains less than ten thousand (10,000) square feet and has any outside dimension of less than fifty (50) feet, the minimum setback requirements from the lot lines intersecting with such outside dimension of less than fifty (50) feet shall be reduced to ten (10) feet. The setbacks from the other outside dimensions shall be met in full.

C. Contiguous Built Lots – Vacant or Partially Built: If two (2) or more contiguous lots are in a single or joint ownership of record as of March 12, 1985, if all or part of the lots do not meet the dimensional requirements of this Ordinance or subsequent amendments, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (Title 12 M.R.S.A. § 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with. If two or more principal uses or structures existed on a single lot of record on March 12, 1985, each may be sold on a separate lot provided that the above referenced laws and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

D. Contiguous Lots – Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements. This provision shall not apply to two (2) or more contiguous lots, at least one (1) of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the Registry of Deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

a. Each lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; or

b. Any lots that do not meet the frontage and lot size requirements of subsection a above, are reconfigured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet of lot area.
E. Existing Lots of Record: Notwithstanding any other provisions of this Article any non-conforming vacant lot of record, located entirely outside of any Shoreland Zone, containing at least twenty thousand (20,000) square feet or shown on a subdivision plan approved by the Kennebunkport Planning Board and recorded in the York County Registry of Deeds may be built upon as a matter of right and need not be consolidated with adjoining lots.

F. New Construction, Replacement or Substantial Renovation and Additions to Existing Structures on Non-Conforming Lots of Record: Structures shall be designed to conform with the same architectural style as the original building or a design that is comparable to the majority of structures in the immediate neighborhood. In addition, the principal (50% or more of the gross roof area) roof design shall be one or more of the below mentioned styles:

Gable, hip, cross gable, multi-gable, mansard or gambrel. Shed roofs and flat roofs (pitches of 3:12 or less) shall be primarily confined to porches and rear additions and shall not constitute more than 50% of the actual roof area.

Interior renovations involving existing structures that do not comply with this section need not comply with the above-mentioned requirements.

Requirements dictated by other laws (including but not limited to: DEP Sand Dune Requirements or Floodplain Management Ordinance) shall not be considered when evaluating architectural style.

8.8 Non-Conforming Uses

A. Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansion of such structures in Shoreland Zones as allowed in Article 8.3.B.1 above.

B. Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one (1) year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

C. Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. In Shoreland Zones, the determination of no greater adverse impact shall be made according to criteria listed in Article 8.4.
Vested Rights

Vested rights shall not arise by the mere filing of a notice of intent to build, an application for a building permit, or an application for required state permits and approvals. Such rights shall only arise when actual construction has begun, or, in the case of pending applications under this Ordinance, when the substantive review of a complete application commences. To establish vested rights, construction must be legal in all respects at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both state and local.
ARTICLE 9: BOARD OF APPEALS

9.1 Appointment and Composition

A. There shall be a Board of Appeals of seven (7) members, all of whom shall be residents of the Town of Kennebunkport. The members of the Board of Appeals shall be appointed by the Board of Selectmen, in conformance with the provisions of Title 30-A M.R.S.A. § 2691.

B. Terms of members shall be for three (3) years except that initial appointments shall be such that the terms of office of no more than three (3) members shall expire in any single year. The members of the Board of Appeals shall annually elect one (1) of their number to serve as Chairman to preside at all meetings of the Board. The Board shall annually elect one (1) of their number to serve as Vice Chairman to act as Chairman when the Chairman is unable to serve, and to assume such other responsibilities as the Board may direct. The Board shall annually elect a secretary/recorder from its own membership who shall provide for the keeping of the minutes of the proceedings of the Board. The minutes shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall consist of four (4) members.

9.2 Powers and Duties

The Board of Appeals shall have the following powers and duties:

A. Administrative Appeals

1. To hear and decide, on a de novo basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. The action of the Code Enforcement Officer may be modified or reversed by the Board of Appeals by a majority vote. Any notice of violation, or any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals. Such enforcement actions are appealable only to the Courts as allowable by law and rules of civil procedure.

2. In hearing appeals or considering applications under this Ordinance, whenever there is uncertainty as to the meaning and/or intent of any part of this Ordinance, the Board of Appeals shall have the power to interpret such part.
B. Variance Appeals

Variances may be granted by the Board of Appeals only for lot size, lot width, frontage, height, lot coverage and setbacks and:

1. Only when strict application of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship; and

2. When the proposed structure or use would meet all the provisions of this Ordinance except for the specific provision(s) from which relief is sought. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance. The words “undue hardship” as used in this subsection shall mean:

   a. That the land in question cannot yield a reasonable return unless a variance is granted;

   b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

   c. That the granting of a variance will not alter the essential character of the locality; and

   d. That the hardship is not the result of action taken by the applicant or a prior owner.

C. Practical Difficulty Variance

1. Notwithstanding Article 9.2.B, the Board of Appeals may grant a variance, but only from the dimensional standards of this Ordinance, when strict application of the provisions of the Ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

   a. The need for a variance is due to the unique circumstances of the property, and not to the general conditions of the neighborhood;

   b. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties;

   c. The practical difficulty is not the result of action taken by the applicant or a prior owner;
d. No other feasible alternative is available to the applicant;

e. The granting of a variance will not have an unreasonably adverse effect on the natural environment; and

f. The property is not located, in whole or in part, within a Shoreland area, as defined in Title 38 M.R.S.A. § 435, nor within a Shoreland Zone or flood hazard zone as defined by this Ordinance.

2. The following words have the meanings set forth below:

a. Dimensional standards: Those provisions of this Ordinance which relate to lot area, lot coverage, frontage and setback requirements.

b. Practical difficulty: A case where strict application of the dimensional standards of the Ordinance to the property for which a variance is sought would both preclude a use of the property which is permitted in the zone in which it is located and would also result in significant economic injury to the applicant.

c. Significant economic injury: The value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

d. Except as modified above, the other provisions of Article 9 will apply to practical difficulty variances.

e. A practical difficulty variance may not be used to grant relief from the provisions of the land use standards of the Ordinance, to increase either volume or floor area, nor to permit the location of a structure, including, but not limited to, single-component manufactured homes, to be situated on a lot in a way which is contrary to the provisions of this Article.

D. Setback Variance for Single Family Dwellings

The Board of Appeals may grant a variance from required setbacks from lot lines only, for single family dwellings subject to the following limitations:

1. The Board must find that strict application of the Ordinance to the applicant and the applicant’s property would cause undue hardship. For purposes of this subsection only, the term “undue hardship” means:
a. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

b. The granting of a variance will not alter the essential character of the locality;

c. The hardship is not the result of action taken by the applicant or a prior owner;

d. The granting of the variance will not substantially reduce or impair the use of abutting property; and

e. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

2. A variance may be granted only pursuant to this subsection for a single-family dwelling that is the applicant’s primary year-round residence.

3. A variance granted under this subsection may not exceed twenty (20%) percent of the applicable setback requirement.

4. A variance shall not be granted under this subsection if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

E. Disability Variance: See Article 11.2.M

F. Granting of Variances to be Handled Strictly

The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

G. Copy of Application to Department of Environmental Protection

For any application within the Shoreland Zone, a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the Board of Appeals to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
H. Conditional Uses

1. Conditional uses subject to Board of Appeals review under Article 4 may be approved by the Board of Appeals after considering the characteristics and location of the proposed use and of other properties in the surrounding neighborhood, provided that the petitioner shall submit to the Board of Appeals statements in writing, which may be accompanied by diagrams or photographs which shall become part of the record of such petitions, demonstrating that the proposed use:

   a. Will meet the definition and specific requirements set forth in this Ordinance for such particular use;

   b. Will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, light, glare or other cause;

   c. Will not have a significant adverse effect on adjacent or nearby property values;

   d. Will not result in significant hazards to pedestrian or vehicular traffic or significant traffic congestion;

   e. Will not result in significant fire danger; and

   f. Will not result in significant flood hazards or flood damage, drainage problems, ground or surface water contamination, or soil erosion.

2. In addition, when the proposed use is to be located in the Shoreland Zone or Resource Protection Zone, the Board of Appeals shall make a positive finding that the proposed use will comply with all the standards established in Article 10.10.B.1.a-h of this Ordinance.
9.3 Appeals Procedure

A. Any person aggrieved by a decision of the Code Enforcement Officer, other than a decision or failure to act related to an enforcement-related matter as described in Article 9.2.A.1 of this Ordinance, may appeal that decision by filing an administrative appeal application on forms provided for that purpose with the Town Clerk within thirty (30) days of the decision. The Board, upon showing of good cause, may waive the thirty (30) day requirement. Such application forms shall be used also by any person requesting a variance and by any person requesting approval of a conditional use subject to Zoning Board of Appeals review. The application form shall be completed in full, shall include:

1. The names and addresses of the owners of all property within two hundred (200) feet of the property in question and shall be signed by the applicant;

2. A concise written statement indicating what relief is requested and why the administrative appeal, variance, or conditional use should be granted; and

3. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

B. When the Board of Appeals reviews such a decision of the Code Enforcement Officer, other than a decision or failure to act related to an enforcement-related matter as described in Article 9.2.A.1 of this Ordinance, in an administrative appeal, the Board of Appeals shall hold a “de novo” hearing. At this time, the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

C. At the time of the filing of the application, the fee established by the Municipal Officers in accordance with the provisions contained in Article 11.6, plus the postage costs for sending notices by certified mail as required by paragraph E, shall be paid.

D. The Town Clerk shall give the application immediately to the Board of Appeals which shall schedule a public hearing within thirty-five (35) days of receipt of a complete written application by the Clerk, unless this time period is extended by the parties. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer shall transmit to the Board of Appeals all of the papers constituting the record from which the decision was appealed.
E. At least ten (10) days prior to the hearing date, the Town Clerk shall publish a notice of the hearing in a newspaper of general circulation in Kennebunkport. The notice shall identify the property involved, the name of the applicant, the nature of the application, and the time and place of the public hearing.

F. A copy of the notice shall be sent by certified mail to the owners of all property within two hundred (200) feet of the property in question at least seven (7) days in advance of the hearing. The owners of property shall be considered to be those shown on the tax lists as those against whom taxes are assessed. The Board of Appeals 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 Board of Appeals.

G. The Board of Appeals shall keep a written record of all applications, noting the date the application is received, the date of the hearing, the person who presented the application at the hearing, any pertinent testimony presented at the hearing, and the finding of facts and decision of the Board of Appeals. All records of the Board of Appeals shall be maintained at the Municipal Offices in a permanent file which shall be available to the public.

H. The Code Enforcement Officer, or his/her designated assistant, may attend all hearings, and may present to the Board of Appeals plans, photographs, or other materials which will assist the Board of Appeals in making a decision.

I. The applicant’s case shall be heard first. If the applicant is not present at the hearing, any person acting as the applicant’s representative must demonstrate that he/she has written authority to appear on the applicant’s behalf. To maintain orderly procedure, each side shall proceed without interruption. The person filing the appeal shall have the burden of proof. All persons at the hearing shall abide by the order of the Chairman of the Board of Appeals.

J. After the public hearing the Board of Appeals shall make findings of fact, based on the record of the hearing, and issue a decision on the application. The applicant shall be notified in writing of the findings and decision of the Board of Appeals within seven (7) days of the Board’s decision, with copies sent to the Code Enforcement Officer, the Planning Board, and the Municipal Officers.

K. In approving an application for an appeal, conditional use or variance, the Board of Appeals may impose reasonable conditions and restrictions, which shall then be enforceable as if part of this Ordinance.

L. Except as provided by Title 30-A M.R.S.A. § 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may appeal to the Superior Court, as provided by law, within forty-five (45) days of the date of the vote on the decision by the Board of Appeals.
M. Reconsideration. In accordance with Title 30-A M.R.S.A. § 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

N. If the Board of Appeals grants an appeal, conditional use or variance, the applicant’s legal rights, determined thereby, shall expire if any construction or alteration involved is either not commenced within one (1) year or not substantially completed within two (2) years of the date on which the appeal, conditional use or variance was granted.

O. A copy of all variances granted by the Board of Appeals affecting properties in the Shoreland and Resource Protection Zones shall be submitted to the Department of Environmental Protection within seven (7) days of the decision.

P. The granting of a variance must be recorded in the York County Registry of Deeds within ninety (90) days of issuance of the final written approval in order for it to be deemed valid.
ARTICLE 10: PLANNING BOARD SITE PLAN REVIEW

10.1 General Requirement

No use, change in use, expansion, enlargement, alteration or construction activity requiring approval under this Article shall be commenced unless and until the property owner has submitted to and secured approval by the Planning Board.

10.2 Site Plan Approval Required

A. Except as provided in subparagraph B, Site Plan Review and Approval by the Planning Board shall be required for:

1. Any use listed in Article 4 as a Conditional Use Subject to Planning Board Site Plan Review.

2. Construction, alteration or external enlargement of any building or structure.

3. Expansion, enlargement or change of any existing use, including an expansion, enlargement or change of use occurring entirely within an existing building.

4. Construction or enlargement of any area for parking, loading or vehicular service, including driveways.

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.

2. In any case where a building is to be externally changed for the purpose of closing an entrance or creating a new entrance thereto, or for other extensions to a building which in total do not exceed one hundred (100) square feet in area.
3. In the Dock Square Zone, Site Plan Review Approval shall not be required under Article 10.2.A.1 for a change of use within or among the following uses: clubs, financial institutions, professional and business offices and retail businesses; or for a change of use from a restaurant to any one of these uses. This exemption shall apply unless Site Plan Review Approval is required under Article 10.2.A.2 or Article 10.2.A.4, or unless the change in use involves an expansion or enlargement under Article 10.2.A.3.

4. Notwithstanding Section 10.2.A.3, Site Plan Review and Approval shall not be required for a change of use to a temporary public hospitality facility, whether located on a vacant or otherwise occupied lot.

10.3 Shoreland Zoning Review

Review and approval shall be required for any use listed in Article 5 as a Use requiring Planning Board permit.

10.4 Powers and Duties

The Planning Board shall hear and approve with modifications or conditions, or disapprove an application for Site Plan Review Approval based on its compliance with standards set forth in this Ordinance.

10.5 Variance Required

If a proposed structure or use does not meet any of the dimensional requirements of this Ordinance, a variance must be obtained from the Zoning Board of Appeals in accordance with Article 9.2, prior to a public hearing by the Planning Board.

10.6 Submissions and Requirements

A. Submission requirement for Planning Board review of a use proposed in the Shoreland or Resource Protection Zone. An application for review of a use in the Shoreland or Resource Protection Zone which does not require Site Plan Review shall be made on forms provided for that purpose. A use which does require Site Plan Review shall meet the submission requirements stated in subsection D below.

B Submission requirement for Site Plan Review of a Mobile Home Park.

An application for Site Plan Review of a mobile home park shall be prepared in accordance with the requirements for a residential subdivision and shall meet all the provisions and standards set forth in Article 7.10 of this Ordinance.
C. Submission requirement for Site Plan Review

The applicant for Site Plan Review in all other Zones and for all other uses shall submit building and site plans in two copies, drawn to a scale of not less than one inch equals forty feet (1" = 40'). The building plans shall show at a minimum the first-floor plan and all elevations, with indication of the proposed construction material. The site plan shall include the following information:

1. A map of the site with reference to surrounding areas and existing street locations.

2. The name and address of the owner and site plan applicant, together with evidence of sufficient right, title or interest in the premises to permit the applicant to undertake the use for which site plan review approval has been requested.

3. The names and addresses of the owners of all properties within two hundred (200) feet of the property in question, as shown by the most recent tax records of all municipalities in which such properties lie.

4. A plan of the area showing lot line dimensions, applicable zone or zones, and the normal high water mark, if applicable.

5. Location of all existing and proposed buildings and structures, streets, easements, driveways, entrances and exits on the site and within one hundred (100) feet thereof.

6. All setbacks from bodies of water and lot lines.

7. All existing physical features on the site and within two hundred (200) feet thereof, including streams, watercourses, existing woodlands, existing trees at least eight (8) inches in diameter as measured four-and-one-half (4½) feet above grade. Soil conditions as reflected by a medium intensity survey (such as wetlands, rock ledge, and areas of high water table) shall be shown, and the Planning Board may require high intensity soils surveys where necessary.

8. Topography showing existing and proposed contours at five (5) foot intervals for slopes averaging five (5%) percent or greater and two (2) foot intervals for land of lesser slope. A reference benchmark shall be clearly designated. Where variations in the topography may affect the layout of buildings and roads, the Planning Board may require that the topographic maps be based on an on-site survey.

9. Parking, loading and unloading areas shall be indicated with dimensions, traffic patterns, access aisles and curb radii.
10. Improvements such as roads, curbs, bumpers and sidewalks shall be indicated with cross sections, design details and dimensions.

11. Location and design of existing and proposed storm water systems, sanitary waste disposal systems and potable water supply, and methods of solid waste storage and disposal.

12. Landscaping and buffering plan showing what will remain and what will be planted, indicating botanical and common names of plants and trees, dimensions, approximate time of planting and maintenance plans.

13. Lighting details indicating type of fixtures, location, radius and intensity of light to comply with Kennebunkport’s Outdoor Lighting Ordinance.

14. Location, dimensions and details of signs.

15. Proposed use of all floor area.

D. Submission for site plan review for business, commercial and industrial uses shall also include:

1. A written description of the proposed operations in sufficient detail to indicate the degree to which the operations will create traffic congestion, noise, toxic or noxious matter, vibration, odor, heat, glare, air pollution, waste, and other objectionable effects, along with engineering and architectural plans for mitigating such effects.

2. The proposed number of shifts to be worked and the maximum number of employees on each shift.

3. A list of all hazardous materials to be hauled, stored, used, generated or disposed of on the site, and any pertinent state or federal permits required.

E. Exceptions to these requirements.

Where the Planning Board finds that, due to special circumstances of a particular plan, the submission of required exhibits is not necessary or is inappropriate because of the nature of the proposed development, it may waive such requirements subject to appropriate conditions. The Planning Board may require submission of such additional information as it deems necessary for proper review.
Digital submission requirements. All plan sheets must be submitted in digital format:

1. All plan sheets containing the same information as the hardcopy submission shall be referenced to the town’s geographic reference system and shall be digitally submitted.

2. Digital transfer of the proposed plan sheets shall be on the town’s Horizontal Datum: Maine State Plane Coordinate System: Maine West Zone 4101, or FIPS Zone 1802, North American Datum 1983: Units: Feet.

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

4. Data should be developed using either Real Time Kinematics (RTK) GPS or survey grade GPS or traditional methods of occupying known, high precision surveyed monuments. All data should meet the ALTA/ASCM relative positional accuracy standard of .07 feet and be delivered in US Survey Feet.

5. A PDF image of the plan sheets containing the same information as the hardcopy submission shall be digitally submitted.

10.7 Performance Standards

All Site Plan applications shall conform to the Town Wide Standards in Articles 6 and the Standards for Specific Activities, Land Uses, and Zones where appropriate in Article 7 of this Ordinance. In addition, where applicable, Site Plans shall also conform to the following standards.

A. Erosion Control

1. Erosion and sedimentation control plans shall be developed so as to ensure that erosion of soil and sedimentation of watercourses and water bodies will be minimized by employing the following “best-management” practices:

   a. Stripping of vegetation, soil removal and regrading or other development shall be accomplished in such a way as to minimize erosion.
b. The duration of exposure of the disturbed area shall be kept to a practical minimum.

c. Temporary vegetation and/or mulching shall be used to protect exposed areas during development.

d. Permanent (final) vegetation and mechanical erosion control measures, in accordance with the standards of the County Soil and Water Conservation District, shall be installed as soon as possible after construction ends.

e. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.

f. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified in this Ordinance.

g. During grading operations, methods of dust control shall be employed, wherever practicable.

B. Parking Lot Design Criteria

1. Vehicular Entrance and Exit

a. Entrances and exits shall be clearly identified by the use of signs, curb cuts and landscaping.

b. Entrance/exit design shall be reviewed for size, location, sight-distance, grade separation, and possible future changes in highway alignment of any affected public roads.

c. Access points from a public road to commercial and industrial operations shall be so located as to minimize traffic congestion and also to avoid generating traffic on local access streets of a primarily residential character.

d. At each driveway curb cut, no visual obstructions higher that three (3) feet above street level shall be allowed closer than ten (10) feet to the traveled way for twenty-five (25) feet from the intersection, measured along both the street and the driveway.
e. Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.

f. No part of any driveway shall be located within ten (10) feet of a side property line. However, the Planning Board may permit a driveway serving two (2) or more adjacent lots to be located within ten (10) feet of the side lot line between the adjacent lots.

g. Where two (2) or more two-way driveways connect a single site to any one (1) road, a minimum clear distance of one hundred (100) feet measured along the right-of-way line shall separate the closest edges of any two (2) such driveways. If one driveway is two-way and one is a one-way driveway, the minimum distance shall be seventy-five (75) feet.

h. Driveways should intersect the road at an angle of as near ninety (90°) degrees as site conditions will permit and in no case less than sixty (60°) degrees.

i. Acceleration and deceleration lanes should be provided where the volume of traffic using the driveway and the volume of traffic on the road would otherwise create unsafe traffic conditions.

2. Interior Vehicular Circulation

a. Painted arrows and/or signs shall be used as necessary to define desired circulation patterns.

b. Enclosures, such as guardrails, curbs, fences, walls and landscaping shall be used to identify circulation patterns and to restrict driving movements diagonally across parking aisles where necessary, but not to reduce visibility of oncoming pedestrians and vehicles.

c. Any parking lot with an area over one (1) acre shall be provided with shade trees planted at representative points throughout the lot. There shall be one (1) tree planted for every thirty-five (35) parking spaces.

3. Parking

a. Access to parking spaces shall not be from major interior travel lanes, and shall not be immediately accessible from any public way.
b. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

c. Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.

d. Lighting of parking areas may be required at the discretion of the Planning Board. All lighting shall meet the provisions of the Kennebunkport Lighting Ordinance.

e. When parking areas are paved, painted stripes shall be used to delineate parking spaces.

f. Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.

g. Parking spaces shall be provided to conform with the number required in Articles 6.9 and 6.10.

C. Storm Water Management

Storm water management plans shall be developed so as to ensure that surface water runoff shall be minimized and detained on-site if possible. If it is not possible to detain water on-site, downstream improvements may be required to minimize off-site impacts. The natural state of watercourses, swales, floodways or existing rights-of-way and easements shall be maintained as nearly as possible. Where the development involves more than ten thousand (10,000) square feet of impervious surface, a storm water drainage system capable of handling a fifty (50) year storm without adverse impact on adjacent properties and downstream facilities shall be constructed. Storm water and surface water runoff, whether channelized or not, shall not be diverted onto adjacent properties without an easement, unless in a natural or previously existing channel.
D. Buffers

1. Buffers include natural vegetation, plantings, fences, berms and mounds used to protect adjacent properties or roadways from any detrimental features of a proposed development or use. The following guidelines apply:

   a. Buffers shall be considered in or for the following areas and purposes:

      i. Along property lines, to shield various uses from each other.

      ii. Along interior roads running parallel to roads exterior to the site.

      iii. Around commercial parking areas, waste collection and disposal areas, storage areas and loading and unloading areas, to minimize the visual impact and to prevent wind-borne debris from leaving the site.

   b. Natural features shall be maintained wherever possible to provide a buffer between the proposed development and non-compatible abutting properties and public roadways. When natural features such as topography, gullies, stands of trees, shrubbery or rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.

   c. Buffers shall be sufficient to shield structures and uses from the view of non-compatible abutting properties and public roadways.

   d. All buffers shall be properly maintained by the owner and shall be located within the property line so as to allow access for maintenance on both sides without intruding upon abutting properties.

E. Emergency Access and Circulation

1. All new commercial and industrial buildings, hotels, motels, nursing homes, eldercare facilities, and buildings used by the general public shall provide a clear, unimpeded route of access for emergency vehicles. This route shall be acceptable to the Fire Chief. The route shall be identified on the site by appropriate pavement marking and/or signs that restrict parking, standing or unloading within this access route.
2. A new facility such as a hospital, nursing home, or eldercare facility that regularly accommodates ill, infirm, or elderly occupants shall provide a separate entrance for the movement of incapacitated people. This entrance shall be designed to accommodate a stretcher and shall allow for a rescue unit to reach the entrance conveniently and in an unimpeded manner.

3. A new facility such as a hospital, nursing home, or eldercare facility that regularly accommodates ill, infirm, or elderly occupants shall provide for the convenient movement of incapacitated people between floors of the building. Where appropriate, at least one elevator capable of accommodating a stretcher in a horizontal position shall be included in the buildings.

10.8 Planning Board Procedure for Site Plan Review

A. At the time of filing of the application, a fee, plus the postage costs for mailing notices required by paragraph H, shall be paid in accordance with the schedule set by the Selectmen pursuant to Article 11.6 of this Ordinance.

1. In addition to the application fee, if the Planning Board determines it necessary for the Board to hire independent consulting services (including, without limitation, planning, engineering and legal services) to review the application because the Board finds that its review of the application under the applicable Ordinance provisions requires review beyond the expertise of Town staff, the applicant shall pay a fee sufficient to cover one hundred (100%) percent of the Town’s cost of procuring such independent consulting services and the Town shall hire the independent consultant(s). The results of such independent consulting services shall be available for review by the public, but shall be deemed to have been made solely for the benefit of the Town and shall remain the property of the Town. After the Planning Board has estimated the cost of such independent consulting services and the applicant has had the opportunity to review and comment upon the estimate, the applicant shall pay a fee to the Town for such services as determined by the Planning Board. This fee must be reasonable in amount, based upon the time involved and the complexity of the matter. This fee shall be assessed for the privilege of review and so shall be payable regardless of the results or outcome of the application. Except as provided in paragraph A.3 of this Article, no portion of the application review may go forward unless the applicant has paid this fee to the Town.
2. The Town shall place this fee payment for the independent consulting services into a specific non-interest bearing account to be administered by the Town Manager. Whenever the balance in this account is drawn down by more than seventy-five (75%) percent, the Planning Board shall notify the applicant and, after the applicant has had the opportunity to review and comment upon the Board’s estimate of the amount of additional payment for remaining independent consulting services, shall determine the additional amounts to be paid by the applicant to the Town for the remaining consulting services. Until the applicant has paid the Town this additional amount for the remaining independent consulting services, no portion of the project review for which the remaining independent consulting services are required may go forward. Any remaining balance in such account shall be refunded promptly to the applicant after final action upon, or withdrawal of, the application.

3. Any dispute regarding the application of this Article or of the amount required by the Board to be paid may be appealed in writing to the Board of Selectmen within ten (10) days from the date of the Planning Board decision that is in dispute. After due notice and investigation and for good cause shown, the Board of Selectmen may affirm, modify or reverse the decision of the Planning Board or reduce the amount of the fee assessed. Until the Board of Selectmen has resolved the dispute, no portion of the application review for which the independent consulting services are required may go forward.

B. Following the receipt of an application the Board may hold a pre-hearing meeting with the applicant to discuss submission requirements and general concerns of the Board. The Planning Board may also request that the application include a report from the Chief of Police, the Fire Chief, the Superintendent of the Water District and the Superintendent of the Sewer Department containing their recommendations regarding the proposed use. Within forty-five (45) days of the submission of a completed application, with all supporting documentation, the Board shall hold a public hearing. At least ten (10) days prior to the hearing date, the Town Clerk shall publish a notice of the hearing in a newspaper of general circulation in Kennebunkport. The notice shall identify the property involved, the applicant, the nature of the application, and the time and place of the public hearing.

C. A copy of the notice shall be sent to the owners of all property within two hundred (200) feet of the property in question at least seven (7) days in advance of the hearing. The owners of property shall be considered to be those shown on the tax list as the person against whom taxes are assessed. The Board shall maintain as a part of the record of each case a complete 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 Board.
D. At any hearing a party may be represented by agent or attorney. Hearings may be continued to other times for good cause as determined by the Planning Board.

E. The Code Enforcement Officer or his/her designated assistant may attend all hearings and may present to the Planning Board plans, photographs or other material he/she deems appropriate for an understanding of the application.

F. The applicant’s case shall be heard first. If the applicant is not present at the hearing, any person acting as the applicant’s representative must demonstrate that he/she has written authority to appear on the applicant’s behalf. To maintain orderly procedure, each side shall proceed without interruption. All persons at the hearing shall abide by the order of the Chairman.

G. Subsequent to the public hearing the Planning Board shall reach a decision and inform, in writing, the applicant and the Code Enforcement Officer of its decision and its reasons therefore.

H. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall issue, with conditions prescribed by the Planning Board, or deny a Building or Use Permit.

I. Approvals secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or changes authorized have not commenced within one (1) year or have not been substantially completed within two (2) years of the date on which the building or use permit was issued by the Code Enforcement Officer.

J. An appeal from a decision rendered by the Planning Board under this Ordinance shall be taken directly to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure and no appeal shall lie from a decision of the Planning Board to the Board of Appeals.

10.9 Planning Board Review Procedure for Shoreland Reviews Not Needing Site Plan Review

A. Within thirty-five (35) days of the date of receiving written application, the Planning Board shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board shall make a decision on all permit applications in writing within forty-five (45) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board’s agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance, and with the Guidelines for Decisions stated in Article 10.10.B below.
B. If the Planning Board decides to hold a public hearing in order to gather information concerning the proposed land use activity, the fee and hearing procedures set forth in Article 10.8 shall be followed.

C. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

10.10 Guidelines for Decisions

A. Causes for Site Plan Review Denial

1. The Planning Board shall approve an application for Site Plan Review unless it makes one or more of the following written findings with respect to the proposed development:

   a. The proposed use does not meet the definition or specific requirements set forth in this Ordinance or will not be in compliance with applicable state or federal laws;

   b. The proposed use will create fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles;

   c. The proposed exterior lighting will create hazards to motorists traveling on adjacent public streets or is inadequate for the safety of occupants or users of the site or will damage the value and diminish the usability of adjacent properties;

   d. The provisions for buffers and on-site landscaping do not provide adequate protection to neighboring properties from detrimental features of the development;

   e. The proposed use will have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor dust, glare or other cause;

   f. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will create hazards to safety;

   g. The proposed use will have a significant detrimental effect on the value of adjacent properties which could be avoided by reasonable modification of the plan;
h. The design of the site will result in significant flood hazards or flood damage or is not in conformance with applicable flood hazard protection requirements;

i. Adequate provision has not been made for disposal of wastewater or solid waste or for the prevention of ground or surface water contamination;

j. Adequate provision has not been made to control erosion or sedimentation;

k. Adequate provision has not been made to handle storm water run-off or other drainage problems on the site;

l. The proposed water supply will not meet the demands of the proposed use or for fire protection purposes;

m. Adequate provision has not been made for the transportation, storage and disposal of hazardous substances and materials as defined by state law;

n. The proposed use will have an adverse impact on significant scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the plan;

o. The proposed use will cause unreasonable highway or public road congestion; or

p. Existing off-site ways and traffic facilities cannot safely and conveniently accommodate the increased traffic generated by the development as far away from the development as the effects of development can be traced with reasonable accuracy.

B. Guidelines for All Applications for Development Proposed in the Shoreland and Resource Protection Zones

1. When the proposed development will be located in the Shoreland Zone or Resource Protection Zone, the Planning Board shall approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

a. Will maintain safe and healthful conditions;

b. Will not result in water pollution, erosion, or sedimentation to surface waters;
c. Will adequately provide for the disposal of all wastewater;

d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

e. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

f. Will protect archaeological and historic resources as designated in the comprehensive plan;

g. Will avoid problems associated with flood plain development and use; and

h. Is in conformance with the Performance Standards set forth in Article 5.6.

C. Statement of Findings

All decisions of the Planning Board under this Article shall be accompanied by written statements that set forth with particularity the precise reasons why the findings were made.

10.11 Conditions Attached to Site Plan Review

Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation, specified sewage disposal and water supply facilities, landscaping and planting screens, period of operation, operational controls, professional inspection and maintenance, sureties, deed restrictions, restrictive covenants, type of construction, or any other reasonable conditions necessary to fulfill the purposes of this Ordinance.

10.12 Performance Guarantees

A. At the time of approval of the application for Site Plan Review, the Planning Board shall require the applicant to tender a performance guarantee in the form of a certified check payable to the Town, a letter of credit payable to the Town or a performance bond payable to the Town issued by a financial institution or surety company acceptable to the Planning Board in an amount adequate to cover the total costs of all required improvements, taking into account the time span of the performance guarantee and the effects of inflation upon costs. Required improvements may include but shall not be limited to monuments, street signs, streets, sidewalks, parking lots, water supply, sewerage disposal and storm
drainage facilities and required landscaping. The conditions and amount of the certified check, letter of credit or bond shall be determined by the Planning Board with advice from the Code Enforcement Office.

B. Prior to the release of the check, letter of credit, or bond, or any part thereof, the Planning Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any interest accumulated on an escrow account shall be returned to the applicant after it has been determined that the proposed improvements meet all design and construction requirements.

C. If the Planning Board determines that any of the improvements have not been constructed in accordance with plans and specifications filed by the applicant, the Planning Board shall then notify the applicant, and take all necessary steps to preserve the Town’s rights.

D. At least five (5) days prior to commencing construction of any required improvements, the applicant shall pay to the Town an inspection fee equal to two (2%) percent of the cost of such improvements. The applicant shall notify the Code Enforcement Officer in writing of the time when he/she proposes to commence construction of the improvements, so that the Code Enforcement Officer can ensure that all municipal specifications and requirements are met during the construction of required improvements, and that the completion of improvements and utilities required by the Board are satisfactory. If the inspection costs amount to less than the fee collected, the surplus shall be returned to the applicant when inspections are completed.

E. The Planning Board shall require, as a condition of any approval, that the applicant notify the Planning Board prior to any transfer of rights to construct an approved project. The Planning Board may take appropriate steps, including a requirement that any decisions of the Board be recorded in the Registry of Deeds, to ensure that the performance guarantees required by this section become binding on any transfer of rights to build or complete such project. No assignment or transfer of rights to construct a project approved under this Article is valid without prior review and approval by the Planning Board of a new performance guarantee under Article 10.12 to ensure that any assignee or transferee has the financial capacity to undertake or complete the project.
10.13 Conditional Uses

When a proposed subdivision includes a conditional use, the Planning Board may review that conditional use as part of the overall subdivision review as guided by the Kennebunkport Subdivision Regulations. The Planning Board review process and Findings of Fact for the final approval of the subdivision will specifically address compliance with the conditions of Article 10.10 for the proposed conditional use. An additional application, hearing and notification process shall not be required when such proposed uses are reviewed in conjunction with the proposed subdivision. For a conditional use approval obtained under this subsection, the time periods for expiration of the approval contained in Section 10.8.I and Section 11.7.B shall not begin to run on the date of the approval but shall begin to run on the earlier of the following dates: (1) two years prior to the date on which the Kennebunkport Subdivision Regulations require substantial completion of the subdivision or the phase of the subdivision that contains the conditional use; (2) an earlier date designated by the Planning Board in its approval; or (3) any date on which this ordinance is amended to convert the conditional use into a prohibited use.
ARTICLE 11: ADMINISTRATION

11.1 Code Enforcement Officer

A. This Ordinance shall be enforced by the Code Enforcement Officer, who shall be appointed or reappointed annually by July 1st, by the Board of Selectmen under the Administrative Code of the Town of Kennebunkport.

B. The Code Enforcement Officer shall maintain a current file of all pertinent Federal, State and local statues, ordinances, regulations, codes and plans relating to land-use regulation-including local subdivision plans.

C. The Code Enforcement Officer shall maintain a record of fees collected.

D. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to approval. The Code Enforcement Officer, in the performance of his/her duties, shall have freedom of access during reasonable hours for inspection purposes, with the consent of the owner, to all parts of any building or structure regulated by this Ordinance. When necessary the Code Enforcement Officer may obtain an administrative warrant from District Court.

11.2 Permit Required

After the effective date of this Ordinance, no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

Therefore, a written permit from the Code Enforcement Officer shall be required for the following activities:

A. Flood Hazard Areas: All construction or earth moving activities or other improvements within the 100-year flood plain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.

B. New construction: New construction of buildings and structures.

C. Any activity and use listed in Article 5 as requiring a permit from the Code Enforcement Officer.

D. Alteration: Alteration of a building or structure, or parts thereof, except as provided in Article 11.3.
E. Moving Demolition: All buildings or structures which are removed from or moved onto, or moved around within a lot, or demolished.

**Demolition of Historic Buildings:** The following provisions apply to all applications for the demolition or removal of any locally historic building built prior to 1930 in a National Register District. Immediately upon receiving a demolition request from a property owner or applicant and prior to issuing a demolition permit, the Code Enforcement Officer shall post a sixty (60) day waiting period, and at the applicant’s expense, provide written notice to abutters, and advertise at least two times in a newspaper of widespread circulation within the Town of Kennebunkport, the applicant’s demolition request.

F. Change of Use: The change of any premises from one category of land use to any other land use.

G. Placement of Signs: Placement of signs except temporary signs described in Article 6.12.F.

H. Conditional Uses: Any use requiring approval as a conditional use by the Planning Board or Board of Appeals.

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

J. Entrance to Public Ways: Entrance to public ways, as described in Article 6.15.

K. Growth management permit: Construction or placement of a new dwelling unit, as described in Article 11.12.

L. Temporary placement of an awning or tent(s) exceeding 80 square feet in size: Temporary placement not to exceed 30 days per any calendar year per parcel. Tents that exceed 80 square feet and are in place for more than 30 days per calendar year are subject to conditions and approvals as a permanent structure.

M. Disability Variance: The Code Enforcement Officer may grant a variance from setback or lot coverage requirements only to an owner of a residential dwelling, for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Code Enforcement Officer shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Code Enforcement Officer may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or
effectiveness of the structure. For any application within the Shoreland Zone, a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Code Enforcement Officer. Any comments received from the Commissioner shall be made part of the record and shall be taken into consideration by the Code Enforcement Officer.

11.3 Permit Not Required

A. Normal maintenance, repairs, re-roofing, re-siding, and decorative changes to a building or structure do not require a permit.

B. A permit is not required for the replacement of an existing road culvert as long as:
   1. The replacement culvert is not more than twenty-five (25%) percent longer than the culvert being replaced;
   2. The replacement culvert is not longer than seventy-five (75) feet; and
   3. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

C. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer’s level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

D. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

11.4 Permit Procedure

A. All applications for permits shall be submitted in writing in duplicate to the Code Enforcement Officer on forms provided for the purpose.

B. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt.
C. All applications for a permit shall be accompanied by a scaled site plan or survey, accurately drawn to scale or showing actual dimensions or distances, and showing:

1. The actual shape and dimensions of the lot for which a permit is sought.

2. The location and size of all buildings, structures, water bodies, and other significant features currently existing on the lot.

3. The location and size of new buildings and structures to be constructed.

4. The existing and intended use of each building or structure.

5. Where applicable, parking lots and driveways, signs, buffer strips, and private wells.

6. Such other information as may be necessary to provide for the administration and enforcement of this Ordinance.

D. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

E. The Code Enforcement Officer shall, within twenty (20) days of receipt of an application, notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. If the application is found to be complete, the Code Enforcement Officer shall issue the permit, if all proposed construction and uses meet the provisions of the Ordinance, or refer the applicant to the Planning Board for Site Plan Review under Article 10, or deny the application. All decisions of the Code Enforcement Officer shall be in writing. Failure of the Code Enforcement Officer to act within twenty (20) days shall constitute denial of the application.

F. One (1) copy of the application, with the permit or other written decision of the Code Enforcement Officer shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision shall be retained by the Code Enforcement Officer as a permanent public record.

G. No building or use permit shall be issued for any structure or use until all other necessary Federal, State, and local permits and approvals have been obtained.
H. The issuance of a permit under this Ordinance shall not be deemed a permit under any Federal or State statutes or other ordinance of Kennebunkport. It is the responsibility of the land owner or applicant to comply with all other laws and regulations.

I. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

J. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

11.5 Suspension and Revocation of Permits

A. A permit may be suspended or revoked, if:

1. The permit was issued on incomplete or false information, and/or continuation of the work authorized would result in a violation of Federal or State statutes or local ordinances.

2. A violation has been created during the completion of work initially authorized by the permit.

3. The continuation of the work authorized is endangering or may endanger the safety or general welfare of the community during the construction or work for which the permit was issued.

4. The applicant or his/her agent is exceeding the scope of the work for which the permit was issued.

5. The Code Enforcement Officer determines that he/she is unable to rule on the continued validity of a permit, in which case he/she shall suspend the permit, without penalty, and require the holder to file an appeal.

B. A notice of suspension shall be in writing, stating:

1. The reason for the suspension.

2. The corrective measures to be taken.

3. The period of time given to the applicant to correct the violation.
C. The suspension of a permit shall apply only to that segment of the work authorized which is, or will create, a violation. Such suspension shall cease when the Code Enforcement Officer certifies that the violation or potential violation ceases to exist. When a cause for suspension has been removed or corrected, the Code Enforcement Officer shall so certify, in writing, and state:

1. The reason for the suspension.

2. The corrective measures taken.

3. The period of time which the applicant has to correct the violation.

4. A statement that all applicable penalties have been paid.

D. If, within the time specified for correction, the violation has not been corrected or removed, the suspension may be continued, or the Code Enforcement Officer may then revoke the permit.

E. When a permit is revoked, the Code Enforcement Officer shall prepare a statement stating the reasons for revocation, and the corrective measures, if any, that may be taken to correct the violation. Such revocation shall include a time period given to correct the violation and shall remain in force until:

1. The Code Enforcement Officer determines that the applicant can and will pursue the work (for which the permit was issued) without extending or creating a violation.

2. The permit application has been corrected to complete information required and continuance of work will not result in violation.

3. The violation has been removed or otherwise discontinued.

4. A new permit has been issued.

F. During the period of revocation, no work shall continue on a project for which a permit was issued except in the interests of public safety and protection of the property in place at the time of revocation, such work having the written approval of the Code Enforcement Officer.
11.6 Fees

A. No building or use permit shall be issued by the Code Enforcement Officer without payment to the Town of Kennebunkport of the required fee.

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

C. When work has begun prior to the issuance of a permit, the fees shall be doubled.

D. Upon completion of a new building or major remodeling, a Certificate of Occupancy is required. There will be no charge for the first inspection. If a re-inspection is required due to failure to pass a previous inspection a re-inspection fee shall be required.

11.7 Expiration of Building or Use Permits and Approvals

A. A building or use permit issued by the Code Enforcement Officer pursuant to this Ordinance shall expire if the work or changes authorized have not commenced within one (1) year or have not been substantially completed within two (2) years of the date on which the permit was granted.

B. Approvals by the Planning Board and the Zoning Board of Appeals shall expire if a building or use permit is not obtained from the Code Enforcement Officer within one hundred eighty (180) days, provided that the approving Board may, at the time of the initial approval or upon a subsequent request of the applicant, grant an extension of up to an additional one hundred eighty (180) days upon a showing by the applicant that, due to circumstances beyond his/her control, additional time is needed to obtain necessary federal, state or local approvals.

11.8 Occupancy Permit

No new structure shall be occupied or used, nor shall the occupancy of any commercial or industrial building change, prior to the issuance of an occupancy permit by the Code Enforcement Officer. The Code Enforcement Officer shall not issue an occupancy permit unless the new structure or proposed use is in conformance with the Ordinance.

11.9 Violations and Legal Action

A. Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.
B. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If, after investigation, the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he or she shall give written notice delivered by hand, if the owner/occupant 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 occupant of such premises. The notice shall indicate the nature of the violation and order the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, 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 Code Enforcement Officer shall 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.

C. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

D. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

E. Legal Actions. When the above action does not result in the correction of abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute, any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Kennebunkport. The Municipal Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
If the Code Enforcement Officer has been certified by the Commissioner of Human Services as being familiar with court procedures under Title 30 M.R.S.A. § 3222, he/she may serve civil process and, when specifically authorized to do so by the Municipal Officers, represent the Town in District Court. If authorized, the Code Enforcement Officer may obtain assistance from the Town Attorney with any court proceedings. The Code Enforcement Officer shall inform the Town Manager and Municipal Officers of all legal actions instituted under this Article.

11.10 Penalties

Any person, including but not limited to a landowner, a landowner’s agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A. § 4452. Each day of violation after notification shall constitute a separate offense or violation.

11.11 Publication of Building Permits

Within five (5) working days of the fifteenth and thirtieth of each month, a list of all building permits granted by the Code Enforcement Officer shall be made available to a newspaper of general circulation in the Town of Kennebunkport. The failure of the Code Enforcement Officer to make available this list, or the decision of the newspaper not to publish this list, shall not invalidate any building permit.

11.12 Growth Management Permit Required

A. Purpose. The purpose of this section is to:

1. Ensure fairness in the allocation of building permits between sub-dividers and single lot property owners.

2. Avoid a situation in which the rapid completion of major subdivisions could outstrip the Town’s capability to expand its municipal services.

3. Guide the Town’s growth in an orderly fashion so that the annual increase in population can be adequately served by community facilities as those services are needed.

4. Manage the Town’s future residential growth in a manner consistent with the Town of Kennebunkport’s Comprehensive Plan.
B. Compliance required; violations.

1. All new dwelling units, including new manufactured housing dwelling units, within the Town, whether occupied permanently or seasonally, shall conform with the provisions of this section. It shall be a violation of this section for any person to construct or place a new dwelling unit within the Town, without first having obtained a growth management permit and building permit, in accordance with this section and Article 11, from the Code Enforcement Officer, unless such construction or placement constitutes an exception under this section.

2. If a dwelling unit has been constructed or placed without a growth management permit or building permit as required under the provisions of this Ordinance, it shall also be a violation for any person to convey such dwelling unit.

C. Exemptions. The following are exempt from the provisions of this section:

1. The repair, replacement, reconstruction or alteration of any existing building or structure not resulting in additional dwelling units;

2. Housing for the elderly which is constructed, operated, subsidized or funded, in whole or in part, by an agency of the state or federal government; and

3. The construction or alteration of a nonresidential building or structure.

4. The construction or alteration of a new Accessory Apartment.

D. Maximum rate of house building. The Town shall issue growth management permits on an annual basis. The total number of growth management permits shall be determined as follows:

1. The number of growth management permits allocated for the year, excluding permits allocated for affordable housing, shall be 110% of the mean number of growth management permits issued for the past ten (10) years rounded to the nearest whole number. The mean is determined by adding together the total number of growth management permits issued, excluding permits issued for affordable housing, for each year in the prior ten (10) years and then dividing by ten (10). In no case shall the number of available permits under this paragraph be less than forty (40).
2. The number of growth management permits available for affordable housing shall be ten percent (10%) of the number of growth management permits established pursuant to Article 11.12.D.1, rounded up to the nearest whole number. Growth management permits available under this paragraph are not subject to the allocation requirements of Article 11.12.H.2 and Article 11.12.H.3. Growth management permits issued by the Code Enforcement Officer for affordable housing may be replaced by building permits according to their rankings.

E. Legal Authority. This section is adopted pursuant to home rule powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A M.R.S.A. § 2101 et seq. and Title 30-A M.R.S.A. § 4360.

F. Periodic review. The operation of this section shall be reviewed by the Growth Planning Committee periodically, but not less frequently than once every two years, to ensure that the annual maximum growth rate has not become inconsistent with the Town’s capital improvement capability to establish or enlarge needed public facilities and services. Based upon its review, the Growth Planning Committee may recommend amending this section as provided in Article 12.1.

G. Application. Applications for growth management permits shall comply with the following:

1. A growth management permit application must be completed by the lot owner of record and/or the owner’s agent, including all endorsements and certifications.

2. Applications shall be on forms provided by the Town. The Code Enforcement Officer may request additional information and shall have the authority to require that the application be revised or supplemented in order to meet state or local requirements.

3. Growth management permit applications shall be accompanied by a non-refundable application fee of $250.00, a complete application for a building permit and Planning Board and/or Zoning Board of Appeals approval, when necessary.

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. In the event two or more growth management permit applications are received simultaneously, the Code Enforcement Officer shall give preference to growth management permit applicants who are permanent residents of Kennebunkport constructing dwelling units on property which they are the owner of record. Remaining ties shall be settled by random selection. The Code Enforcement Officer shall review growth management permit applications in the
same order as they are received. The Code Enforcement Officer shall review all growth management permit applications for completeness and accuracy. When the Code Enforcement Officer finds an application to be complete, the Code Enforcement Officer shall approve it by signing the application and endorsing the date and time of approval on the application. For purposes of this section, failure of the Code Enforcement Officer to act within twenty (20) days upon a completed growth management permit application shall not constitute denial of the application.

1. Growth management permits shall be issued on a first come, first served basis according to when the application is approved as complete and signed by the Code Enforcement Officer, and in accordance with the numbers and categories of growth management permits available under Articles 11.12.D and 11.12.H.2 and 3.

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. 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.

If a growth management permit is available on the date the Code Enforcement Officer approves an application as complete, the Code Enforcement Officer shall issue a growth management permit. If no growth management permit is available at the time the application is approved as complete, the application shall remain pending, and as growth management permits subsequently become available, the Code Enforcement Officer shall issue growth management permits in the order in which the applications were approved as complete.
3. No more than seven (7) growth permits shall be issued to any one particular individual, property owner, developer or company during each calendar year. Except that on or after December 1st of any given calendar year, any remaining permits that have not been issued for that year may be issued to any individual, property owner, developer or company, including those who have already received their maximum allocation of seven (7) for the year. During this time period, remaining growth management permits allocated to Transitional or Rural Areas may be allocated to the Growth Area as indicated on the Growth Area Map. Under no circumstance may remaining growth permits be allocated into Transitional or Rural Areas beyond the percentages set forth in Article 11.12.H.2.

I. Submitting false information; reconsideration of disapproved applications.

1. Any person submitting false information on an application shall be subject to the penalties provided by law and shall not be eligible to apply for a growth management permit application for a period of one year.

2. Growth management permit applications which are not approved by the Code Enforcement Officer because of incomplete or inaccurate information or lack of compliance with requirements of all other applicable ordinances shall be automatically re-ranked and reconsidered as a new application upon resubmission following corrections.

J. Expiration of permit. The holder of a valid growth management permit may apply for and be issued a building permit for a building project that is the same as or substantially similar to the project described in the growth management permit and which is on the lot which is specified on the growth management permit. A growth management permit which has not been used to obtain a building permit within one hundred twenty (120) days of the date of issuance by the Code Enforcement Officer of the growth management permit shall expire. Expiration of building permits shall be in conformity with the applicable provisions of this Ordinance. A growth management permit shall remain valid and in effect, and a building permit may be issued based upon it within the prescribed one hundred twenty (120) day period, when the proposed activity authorized by the growth management permit is made non-conforming by a subsequent amendment to this Ordinance during the permit period, unless the amendment explicitly states otherwise.
K. Non-transferability. Growth management permits shall be site-specific, and shall be valid for construction only in the lot specified on the application. However, such permits and applications for permits shall be transferable to new owners of the lot, if the property is sold or otherwise legally transferred. Transfer of ownership of the lot shall leave the application ranking unchanged. An application which has been transferred not in accordance with this section shall be nullified and revoked by the Code Enforcement Officer.

L. Conflict with other provisions. This Ordinance shall not repeal, annul or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit, ordinance or provision of law. Where this Article imposes a greater restriction upon the use of land, buildings or structures, the provisions of this Article shall prevail.

M. Penalties. Any person, firm or corporation, including but not limited to a landowner, his or her agent or a contractor, who violates any provision of this Ordinance shall be liable for penalties as set forth in Title 30-A M.R.S.A. § 4452.
ARTICLE 12: AMENDMENTS

12.1 Procedure

After a public hearing conducted by the Board of Selectmen, this Ordinance may be amended by secret ballot referendum vote or by written ballot at an annual or special town meeting. The Growth Planning Committee shall attend the public hearing and report its recommendation.

12.2 Shoreland Zone Amendments

If an amendment pertains to the Shoreland or Resource Protection Zones, certified copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption at an annual or special town meeting and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his or her receipt of the amendment, the amendment shall be automatically approved. Any application for a permit submitted to the Town within the forty-five (45) day period shall be governed by the terms of the amendments if the amendments are approved by the Commissioner.

12.3 Enactment Dates

The Zoning Ordinance was approved March 6, 1972. It has been amended on:

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ARTICLE 13: CONTRACT ZONING

13.1 Authority and Purpose

Pursuant to Title 30-A M.R.S.A. § 4352, contract zoning is hereby authorized where, due to the unusual nature or unique location of the development proposed, the Town finds it necessary or appropriate to allow flexibility for the development of the land, and to be able to impose, by agreement with the property owner, conditions or restrictions that are not generally applicable to other properties similarly zoned. All rezoning under this Article shall be consistent with the Town of Kennebunkport Comprehensive Plan and complementary to existing and permitted uses within the original zones. Use of the provisions of this Article shall be limited to where a rezoning is requested by the owner of the property or by an applicant with a legal interest in the property. Nothing in this Article shall authorize an agreement for rezoning that is inconsistent with the Comprehensive Plan.

Contract zoning shall promote the general welfare of the residents of the Town of Kennebunkport. The Board of Selectmen shall approve a contract zoning request for placement on the Town Warrant only if it determines that the proposed contract zoning is in the public interest and will have beneficial effects on the Town as a whole, which would not result if the property were developed under the existing zoning district classification. Guidelines for the Board of Selectmen to apply in making those determinations are set forth in Article 13.2.E of this Ordinance.

All applications for rezoning under this Article shall be subject to approval by a vote of Town Meeting.

13.2 Application Review Process

A. The person proposing contract zoning shall submit an application for contract zoning to the Town Manager, which shall include, at a minimum, the following elements:

1. A map showing existing and proposed zoning district lines;

2. The address or exact location of the request, including the Kennebunkport Assessor’s map references for the property to be rezoned;

3. The name, address and telephone number of the property owner and of the applicant, if the applicant is not the owner;

4. Evidence of the applicant’s right, title or interest in the property;

5. A site analysis that describes the major features of the property, allowing the Planning Board and Board of Selectmen to make informed judgments about how it will be used;
6. A conceptual development plan showing the approximate layout of all buildings, structures, streets, driveways, parking areas and other significant improvements to be constructed on or above the surface of the ground plus any proposed open spaces, conservation areas, buffer areas or other features of the development to show subsurface infrastructure installations, building plans, engineering plans or other details which would be required for a subdivision plan or site plan;

7. A statement describing the existing use of the property and the proposed new use and development and describing how the proposed contract zone will be consistent with the Town of Kennebunkport Comprehensive Plan, will be consistent with existing and permitted uses within the existing zoning district classification of the property, will be in the public interest, will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification;

8. A proposed contract zoning agreement which complies with the requirements of Article 13.3 below;

9. Any other information requested by the Town Manager and/or the Code Enforcement Office; and

10. A non-refundable application fee as specified in the Schedule of License, Permit and Application Fees established by order of the Board of Selectmen.

B. Nothing within this article shall prevent the Board of Selectmen from meeting in executive session pursuant to Title 1 M.R.S.A. § 405 to discuss matters relating to a potential or proposed contract zoning application.

C. The Town Manager or designee will review the application and, upon being satisfied that the application is sufficiently complete for review by the Planning Board and the Board of Selectmen, will schedule a joint meeting of the Planning Board and the Board of Selectmen, to commence review of the request for contract zoning, at which time a public hearing shall be given in accordance with the requirements of Title 30-A M.R.S.A. § 4352(8). Notice of this hearing shall be posted in the Town Clerk’s office at least fourteen (14) days prior to the public hearing and shall be published at applicant’s expense in a newspaper of general circulation within the Town at least two (2) times. The date of first publication shall be at least seven (7) days prior to the hearing. The applicant also shall mail by certified mail, at least fourteen (14) days prior to the public hearing, notice of hearing to the owners of the property to be rezoned and to the owners of all property within five hundred (500) feet of the affected lot(s) or parcel(s). This notice shall contain the date, time and location of the hearing and
a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned. Evidence of the mailing shall be presented to the Town. If the area to be rezoned is within a source water protection area, the applicant must also provide notice, by certified mail, at least fourteen (14) days prior to the public hearing to the public drinking water supplier.

D. The joint Planning Board/Board of Selectmen meeting shall be conducted so as to include, but not be limited to, the following elements:

1. Meeting is presided over by the Chair of the Board of Selectmen;

2. Presentation by the applicant;

3. Comments from Town staff;

4. Discussion among members of the Planning Board and the Board of Selectmen, which may include questions posed to the applicant and staff;

5. Comments from members of the public. (This shall constitute the public hearing by the municipal reviewing authority required by Title 30-A M.R.S.A. § 4352(8));

6. Response or rebuttal from applicant;

7. Comments from members of the Planning Board concerning the land use implication of the proposed contract zoning amendment; and

8. Preliminary Board of Selectmen discussion of the contract zoning amendment.

The joint Planning Board/Board of Selectmen meeting may be continued from time-to-time by majority vote of all members from both Boards present and voting. If the meeting is not continued the discussion is concluded. The Planning Board members will, at the conclusion of the discussion, vote as a recommendation to the Board of Selectmen either to:

1. Support the proposed contract zoning amendment; or

2. Support the proposed contract zoning amendment with conditions; or

3. Oppose the proposed contract zoning amendment.
E. At the conclusion of the discussion, the Board of Selectmen shall, prior to adjourning, or at a subsequent meeting of the Board of Selectmen to be held within thirty (30) days, vote either to:

1. Authorize that the proposed contract zone be put on a future warrant for vote by the Town, either as presented or with amendments or conditions approved by the Board of Selectmen;

2. Advise the applicant to withdraw the request for contract zoning; or

3. Advise the applicant to revise and resubmit the application for contract zoning, under Article 13.2.A above. Before taking its vote on putting the contract zoning request on the Town Warrant, the Board of Selectmen shall determine whether the proposed contract zoning amendment; (1) is consistent with the Town of Kennebunkport Comprehensive Plan, (2) is compatible with the existing and permitted uses within the existing zoning district classification of the property, (3) is in the public interest, and (4) will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification. The Board of Selectmen will state its reasons for its findings and conclusions on each of those determinations.

F. The vote of the Board of Selectmen shall constitute direction from the Board of Selectmen to the applicant as to how to proceed, but shall not be binding on either the applicant or the Board of Selectmen to the Town.

G. Upon adoption by a vote of Town Meeting, the language of the contract zone shall be incorporated by reference into Article 4 – Zone Regulations, of this Ordinance. The location of the contract zone shall be indicated on the Official Zoning Map. In addition, the contract zone and any ancillary agreements shall be recorded in the York County Registry of Deeds, and shall be added as an appendix to this Ordinance.

H. Subsequent to adoption of the contract zone by a vote of the Town Meeting, and before any permits can be issued, the proposed development must then undergo a site plan review and be approved by the Planning Board under the terms and conditions of the Kennebunkport Land Use Ordinance.

If the proposed development is a subdivision, the review and approval will be done under the Town of Kennebunkport Subdivision Regulations as well as the Land Use Ordinance.

I. Any rezoning pursuant to this Section that affects a Shoreland area, as identified by this Ordinance shall not take effect until approved by the Commissioner of Environmental Protection as required by Title 38 M.R.S.A. § 438-A (3).
J. Subsequent to all approvals, the applicant and the Town will finalize a legal
contract and/or any ancillary agreements conforming to the terms of the approved
Ordinance changes and Planning Board review.

13.3 The Contract Zoning Agreement

A. The contract zoning agreement shall include a provision granting the Town of
Kennebunkport the power to enforce all conditions and restrictions, both through
enforcement action pursuant to this Ordinance and through legal action for
specific performance. Conditions and restrictions imposed under the authority of
this Article shall relate only to the physical development and operation of the
property and, though not limited to, may include, by way of example:

1. Limitations on the number and types of uses permitted;

2. Restrictions on space and bulk standards and on the scale and density of
   the development;

3. Specifications for the design and layout of buildings and other
   improvements;

4. Schedules for commencement and completion of construction;

5. Preservation of open space and buffers, provisions for public access to
   shorelines and protection of natural areas and historic sites;

6. Contributions toward the provision of municipal services required by the
   development;

7. Performance guarantees securing completion and maintenance of
   improvements;

8. Provision for enforcement and remedies for breach of any condition or
   restriction; and

9. Provision for reservation or dedication of land for public purposes.

The Board of Selectmen or the Planning Board, in its site plan review
after a Town vote, may impose conditions under the Article 13 which are
more restrictive than the otherwise applicable requirements of this
Ordinance or of the Subdivision Regulations as applicable.
B. Effects of the Agreement

The conditions and restrictions set forth in the agreement shall run with the land and bind all future owners of the land and any other person who claims an interest in the property, and may be removed only by subsequent action of the voters at a Town Meeting expressly removing, relieving or discharging one or more of the specific conditions or restrictions.

C. Modifications and Amendments

The contract zoning agreement may allow for changes or modifications to the development, but shall specify the procedure for approval of any such changes or modifications, setting forth categories of changes or modifications which would require Planning Board approval only, those which would require Board of Selectmen approval, and those that would require approval by a vote at Town Meeting.

D. Performance Guarantees.

As part of the contract zoning agreement, the Board of Selectmen may, but are not obligated to, require a bond, escrow agreement, irrevocable letter of credit, or other surety in such amount as is reasonably necessary to ensure compliance with the conditions or restrictions required by the rezoning and, where necessary to ensure continued compliance, may require such surety to remain in effect after occupancy of the rezoned property. Such surety shall be posted before the agreement is recorded in the Registry of Deeds.

E. No Rights Created Before Final Town Meeting Vote.

The submission of a request for contract zoning under the Article 13, the payment of application fees, or the expenditure of funds by the applicant in presenting such a request shall not create any vested rights in the application. The conduct of meetings and hearings, the review of the application, comments by Town officials or staff, preliminary votes, findings or determinations, preliminary subdivision or site plan approval, and the availability of contract zoning under this Article 13 shall not be construed as creating any entitlement to approval of a request for contract zoning. The decision whether or not to rezone remains subject to a vote at Town Meeting, exercising its sole and exclusive judgment as the legislative body of the Town of Kennebunkport and will not be made until the Town votes approval of the contract zone.
13.4 Failure to Act

If the applicant fails to begin construction in a substantial manner and in accordance with any approved site plan within five (5) years of the effective date of the Town Meeting approval of the contract rezoning, the Planning Board may initiate rezoning to the original zoning classification.
Lobster Buoys in Cape Porpoise Harbor

1. DEFINITIONS: Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:
   1. Cape Porpoise Harbor shall mean the harbor at Cape Porpoise Village, Kennebunkport, Maine.
   2. Buoy shall mean any type of device which floats on the surface of the water or within three (3) feet of the surface of the water at mean low tide, used for marking the locations of lobster traps.
   3. Set shall mean to place, put, fix or otherwise cause to exist.
2. 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 #13286 attached to this ordinance on file with the Town Clerk.
3. Whoever violates any provision of this ordinance shall be punished by a fine of not more than $100.00 for each violation.
4. Any ordinance of the Town of Kennebunkport, Maine, deemed to be inconsistent with the provisions of this ordinance shall be deemed null and void.
5. EFFECTIVE DATE: This ordinance becomes effective immediately after its adoption by the Town of Kennebunkport, Maine.

Adopted at Annual Town Meeting, March 6, 1972
Amended: July 10, 1972
March 10, 1979
March 13, 1982
March 12, 1983

Source URL: https://www.kennebunkportme.gov/town- clerk/pages/lobster-buoys-cape-porpoise-harbor
Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

Section 2. Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Notwithstanding any provisions in the Town of Kennebunkport’s Land Use Ordinance or any other applicable ordinance to the contrary, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in the Town of Kennebunkport.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product or that otherwise engages in the activities of a retail marijuana cultivation facility, a retail marijuana products manufacturing facility, a retail marijuana testing facility and/or a retail marijuana social club, as those terms are defined by 7 M.R.S.A. § 2442, regardless of the licensure status of such business.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C, or pursuant to the Maine Marijuana Legalization Act, 7 M.R.S.A. c. 417.

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

The Code Enforcement Officer is authorized and shall have the authority to enforce all provisions of this ordinance and shall have the same powers and duties conferred to the Code Enforcement Officer under Section 11.9 of the Land Use Ordinance to enforce this ordinance. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.
MORATORIUM ORDINANCE
REGARDING RETAIL MEDICAL MARIJUANA CAREGIVER STOREFRONTS

TOWN OF KENNEBUNKPORT, MAINE

The Town of Kennebunkport, Maine, hereby adopts a Moratorium Ordinance as follows:

WHEREAS, the legislative body of the Town of Kennebunkport, Maine (the “Town”) makes the following findings:

(1) The Maine Medical Use of Marijuana Act, codified at 22 M.R.S. §§ 2421 to 2430-B, (the “Medical Act”) authorizes the possession, cultivation, and furnishing of medical marijuana to qualifying patients by caregivers, as those terms are defined in 22 M.R.S. § 2422; and

(2) Section 2423-A(14) of the Medical Act authorizes municipalities pursuant to home rule authority to regulate, among other uses, registered primary caregivers; and

(3) Section 401 of the Marijuana Legalization Act, codified at 28-B M.R.S. ch. 1 (the “Adult Use Act”) authorizes municipalities pursuant to home rule authority to regulate adult use marijuana establishments, including cultivation facilities, products manufacturing facilities, testing facilities, and marijuana stores, as those terms are defined in 28-B M.R.S. § 102; and

(4) Neither the Medical Act nor the Adult Use Act nor any state agency rules promulgated thereunder expressly authorize the operation of retail stores by registered caregivers for the purpose of selling medical marijuana to qualifying patients; and

(5) In July of 2018, the Maine Legislature enacted LD 1539, “An Act to Amend Maine’s Medical Marijuana Law,” which, upon its effective date, will amend the Medical Act to expressly authorize the operation of such retail stores so long as the legislative body of the municipality votes to adopt a new ordinance, amend an existing ordinance, or approve a warrant article allowing this type of marijuana establishment; and

(6) No specific regulations governing such retail stores currently exist under the Town’s Ordinances; and

(7) The Town’s Ordinances are insufficient to prevent serious public harm that could result from the unregulated siting and operation of such retail stores within the Town; and
The unregulated siting and operation of such retail stores within the Town raises legitimate and substantial questions about the impact of such retail stores and related uses and activities on the Town, including questions as to compatibility of such retail stores with existing and permitted land uses in the Town; potential adverse health and safety effects on the community; the adequacy of the Town's infrastructure to accommodate such retail stores; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and

As a result of the foregoing issues, the siting and operation of such retail stores and related uses and activities within the Town has potentially serious implications for the health, safety, and welfare of the Town and its residents and visitors; and

An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of such retail stores and related uses and activities located and operated in the Town; and

The Town needs time to understand the disposition of LD 1539 and any State department rules promulgated pursuant to the Medical Act or the Adult Use Act in relation to its own Ordinances and to evaluate the effects of such retail stores and related uses and activities in order to prepare reasonable ordinance provisions governing the siting and operation of such retail stores and related uses and activities; and

The Town, with professional assistance from the Planning Board, Code Enforcement Officer, and other departments, intends to study the Town's Ordinances to determine the land use and other regulatory implications of such retail stores and related uses and activities, and to consider what locations, approvals, and performance standards, if any, might be appropriate to avoid or minimize impacts on the health, safety, and welfare of the Town and its residents and visitors; and

It is anticipated that such a study, review, and development of recommended ordinance amendments will take at least 180 days from the date the Town enacts this Moratorium Ordinance; and

In the judgment of the legislative body of the Town, the foregoing findings constitute a necessity within the meaning of 30-A M.R.S. § 4356.

NOW, THEREFORE, pursuant to 30-A M.R.S. § 4356, be it ordained by the voters of the Town of Kennebunkport as follows:

1. **Moratorium.** The Town does hereby declare a moratorium on the siting, operation, or licensing of any Retail Medical Marijuana Caregiver Storefront within the Town. For purposes of this Ordinance, “Retail Medical Marijuana Caregiver Storefront” is defined as a retail store, a retail business, or an establishment that resembles a retail storefront in terms of signage, hours of operation, and accessibility to patrons (including without limitation a commercial use or retail business, as those terms
are defined in the Town’s Land Use Ordinance) that furnishes or sells marijuana or marijuana products by licensed caregivers to qualifying patients, as those terms are defined in 22 M.R.S. § 2422.

No person or organization shall locate or operate a Retail Medical Marijuana Caregiver Storefront within the Town on or after the Date of Applicability of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, conditional use permit, any other type of land use approval or permit, or any other permit or license related to a Retail Medical Marijuana Caregiver Storefront.

2. Date of Applicability. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Ordinance shall govern and apply to all proceedings and applications for a Retail Medical Marijuana Caregiver Storefront that were or are pending before the Code Enforcement Officer or the Planning Board on or any time after September 7, 2018 and, to the extent allowed by 30-A M.R.S. § 3007(6), shall nullify the issuance of any final approval of the Code Enforcement Officer or the Planning Board made on or at any time after September 7, 2018 that authorizes the operation of a Retail Medical Marijuana Caregiver Storefront (the “Date of Applicability”).

3. Effective Date. This Ordinance shall become effective immediately upon its adoption (the “Effective Date”) and shall remain in full force and effect for a period of 180 days, unless extended, repealed, or modified in accordance with applicable law.

4. Conflicts; Savings Clause. Any provisions of the Town’s ordinances that are inconsistent with or conflict with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

5. Violations. If any Retail Medical Marijuana Caregiver Storefront is located or operated in the Town, in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Town shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney’s fees and costs in prosecuting any such violations.

Dated September 13, 2018.
Outdoor Light Ordinance

Statement of Need and Purpose: Good lighting at night benefits everyone. It increases safety, enhances the Town's nighttime character and helps provide security. New lighting technologies have produced lights that are extremely powerful and this type of lighting may be improperly installed so that it creates problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy and higher energy use results in increased costs for everyone. There is a need for a lighting ordinance that recognizes the benefits of outdoor lighting and provides clear guidelines for its installation so as to help maintain and complement the Town's character. Appropriately regulated and properly installed, outdoor lighting will contribute to the safety and welfare of the residents of the Town.

This Ordinance is intended to reduce the problems created by improperly designed and installed outdoor lighting. It is intended to eliminate problems of glare, minimize light trespass and help reduce the energy and financial costs of outdoor lighting by establishing regulations that limit the area that certain kinds of outdoor lighting fixtures can illuminate and by limiting the total allowable illumination of lots located in the Town of Kennebunkport.

ARTICLE 1

1.1 DEFINITIONS

For the purposes of this Ordinance, terms used shall be defined as follows:

Direct light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.

Fixture: The assembly that houses the lamp or lamps, and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror and/or a refractor or lens.

Floodlight or Spotlight: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Glare: Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see and in extreme cases to cause momentary blindness.

Height of Luminaire: The height of a luminaire shall be the vertical distance from the ground directly below the center line of the luminaire to the lowest direct light-emitting part of the luminaire.
Indirect light: Direct light that has been reflected or has scattered off of other surfaces.

Lamp: The component of a luminaire that produces the actual light.

Light Trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen: A unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this Ordinance the lumen output values shall be the initial lumen output ratings of a lamp.

Luminaire: This is a complete lighting system and includes a lamp or lamps and a fixture.

Outdoor lighting: The illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Temporary outdoor lighting: The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than seven days with at least 180 days passing before being used again.

ARTICLE 2

2.1 REGULATIONS:

All public and private outdoor lighting installed in the Town of Kennebunkport shall be in conformance with the requirements established by this Ordinance.

2.2 CONTROL OF GLARE-LUMINAIRE DESIGN FACTORS

A. Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens and all flood or spot luminaires with a lamp or lamps rated at more than 900 lumens shall not emit any direct light above a horizontal plane through the lowest direct light-emitting part of the luminaire.

B. Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than the value 3 + (D/3) where D is the distance in feet to the nearest property boundary.

The maximum height of the luminaire may not exceed 25 feet.

2.3 EXCEPTIONS

A. Any luminaire with a lamp or lamps rated at a total of 1800 lumens or less and all flood or spot luminaires with a lamp or lamps rated at 900 lumens or less may be used without restriction to light distribution or mounting height, except that if any spot or flood luminaire rated 900 lumens or less is aimed, directed or focused so as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.

B. Luminaires used for public roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.

C. All temporary emergency lighting needed by the Police, the Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of
D. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires used must be red and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task.

E. Luminaires used primarily for sign illumination may be mounted at any height to a maximum of 25 feet regardless of lumen rating.

2.4 TEMPORARY OUTDOOR LIGHTING

A. Any temporary outdoor lighting that conforms to the requirements of this Ordinance shall be allowed. Nonconforming temporary outdoor lighting may be permitted by the Board of Selectmen after considering 1) the public and/or private benefits that will result from the temporary lighting; 2) any annoyance or safety problems that may result from the use of the temporary lighting; and 3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Board of Selectmen, who shall consider the request at a duly called meeting of the Board of Selectmen. Prior notice of the meeting of the Board of Selectmen shall be given to the applicant and the Kennebunkport Lighting Committee. The Board of Selectmen shall render its decision on the temporary lighting request within two weeks of the date of the meeting. A failure by the Board of Selectmen to act on a request within the time allowed shall constitute a denial of the request.

ARTICLE 3

3.1 EFFECTIVE DATE AND GRANDFATHERING OF NONCONFORMING LUMINAIRES

A. This ordinance shall take effect immediately upon approval by the voters of the Town of Kennebunkport at an annual or special Town Meeting and shall supersede and replace all previous ordinances pertaining to outdoor lighting.

B. All luminaires in place prior to the date of this Ordinance shall be grandfathered. However, any luminaire that replaces a grandfathered luminaire, or any grandfathered luminaire that is moved, must meet the standards of this Ordinance.

ARTICLE 4

4.1 AUTHORIZATION FOR INSTALLATION OF PUBLIC AREA AND ROADWAY LIGHTING

A. Installation of any new public area and roadway lighting fixtures other than for traffic control shall be specifically approved at an Annual Town Meeting.

B. Before any proposal for new multiple public roadway lighting luminaires shall be included in a warrant for an Annual Town Meeting, the Lighting Committee and the Board of Selectmen or its representative shall hold a public hearing to describe the proposal and to provide an opportunity for public comment. Notice of hearing shall be printed in a newspaper of general circulation not less than one (1) week prior to the date of the hearing and shall be posted for a period of at least one (1) week before the meeting.

ARTICLE 5
5.1 NOTIFICATION REQUIREMENTS

A. The Town of Kennebunkport building permit application form shall include a statement asking whether the planned project will include any outdoor lighting.

B. Within 30 days of the enactment of this Ordinance, the Code Enforcement Officer shall send a copy of the Outdoor Lighting Ordinance with a cover letter to all local electricians and local electric utilities, including at least those in the towns of Kennebunkport, Kennebunk, Wells, Arundel and Biddeford as listed in the 1992 NYNEX Yellow Pages.

ARTICLE 6

6.1 VIOLATIONS, LEGAL ACTIONS AND PENALTIES

A. Violations and Legal Actions: If after investigation, the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he shall give notice by hand delivery or by certified mail, return receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that the violation be abated within thirty (30) days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within the thirty-day period, the Code Enforcement Officer may institute actions and proceedings, either legal or equitable, to enjoin, restrain or abate any violations of this Ordinance and to collect the penalties for such violations.

B. Penalties: A violation of this Ordinance, or any provision thereof, shall be punishable by a civil penalty of one hundred dollars ($100), and each day of violation after the expiration of the thirty (30) day period provided in paragraph 6.1A, shall constitute a separate offense for the purpose of calculating the civil penalty.

Adopted: March 19, 1977
Amended: March 10, 1979
March 16, 1985
March 28, 1992

Source URL: https://www.kennebunkportme.gov/town- clerk/pages/outdoor-light- ordinance
Published on Town of Kennebunkport, ME (https://www.kennebunkportme.gov)

Panhandling Ordinance

“Begging” shall mean the solicitation of money or other valuable consideration without giving consideration in return.

“Loitering” shall mean remaining in essentially one area and shall include the concept of spending idle time; to be dilatory; to linger; to stay; so saunter; to delay; and to stay around.

1. **Panhandling**: It shall be unlawful for any person to loiter for the purpose of begging or to beg either alone and/or in consort with others in a public place. The provisions of this section shall not apply to any organization or society that is organized and operated exclusively for religious, educational, philanthropic, benevolent, fraternal, charitable, or reformatory purposes, not operated for pecuniary profit, where no part of the net earnings of which inures to the benefit of any person, private shareholder or individual and provided that any person conducting such solicitation is duly identified as being the authorized agent of such organization or society.

2. **Severability**: The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

3. **Enforcement**: The Chief of Police or any of his designated officers will enforce this Ordinance. Any officer who observes a violation of this Ordinance may summons that individual to the District Court. Any officer who receives a complaint of a violation of this Ordinance from a citizen may, after investigation of the complaint and determining that sufficient evidence exists to conclude that a violation of the Ordinance occurred, summons the offender to the District Court.

4. **Civil Penalty**: Any person adjudicated in violation of this Ordinance shall be liable for a civil penalty.
   1. **First Offense**: Written Warning and a copy of this Ordinance. Second and Subsequent Offenses: Shall be not less than Fifty ($50.00) dollars and not more than One Hundred ($100.00) dollars.
   2. **Any second or subsequent offender** of this ordinance who is summoned for violation may waive all court action by payment of the civil penalty to the Town within ten (10) days of the date of the summons. If the penalty is not paid and/or if court action ensues, the offender shall be liable for any and all costs incurred by the Town in enforcing this Ordinance, including but not limited to court filing fees and the cost of legal counsel.

5. **Penalties Accrue to Town**: All civil penalties collected under this Ordinance shall accrue to the Town of Kennebunkport.

*Adopted by the Board of Selectmen on June 15, 1976.*
*Amended September 22, 2005.*

**Source URL**: https://www.kennebunkportme.gov/town-clerk/pages/panhandling-ordinance
Property Assessed Clean Energy (PACE) Ordinance

Administration by the Efficiency Maine Trust

PREAMBLE

- WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and
- WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town of Kennebunkport, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and
- WHEREAS, the Town of Kennebunkport wishes to establish a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy savings improvements to their property through PACE loans administered by the Trust or its agent; and
- WHEREAS, PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) desire and intend to assist and cooperate with the Trust in its administration of the municipality’s PACE program; and
- WHEREAS, the Town of Kennebunkport may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program; however, the Trust has indicated that the Town of Kennebunkport shall be responsible for administration of loans made from those other funding sources; and
- NOW THEREFORE, the Town of Kennebunkport hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

1. Purpose

By and through this Ordinance, and in conformity with applicable federal and State laws, the Town of Kennebunkport establishes a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town of Kennebunkport.
2. Enabling Legislation

The Town of Kennebunkport enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act" (codified at 35-A M.R.S.A. § 10151, et seq.).

ARTICLE II - TITLE AND DEFINITIONS

1. Title

This Ordinance shall be known and may be cited as "the Town of Kennebunkport Property Assessed Clean Energy (PACE) Ordinance" (the "Ordinance").

2. Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

A. Energy saving improvement. "Energy saving improvement" means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

1. Will result in increased energy efficiency and substantially reduced energy use and:
   1. Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
   2. Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
2. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

B. Town of Kennebunkport. "Town of Kennebunkport" shall mean the Town of Kennebunkport, located in York County, Maine.

C. PACE agreement. "Pace agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

D. PACE assessment. "PACE assessment" means an assessment made against qualifying property to repay a PACE loan.

E. PACE district. "Pace district" means the area within which the municipality establishes a PACE program hereunder, which is all that area within the municipality's boundaries.

F. PACE loan. "PACE loan" means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

G. PACE mortgage. "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

H. PACE program. "PACE program" means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on...
qualifying property.

I. Qualifying property. “Qualifying property” means real property located in the PACE district of the municipality.

J. Renewable energy installation. “Renewable energy installation” means 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, 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.

K. Trust. “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Town of Kennebunkport will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Town of Kennebunkport. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

1. the Trust will enter into PACE agreements with owners of qualifying property in the Town of Kennebunkport's PACE district;
2. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
3. the Trust, or its agent, will disburse the PACE loan to the property owner;
4. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
5. the Trust, or its agent, will be responsible for collection of the PACE assessments;
6. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
7. the Trust or its agent on behalf of the Town of Kennebunkport, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Town of Kennebunkport shall adopt and implement an education and outreach program so that citizens of the Town of Kennebunkport are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Town of Kennebunkport desires and intends to assist and cooperate with the Trust in its administration of the Town of Kennebunkport PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Town of Kennebunkport

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors, tax collectors, town councilors and town managers are not personally liable to the Trust or to any other person for claims, of whatever kind or
nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

**B.** Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article III, §1(A) above, the Town of Kennebunkport has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

**Source URL:** https://www.kennebunkportme.gov/town-clerk/pages/property-assessed-clean-energy-pace-ordinance
Property Tax Assistance Ordinance

Section 1. Purpose; Municipal Authority

The purpose of this Ordinance is to provide property tax assistance to homeowners and renters resident in the Town of Kennebunkport who are of low or moderate income and whose property tax costs comprise a significant portion of their total income. Under this program, the Town of Kennebunkport will provide supplemental cash refund payments to those individuals who qualify as Kennebunkport resident beneficiaries of the State of Maine Property Tax Fairness Credit (PTFC) pursuant to Title 36 § 5219-II of the Maine Revised Statutes and meet the criteria established by this Ordinance. This Ordinance, including the Property Tax Assistance Program (the “Program”) described herein, is authorized pursuant to 36 M.R.S.A. § 6232, as amended by P.L. 2013, ch 455 (emergency, effective March 9, 2014).

Section 2. Definitions

Homestead: A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person and that person’s dependents as a home.

Qualifying applicant: A qualifying applicant is a person who is determined by the Town Manager, after review of a complete application under Section 4 of this Ordinance, to be eligible for a refund payment under the terms of this Ordinance.

Section 3. Criteria for Participation

In order to participate in the Property Tax Assistance Program, an applicant shall demonstrate all of the following:

1. The applicant shall have a homestead in the Town of Kennebunkport at the time of the application and for the entire year (365 days) prior to the date of application.
2. The applicant has received a credit under the provisions of Title 36 § 5219-II.
3. The applicant has been a resident of the Town of Kennebunkport for at least ten (10) years immediately preceding the date of application for participation in the Program.

Section 4. Application and Payment Procedures

Persons seeking to participate in the Property Tax Assistance Program shall submit a written request to the Town Manager. The Town Manager shall establish at the beginning of each year a deadline for applications to be submitted. Applications are required every year to participate in the
Program. The Town Manager shall provide an application form for the Program, which shall include, at a minimum, the applicant’s name, homestead address and contact information. All applications shall be accompanied by the Maine State Property Tax Fairness Credit Release of Information Consent Form to provide proof and dollar amount of the tax credit awarded by the State pursuant to Title 36 M.R.S.A. § 5219-II. The Town Manager or designee shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the Program. The Town Manager or designee shall notify an applicant if an application is determined to be incomplete. The Town Manager’s decision on eligibility to participate in the Program shall be final.

Section 5. Determination of eligibility and amount of eligibility

If the Town Manager or designee determines that the applicant is eligible to participate in the Program, s/he shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

1. 100% of the amount of the credit awarded by the State to the applicant under Title 36 M.R.S.A. §5219-II (Maine Property Tax Fairness Credit Program) or;
2. A pro rata share of available monies in the Town Circuit Breaker fund or;
3. $500.00.

The Town Manager shall each year report to the Board of Selectmen prior to its first meeting in June the projected payments and number of eligible applicants requesting assistance for the program fund.

Section 6. Creation of the Program Fund

The Program Fund from which payments shall be made under the terms of this Ordinance shall be created as follows:

The Board of Selectmen shall request at the annual town meeting an appropriation from the general fund or other sources to support this program. Any surplus monies available after all payments have been made shall be deposited into the town’s undesignated fund balance prior to July 31st of each year except as otherwise directed by Town Meeting vote.

Section 7. Timing of Payments

A person who qualifies for payment under this Program shall be provided with a credit in the amount of the eligible refund towards the balance of property taxes due or other fees/fines owed to the Town, or shall be issued a check for the amount of refund remaining if the property tax due has been paid in full.

Section 8. Program Fund - Limitations upon payments

Payments under this Ordinance shall be conditioned upon the existence of sufficient monies in the Program Fund the year in which participation is sought. If there are not sufficient monies in the Program Fund to pay fully all qualifying applicants under this Ordinance, payments shall be limited to the amounts available in the Fund, and payments to eligible applicants shall be made on a pro rata basis. In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request will not carry over to the next year.

Only one qualifying applicant per household shall be entitled to payment under this Program each year. The right to file an application under this Ordinance is personal to the applicant and does not
survive the applicant’s death, but the right may be exercised on behalf of an applicant by the applicant’s legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Town Manager shall be disbursed to another member of the household as determined by the Town Manager. If the applicant was the only member of a household, then no payment shall be made under this Ordinance.

*Adopted: November 4, 2008*
*Amended: June 8, 2010 and Nov. 4, 2014*

**Source URL:** https://www.kennebunkportme.gov/town-clerk/pages/property-tax-assistance-ordinance
Property Taxes on Time-Share Estates

AN ORDINANCE CONCERNING THE COLLECTION AND PAYMENT OF PROPERTY TAXES ON TIME-SHARE ESTATES

Section 1 - This ordinance is adopted pursuant to authority granted by 33 M.R.S.A. Section 593 (4) and 30-A M.R.S.A. Section 3001 and applies to all time-share properties in the Town of Kennebunkport.

Section 2 - Beginning with the 1996 tax year, the managing entity for each time-share project shall collect and receive money from time-share estate owners for the purpose of paying the Town of Kennebunkport property taxes assessed on time-share estates within the time-share project.

Section 3 - The Tax Collector shall send the managing entity for each time-share project a tax bill and information necessary to identify the assessed value of each time-share unit.

Section 4 - Each managing entity that collects taxes under this ordinance shall maintain an escrow account and pay the taxes in accordance with the provisions of 33 M.R.S.A. Section 593 (5).

Section 5 - This ordinance shall be effective upon its adoption by the Selectmen of the Town of Kennebunkport, County of York and State of Maine and shall apply to taxes assessed on an after April 1, 1996.

Approved by the Board of Selectmen on April 25, 1996.

Source URL: https://www.kennebunkportme.gov/town- clerk/pages/property-taxes-time-share-estates
Radioactive & Hazardous Waste Ordinance

RADIOACTIVE AND HAZARDOUS WASTE DISPOSAL ORDINANCE

Disposal or storage of hazardous wastes as designated under the U.S. Clean Water Act, section 311, Public Law 92-500, and/or the disposal or storage of radioactive waste materials as defined by “38 M.R.S.A., 361-D.1.B”, within the boundaries of the Town of Kennebunkport, Maine shall be prohibited.

Any request for an exception to this prohibition shall be submitted in writing to the Selectman and brought to the whole Town of Kennebunkport acting as the body politic, to be voted on by all bona fide voters present in a Town Meeting.

Approved at Annual Meeting held March 14, 1981

Source URL: https://www.kennebunkportme.gov/town-clerk/pages/radioactive-hazardous-waste-ordinance
Right of Way and Road Infringement Ordinance

1. Definitions: For purposes of this Ordinance, "Signs shall mean any board, poster or placard displayed to convey information or direction, whether permanent or temporary, printed or handwritten, or any other usage customarily associated with the word sign. "Object" shall mean any item whether animate or inanimate.

2. Conduct Prohibited: No person shall place or erect any sign or object in or on any Town Right of Way or Road without first consulting with the Chief of Police and Highway Superintendent or their designees to get their recommendation, and then appearing before the Board of Selectmen of the Town of Kennebunkport to get that Board's approval.

Any person found to be in violation of this section will be given twenty-four (24) hours to remove the sign or object. If the sign or object is not removed within twenty-four (24) hours, then the Highway Department will remove the sign or object, and the owner of the sign or object shall pay all costs of removal.

3. Enforcement: The Chief of Police or any of his designated officers will enforce this Ordinance. Any officer who observes a violation of this Ordinance may summons that individual to the District Court. Any officer who receives a complaint of a violation of this Ordinance from a citizen may, after investigation of the complaint and determining that sufficient evidence exists to conclude that a violation of the Ordinance occurred, summons the offender to the District Court.

4. Civil Penalty: Any person adjudicated in violation of this Ordinance shall be liable for a civil penalty.

   1. First Offense: Written warning and a copy of this Ordinance
   2. Second and Subsequent Offenses: Fine of One Hundred Dollars ($100.00)

Any second or subsequent offender of this Ordinance who is summoned for violation may waive all court action by payment of the civil penalty to the Town within ten (10) days of the date of the summons. Notwithstanding anything in this Ordinance to the contrary, the Town reserves the right to seek a restraining order, with respect to any second or subsequent offenders, to prohibit further violations of this Ordinance.

If the penalty is not paid and/or if court action ensures, the offender shall be liable for any and all costs incurred by the Town in enforcing this Ordinance, including but not limited to removal of the sign or object, court filing fees and the cost of legal counsel.

5. Penalties accrue to Town: All civil penalties collected under this Ordinance shall accrue to the Town of Kennebunkport.

6. Severability: The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

7. Authority: This Ordinance is enacted pursuant to 30-A M.R.S.A. Sec. 3009 and any amendments thereto, pursuant to 23 M.R.S.A. Sec. 2701 and any amendments thereto, and
pursuant to Articles 1.2 and 7 of the Kennebunkport Administrative Code and any amendments thereto.

8. **Effective date:** This Ordinance shall become effective immediately upon approval by a majority vote of the Kennebunkport Board of Selectmen.

*Adopted by the Board of Selectmen on August 12, 1993.*

**Source URL:** https://www.kennebunkportme.gov/town-clerk/pages/right-way-and-road-infringement-ordinance
Shellfish Conservation Ordinance

1. **Authority:** This Ordinance is enacted in accordance with 12 M.R.S.A. §6671.

2. **Purpose:** To establish a shellfish conservation program for the Town of Kennebunkport that will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means that may include:
   1. Licensing
   2. Limiting the number of shellfish harvesters
   3. Restricting the time and area where digging is permitted
   4. Limiting the minimum size of clams taken
   5. Limiting the amount of clams taken daily by a harvester

3. **Shellfish Conservation Committee:** The Shellfish Conservation Program for the Town of Kennebunkport will be administered by the Shellfish Conservation Committee consisting of a minimum of five (5) members and a maximum of seven (7) members, including the Shellfish Warden who may be a non-resident, to be appointed by the Selectmen of the Town of Kennebunkport for terms of three (3) years. No more than three (3) members shall possess current commercial shellfish licenses. The Shellfish Conservation Warden may not possess a Commercial Shellfish License. The Committee's responsibilities include:
   1. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued.
   2. Surveying each clam-producing area at least once each three years to establish size distribution and density, and annually estimating the status of the Town's shellfish conservation.
   3. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation.
   4. Keeping this Ordinance under review and making recommendations for its amendments.
   5. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources.
   6. Recommending conservation closures and openings to the Board of Selectmen in conjunction with the Area Biologists of the Department of Marine Resources.
   7. Submitting an annual report to the municipality and the Department of Marine Resources covering the above topics and all other committee activities.
   8. Recommending daily harvest limits to the Board of Selectmen.

4. **Definitions**
   1. **Resident:** The term "resident" refers to a person who has been domiciled in this municipality for at least three months next prior to the time his claim of such residence is made.
   2. **Nonresident:** The term "nonresident" means anyone not qualified as a resident under this Ordinance.
3. **Shellfish, Clams and Intertidal Shellfish Resources**: When used in the context of this Ordinance, the words "shellfish," clams," and "intertidal shellfish resources" mean soft shell clams (Mya arenaria).

4. **Municipality**: Refers to the Town of Kennebunkport, Maine.

5. **Shellfish Conservation Warden**: When used in the context of this Ordinance, the words "Shellfish Warden" and "Clam Warden" mean Shellfish Conservation Warden.

5. **Licensing**: **Municipal Shellfish Digging License is required.** It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this Ordinance.

1. **Designation, Scope and Qualifications**:  
   1. **Resident Recreational Shellfish License**: The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family.
   2. **Nonresident Recreational Shellfish License**: The license is available to any person not a resident of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family.
   3. **Resident Commercial Shellfish License**: The license is available to residents of this municipality and entitles the holder to dig and take no more than the amount of shellfish as recommended by the Shellfish Conservation Committee and approved by the Board of Selectmen in any one day, unassisted only. Commercial license holders must keep a daily log of clams harvested. This license shall be revoked if the license holder ceases to reside in the municipality.
   4. **Non-resident Commercial Shellfish License**: The license is available to nonresidents of this municipality and entitles the holder to dig and take no more than the amount of shellfish as recommended by the Shellfish Conservation Committee and approved by the Board of Selectmen in any one day, unassisted only. Commercial license holders must keep a daily log of clams harvested.
   5. **Daily Recreational Shellfish License**: The license is available to residents and nonresidents of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family. The license is good only for the date stated on the license.
   6. **License must be signed**: The licensee must sign the license to make it valid.

2. **Application Procedure**: Any person may apply to the Town Clerk for the licenses required by this Ordinance on forms provided by the municipality.
   1. **Contents of Application**: The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature and whatever information the municipality may require.
   2. **Misrepresentation**: Any person who gives false information on a license application will cause said license to become invalid and void.

3. **Fees**: The fees for the licenses shall be set by the Municipal Officers upon the approval of the Commissioner of the Department of Marine Resources and must accompany in full the application for the respective license. The Town Clerk shall pay all fees received to the Town Treasurer. Fees received for shellfish licensing shall be used by the Town for shellfish management, conservation and enforcement.

4. **Limitation of Diggers**: Clam resources vary in density and size distribution from year to year and over the limited soft clam-producing area of the Town. It is essential that the Town carefully husband its shellfish resources. Following the annual review of the Town’s clam resources, its size distribution, abundance, and the Warden's reports, as required by Section 3, the Shellfish Conservation Committee in consultation with the D.M.R. Area Biologist will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year.
   1. Prior to January 1, the Committee shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be
made available for the following license-year to the Commissioner of Marine Resources for concurrence.

2. After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to January 1, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.

3. Notice of the number of licenses to be issued and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation that the Municipal Officers consider effective in reaching persons affected, not less than ten (10) days prior to the period of issuance. This information shall also be posted in the municipal offices until the period concludes.

4. The Town Clerk shall issue licenses to residents and nonresidents as allocated (paragraph 5.D.1) from January 1 and until March 31 after which license shall be issued without regard to residency on a first come, first served basis or by lottery.

5. **License Expiration Date**: Each license issued under authority of this Ordinance expires at midnight on the December 31st next following date of issuance. Each daily license issued under the authority of this Ordinance shall be valid only for the date stated on the license.

6. **Reciprocal Harvesting Privileges**: Licenses from any other municipality cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of this license.

7. **License Fee Waiver**: Recreational shellfish license fees will be waived for residents 65 years or older and 12 years or younger.

8. A shellfish license is not available to anyone whose municipal or state shellfish license is under suspension or who has been convicted of violating Maine marine statutes or state wildlife statutes within a prior 24 month period or who has a valid commercial license in another Maine municipality.

9. **Suspension/Revocation**: A shellfish license issued under this Ordinance is subject to suspension as follows:
   1. In cases where a court enforcement proceeding is brought under this Ordinance or State law:
      a. in the case of a first court judgment finding any violation, an automatic suspension of 60 days;
      b. in the case of a second court judgment finding any violation against the same licensee, an automatic revocation of the existing license, and the person found in violation is prohibited from re-applying for a license under this Ordinance for one year.
   2. In cases where the Shellfish Warden believes that a licensee has violated this Ordinance, he may give notice to the licensee of such belief. If, after providing the licensee with an opportunity to rebut any evidence he has, the Clam Warden concludes that a violation has occurred, he may issue a notice of suspension not to exceed 30 days.
      1. A licensee who has received a notice of suspension may appeal to the Board of Selectmen by filing a written request with the Town Clerk within seven (7) days of the day the Clam Warden’s decision is rendered. Upon filing the request, the suspension is stayed pending the Board’s decision.
      2. The Board of Selectmen shall hear the appeal as soon as practicable and shall provide the appellant with at least 7 days written notice of hearing. It shall hear all the evidence and decide whether to uphold or reverse the decision of the Clam Warden. The rules of evidence do not apply.

6. **Conservation Credits**: A licensed commercial shellfish harvester must obtain a total of ten (10) conservation credit points between January 1 and December 31 in order to remain eligible to obtain a license for the next licensing period. Documented certification in any of the
following activities results in granting of conversation credit as specified. Participation in any
one (1) of the following activities shall deem a harvester eligible to receive five conservation
credit points per activity:

1. Participation in a Kennebunkport Shellfish Conservation Committee sponsored shellfish
re-seeding project.
2. Participation in a Kennebunkport Shellfish Conservation Committee sponsored shellfish
survey.
   - If the Kennebunkport Shellfish Conservation Committee does not sponsor both
     activity 6(a) and 6(b) above during a single calendar year then participation in the
     single activity sponsored shall be valued at ten (10) conservation credit points.
   - All records and conservation credit logs will be maintained by the shellfish warden
     and will be held in the shellfish warden’s office.
   - Determination of conservation credit completion - By the first business day of
     January the shellfish warden shall compile documented conservation time of each
     individual harvester and forward a list of those harvesters determined to have
     satisfied the conservation credit requirement to the Town Clerk.
   - Harvesters included on the list submitted by the shellfish warden shall be eligible
     for a commercial license for the upcoming license year if a notice of intent has
     been filed by the deadline.
   - Harvesters will be notified of their status in terms of conservation credit
     completeness by the shellfish warden by December 1 for credits earned. A final
     status will be mailed by December 10.
   - Approved absence from conservation credit requirement - Harvesters who have
     not completed a full ten (10) points of conservation credit in a given license year
     are only eligible for a license if their absence from participation in conservation
     credit activities is approved by the shellfish warden or marine resource committee.
   - Approved absences may include an extended and documented illness, or an
     extended illness of an immediate family member that is under the immediate care
     of the harvester.
   - Requests for a determination of approved absence must be made in writing to the
     shellfish warden and must be submitted no later than December 15. The request
     shall include evidence to support an approval of absence determination.
   - If the absence is approved, the harvester will be required to make up the remaining
     conservation credit points during the next license year.
   - If the absence is not approved, the harvester will not be eligible to obtain a license.
   - Appeal procedure - A harvester may appeal any determination of eligibility made
     by the shellfish warden. Request for appeals must be made in writing to the
     Shellfish Conservation Committee by December 31. Appeals will be decided by the
     Shellfish Conservation Committee during its January meeting. Decisions shall be
     provided to the town clerk in writing no later than five (5) days after the meeting.

7. Opening and Closing of Flats: The Municipal Officers, upon the approval of the
   Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon
   recommendations of the Shellfish Conservation Committee and concurrence of the
   Department of Marine Resources Area Biologist that the status of shellfish resource and other
   factors bearing on sound management indicate that an area should be opened or closed, the
   Municipal Officers may call a public hearing, and shall send a copy of the notice to the
   Department of Marine Resources. The decision of the Municipal Officers made after the
   hearing shall be based on findings of fact.

   It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed
   by the Town of Kennebunkport in accordance with DMR Regulation, Chapter 7. Harvesting
   shellfish in a closed area is a violation of this municipality’s ordinance and is punishable under
   MSRA Title 12 §6671.
Boundaries of conservation closures are explicitly defined in the conservation closure application submitted by the Town of Kennebunkport to DMR and are part of the resulting permit issued by DMR. These permits are posted at the town office and online: http://www.maine.gov/dmr/shellfish-sanitation-management/programs/municipal/ordinances/towninfo.html.

8. **Minimum Legal Size of Soft Shell Clams:** It is unlawful for any person to possess soft shell clams within the Town of Kennebunkport, County of York, that are less than two (2) inches in the longest diameter except as provided by Subsection B of this section.

   1. **Definitions:**
      
      1. *Lot:* The word "lot" as used in this Ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel, or other container, the contents of each box, barrel, or other container constitutes a separate lot.
      2. *Possess:* For the Purpose of this section, "possess" means dig, take, harvest, transport, or hold soft shell clam shellstock.

   2. **Tolerance:** Any person may possess soft shell clams that are less than two (2) inches if they comprise less than 10% of any lot.

9. **Other Limitations:**

   1. The placement of clams harvested under this section in a closed container is prohibited.
   2. The harvesting of clams is permitted only during daylight hours which shall be defined as between one hour prior to sunrise and one hour past sunset.

10. **Penalty:** A person who violates this Ordinance shall be punished as provided by 12 M.R.S.A. §6671 (10).

11. **Effective Date:** This Ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality provided a certified copy of the Ordinance is filed with the Commissioner within twenty (20) days of its adoption.

12. **Period of Ordinance:** This Ordinance shall remain in effect until repealed by the Municipality or rescinded by the Commissioner of the Department of Marine Resources.

13. **Separability:** If any section, subsection, sentence or part of this Ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

14. **Repeal:** Any ordinance regulating the harvesting or conservation of shellfish in the Town and any provisions of any other Town ordinance that is inconsistent with this Ordinance is hereby repealed.

*June 9, 2009 version*

**Source URL:** https://www.kennebunkportme.gov/town-clerk/pages/shellfish-conservation-ordinance
Skateboard Ordinance

1. **Definition** - For the purposes of this Ordinance, "Skateboard" will mean any wheeled vehicle intended and designed to be propelled by a foot on the vehicle at the time of initial propulsion.

2. **Conduct Prohibited**
   1. It shall be unlawful for any person to operate or attempt to operate a skateboard, as defined above, on any sidewalk within the Town of Kennebunkport. It shall be unlawful for any person to operate or attempt to operate a skateboard, as defined above, so as to interfere, obstruct or disrupt pedestrian and or vehicular movements upon any public street, public highway, public way, public building or any other public place within the Town of Kennebunkport.
   2. It shall be unlawful for any person to operate or attempt to operate a skateboard, as defined above, in the Dock Square area defined as follows: Elm Street, Chestnut Street, Summer Street, Union Street, Cross Street, Spring Street, Temple Street, Church Lane, North Street from Temple Street to the intersection of Maine Street, Maine Street from North Street to Elm Street, Ocean Avenue from Elm Street to Spring Street, and the municipal parking lot.

3. **Enforcement** - The Chief of Police of the Town of Kennebunkport or any of his officers may enforce this Ordinance. Any officer who observes a violation of this Ordinance by any individual may summons that individual to the District Court. Any officer who receives a complaint of a violation of this Ordinance from a citizen, after investigating the complaint and determining that sufficient evidence exists to conclude that a violation of the Ordinance occurred, may summons the offender to the District Court.

4. **Civil Penalty** - Any person adjudicated in violation of this Ordinance shall be liable for a civil penalty of not less than Twenty-Five Dollars ($25.00) and not more than One Hundred Dollars ($100.00).
   1. All first offenders shall receive a written warning and a copy of this Ordinance.
   2. In cases where the offender is under the age of eighteen the parents or legal guardian will be notified.
   3. All second and subsequent offenders will be summoned to the District Court. Any person so summoned may waive all court action by payment of the following amounts within ten (10) days of the date of the summons:
      1. First Punishable Offense $ 25.00
      2. Second Punishable Offense $ 50.00
      3. Third Punishable Offense and after $100.00

*In addition to payment of a civil penalty, any offender of this Ordinance who is summoned to District Court shall be liable for payment of any and all costs incurred by the Town in enforcing this Ordinance, including but not limited to court filing fees and reasonable attorney’s fees.*
5. **Penalties accrue to Town** - All civil penalties collected under this Ordinance shall accrue to the Town of Kennebunkport.

6. **Severability** - The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

7. **Authority** - This Ordinance is enacted pursuant to 30_A M.R.S.A. Section 3009 and any amendments thereto, and pursuant to Articles 1.2 and 7 of the Kennebunkport Administrative Code and any amendments thereto.

8. **Effective date** - This Ordinance shall become effective immediately upon approval by a majority vote of the Kennebunkport Board of Selectmen.

*Adopted by the Board of Selectmen on April 22, 1993.*

**Source URL:** https://www.kennebunkportme.gov/town- clerk/pages/skateboard- ordinance
Special Amusement Permit

TOWN OF KENNEBUNKPORT RULES AND REGULATIONS

SPECIAL AMUSEMENT PERMIT FOR DANCING AND ENTERTAINMENT

ARTICLE I

Section 103 - DEFINITIONS

103-1 Entertainment: For the purposes of these Rules and Regulations, “entertainment” shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

103-2 Licensee: For purposes of this section, “licensee” shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation or other legal entity, or any agent or employee of any such licensee or acting on behalf of any such licensee or left in charge of or in control of such licensees premises.

ARTICLE II - GENERAL

Section 201 - PERMIT REQUIRED

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the Town of Kennebunkport a special amusement permit signed by a majority of the Board of Selectmen.

Applications for all special amusement permits shall be made in writing to the Board of Selectmen and shall state the name of the applicant, his residence address, the name of the business to be conducted, his business address, the nature of his business, the location to be used, all places of residence of the applicant during the past five years, whether the applicant has ever has a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically, whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances, and any additional information as may be needed by the Board of Selectmen in issuing of the permit, including but not limited to a copy of the applicants current liquor license.
No permit shall be issued for anything, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, by-laws, or rules and regulations of the Town of Kennebunkport.

The fee for a special amusement permit shall be $20.00.

The Board of Selectmen shall, prior to granting a permit and after reasonable notice to the Town of Kennebunkport and the applicant, hold a public hearing at which testimony of the applicant and that of any interested members of the public shall be taken.

The Board of Selectmen shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare or would violate municipal ordinances or rules and regulations, articles or by-laws.

A permit shall be valid only for the license year of the applicants existing liquor license.

Section 202 - CONDUCT CONSTITUTING OFFENSES BY LICENSEES

202-1 Tumultuous Conduct: The licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb or aid in disturbing the peace of others of ordinary sensibilities or to be disordered by violent, tumultuous, offensive or obstreperous conduct; or to permit or gather a crowd or audience or patrons to witness any entertainment, amusement or show as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety or welfare.

202-2 Riots: The licensee shall not allow on any licensed premises any public entertainment or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.

202-3 Unnecessary Noise: The licensee shall not allow on any licensed premises the making, creation or maintenance of excessive or unnecessary or unnatural or unusually loud noises which disturbs, annoys, injures or prejudices or endangers the comfort, repose, health, peace or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others and which noises affect and are a detriment to public health, comfort, convenience, safety, welfare or the prosperity of the residents of Kennebunkport.

202-4 Nuisances: The licensee shall not allow any licensed premises to be conducted or operated as to amount to a nuisance in fact under any ordinances, or any sections of any ordinances, articles, by-laws or rules and regulations of Kennebunkport, or under any statutes of the State of Maine.

Section 203 - INSPECTIONS

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer, official or employee of the Town of Kennebunkport who is authorized or directed by the Board of Selectmen to make such inspection at any reasonable time that admission is requested.

In addition to any other penalty which may be provided, the Board of Selectmen may revoke the license and/or the special amusement permit of any licensee in the Town of Kennebunkport who refuses to permit any such officer, official or employee who is authorized to make such inspection,
or who interferes with such officer, official or employee while in the performance of his duty in making such inspection.

Section 204 - SUSPENSION OR REVOCATION OF A PERMIT

The Board of Selectmen may, after a public hearing preceded by notice to interested parties, deny, suspend or revoke any special amusement permits which have been issued or are to be issued under these Rule and Regulations on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety or welfare or violates any Town of Kennebunkport ordinances, or sections of any ordinances, articles, by-laws or rules and regulations.

Section 205 - SAFETY REQUIREMENTS

205-1.1 Application

205-1.1.1 The requirements of this section apply to both new and existing places of assembly.

Exception No. 1: Where otherwise stated.

Exception No. 2: An existing building housing an assembly occupancy established prior to the effective date of these Rules and Regulations may have its use continued if it conforms or is made to conform to the provisions of these Rules and Regulations to the extent that, in the opinion of the Board of Selectmen, reasonable life safety against the hazards of fire, explosions and panic is provided and maintained.

205-1.2 Occupant Load

205-1.2.1 The occupant load permitted in any assembly building, structure or portion thereof shall be determined by dividing the net floor area or space assigned to that use by the square feet per occupant as follows: 15 square ft. per person.

205-1.2.2 The occupant load permitted in a building or portion thereof may be increased above that specified in 205-1.2 if the necessary aisles and exits are provided subject to the approval of the Board of Selectmen. An approved aisle, exit and/or seating diagram may be required to substantiate an increase in occupant load.

Section 205-2 - MEANS OF EGRESS REQUIREMENTS

205-2.1 General

205-2.2 Types of Exits

205-2.2.1 Exits of the specified number and width shall be of one or more of the following types:

a. Doors of the swinging type leading directly outside or to a lobby or passageway leading to the outside of the building.

b. Horizontal exits.

c. Interior stairs.

d. Outside stairs. Same requirement as for interior stairs, including intermediate handrails on monumental stairs serving main entrance doors.

e. Exit passageways.

205-2.3 Means of Egress
**205-2.3.1** Each establishment shall have at least two means of egress, consisting of separate exits or doors leading to a corridor or other spaces giving access to two separate and independent exits in different directions.

**205-2.3.2** Exits shall be remote from each other and shall be arranged to minimize the possibility that they may be blocked by any emergency.

**205-2.3.3** Panic Hardware. All exit doors must be provided with panic hardware.

**205-2.3.4** Illumination of means of egress shall be provided in accordance with NFPA 101.

**205-2.3.5** Emergency Lighting. All places of assembly and their means of egress shall be provided with emergency lighting in accordance with NFPA 101.

**205-2.3.6** Marking of Means of Egress: Means of egress shall have signs in accordance with NFPA 101.

**Section 206 - OPERATING FEATURES GENERAL**

**206-1 Equipment Maintenance**

**206-1.1** All exit lighting, emergency lighting and panic hardware shall be continuously in proper operation condition.

**206-1.2** Any equipment requiring test or periodic operation to assure its maintenance shall be tested or operated as directed by the authority having jurisdiction.

**206-1.3** Systems shall be under the supervision of a responsible person who shall cause proper tests to be made at specified intervals and have general charge of all alterations and additions.

**206-2 Furnishings, Decorations**

**206-2.1** Furnishings or decorations of an explosive or highly flammable character shall not be used.

**Section 207 - PERMIT AND APPEAL PROCEDURES**

Any licensee requesting a special amusement permit from the Board of Selectmen shall be notified in writing of their decision no later than fifteen (15) days from the date his request was received. In event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days after an application for a permit which has been denied.

Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the Town of Kennebunkport Board of Appeals. The Board of Appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial, revocation or suspension was not based by a preponderance of the evidence on a violation of or an infraction of any ordinance, article, by-law or rule or regulation of the Town of Kennebunkport.

**ARTICLE III**

**PENALTY, SEPARABILITY & EFFECTIVE DATE**
Section 301 - PENALTY

Whoever violates any of the provisions of these Rules and Regulations shall be punished by a fine of not more than One Hundred Dollars ($100.00) for the first offense, and up to Five Hundred Dollars ($500.00) for subsequent offenses, to be recovered, on complaint, to the use of the Town of Kennebunkport.

Section 302 - REVOCATION

In addition to the penalties of Section 301, the Board of Selectmen may suspend or revoke the permits pursuant to Section 204.

Section 303 - SEPARABILITY

The invalidity of any provisions of these Rules and Regulations shall not invalidate any other part.

Section 304 - EFFECTIVE DATE

The effective date of these Rules and Regulations shall be February 22, 1979.

Source URL: https://www.kennebunkportme.gov/town-clerk/pages/special-amusement-permit
Special Events and Mass Gathering Ordinance

Adopted at the Annual Town Meeting - March 22, 1986
Amended June 18, 2005, Nov. 6, 2007 & June 10, 2008

1. **Purpose** - The Town of Kennebunkport recognizes the desirability of certain outdoor events and mass gatherings, and hereby ordains the following to protect the general welfare and promote public health and safety by addressing issues arising out of such events and gatherings, such as traffic congestion, crowd control, public safety, health and sanitation, compliance with alcohol and drug laws, and protection of public and private property.

2. **Definitions**
   1. **Mass Gathering** - "Mass Gathering" shall mean any Commercial or Non-Commercial gathering or special event held outdoors or in a tent with the intent to attract the attendance of 250 or more persons. All mass gatherings must be permitted, as outlined below.
   2. **Commercial Gathering** - "Commercial Gathering" shall mean those mass gatherings which are sponsored by local businesses or other groups with the intention of generating profits and/or for the purpose of attracting tourists and others to Kennebunkport for commercial reasons such as promoting tourism or increasing the sale of goods or services available in the Town or its environs. By way of illustration only and without limitation, the term "commercial gathering" includes the July 4th fireworks display, winter prelude, craft fairs, circuses, and similar events.
   3. **Non-Commercial Gathering** - "Non-Commercial Gathering" shall mean those mass gatherings whose primary purpose relates directly to the expression of philosophical, religious, political, patriotic or social points of view and which are not primarily designed for commercial reasons such as generating profits and/or promoting tourism or increasing the sale of goods or services available in the Town and its environs. By way of illustration only and without limitation, the term "non-commercial gathering" includes political speeches, religious activities, Memorial Day observances, and similar events. Weddings, family reunions, wakes and funerals are considered non-commercial gatherings under this ordinance, unless those events are conducted by the applicant for commercial purposes.

3. **Permit Required; Charges.**
   1. **Permit required.** All persons, corporations, partnerships, associations, or groups of any kind that sponsor, promote or conduct a mass gathering (the "Applicant") shall first procure from the Town a permit therefor.
   2. **Charges.**
      1. **Charges for Commercial Mass Gatherings.** The Applicant for a commercial mass gathering shall pay a non-refundable permit fee of $25.00, plus the costs incurred by the Town for traffic and crowd control, as outlined below:
1. In the case of commercial gatherings where uniformed police officers are required for traffic and crowd control, costs actually incurred by the Town for the required police officers, vehicles, and equipment, as calculated by the Chief of Police, shall be paid by the Applicant.

2. The number of police officers, police vehicles, and any other health and/or safety equipment that is required will be determined by the Chief of Police in a systematic, consistent, and non-discriminatory manner based on factors such as the location of the event, the route to be taken (if any), the duration of the event, the estimated number of people who will attend, whether or not any roads (in one or both directions) need to be closed off, and/or the impact of any other mass gatherings or other activities generating the need for traffic, parking and/or crowd control that are also being held within the Town at the same time.

3. If a mass gathering requires on-duty police officers to work overtime, the Applicant will be charged at the applicable overtime rate for the employee performing the work, per the current union contract.

4. If a mass gathering requires the use of off-duty police officers, the rate of hourly pay will be regulated by the current union contract. The Town shall also charge an additional amount to defer the costs of Social Security, Maine State Retirement, and Worker's Compensation.

2. Charges for Non-Commercial Mass Gatherings. The Applicant for a non-commercial mass gathering shall pay a permit fee of $25.00, which shall be the only fee that is charged. However, where the Applicant demonstrates that it is unable to pay such fee, the Chief of Police or his/her representative shall waive such fee.

4. Permitting Procedures and Standards for Mass Gatherings

1. Issuing Authority.

   1. All permits shall be issued, approved, approved with conditions or disapproved by the Chief of Police or the Chief's representative, after consultation with the Town Manager, the Code Enforcement Officer and any other Town officials or employees as the Chief of Police deems necessary, according to the procedure contained herein.

   2. Any Applicant aggrieved by this decision or the fee charged shall have the right to appeal the decision or the fee charged within five (5) days to the Board of Selectmen, who shall hear the appeal at their next regularly scheduled meeting or at a special meeting called to hear the appeal.

2. Procedures and Standards.

   1. No permit shall be granted unless the Applicant shows that proper facilities will be available for the proposed event or gathering in the area to be used and that adequate precautions have been taken to ensure the public health and safety of attendees and the general public.

   2. In reviewing an Applicant's proposal, the Chief of Police, in consultation with the Town Manager, the Code Enforcement Officer and other Town officials or employees as deemed necessary, shall take into consideration any or all of the following factors that are relevant in determining whether to issue a permit:

      1. Water Supply
      2. Refuse Disposal
      3. Grounds (including illumination and square footage available per person)
      4. Roads, traffic control and parking space available
      5. Sanitary Facilities
      6. Medical Facilities
      7. Safety and Access
      8. Noise Control

3. Additional Requirements.
1. All commercial and non-commercial mass gatherings shall meet all requirements of the Town of Kennebunkport for emergency medical treatment, parking, public safety, sanitary provisions, financial obligations and other requirements set forth by the Town of Kennebunkport.

2. Within a zone where commercial uses are not permitted, no parcel may be used as the location for a commercial mass gathering more frequently than once every 120 days.

5. **Enforcement, Penalty, Assignability** - The Town shall enforce this Ordinance through its Code Enforcement Officer. Violation of this Ordinance or the conditions of the permit issued may result in revocation of the mass gathering permit and a civil penalty of one thousand dollars [$1,000] for each violation. Each day such violation continues shall constitute a separate offense. Permits issued under this Ordinance are not transferable or assignable, without prior approval of the Board of Selectmen.

**Source URL:** https://www.kennebunkportme.gov/town-clerk/pages/special-events-and-mass-gathering-ordinance
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: 6/12/2018

ARTICLE II – NAMING SYSTEM

All roads that serve three 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.
4. Roads named prior to the adoption of the Street Ordinance shall, unless requested, remain the same.
5. Should two roads/streets that are currently dead ends ever be connected to improve public safety conditions may keep their individual names up to the point of connection, unless the combined residences of the two roads wish to rename the newly configured road as outlined in Article VII of this ordinance.

PRIVATELY OWNED STREETS

All privately owned streets serving three (3) 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.

Updated: July 2, 2018
ARTICLE III- STREET NUMBERING

The following criteria shall govern the numbering system:

1. Numbers shall be assigned every 50 (fifty) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, as the numbers ascend. A 25-foot or less interval may be applied in more densely structured areas. Existing street numbers assigned on the 100’ interval will remain, so long as there are no addresses containing the use of alpha or rear designate and reasonable conditions allow for new street numbers to be assigned.

2. 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. Four (4) streets, River Road, Woodlawn Avenue, Arbor Ledge Drive and Poets Lane, have odd numbers on the left and even on the right are grandfathered.

3. The number assigned to each structure shall be that of the numbered interval falling closest to the driveway of said structure if the front door cannot be seen from the main road. For structures situated on a corner of 2 streets, the structure will be numbered based on the driveway location.

4. Every structure with more than one principle occupancy shall have a separate number for each occupancy, i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Road, Apt 2.

5. (Existing) Condominium complexes will be numbered from the access point, and assigned unit #’s., such as 272 Mills Road, Unit 1F, regardless of the size of the complex

6. Any new subdivision, approved by the planning board, will have all interior roads named as part of the application/plan process. In the case of the subdivision with condominium units, they will be numbered/addressed on the road as either a single structure or duplex.

7. An “in-home” business will have the same street number as the residence.

ARTICLE IV – COMPLIANCE

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

1. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure near the front door or entry.

2. Number at the Road Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure.
3. Size, Color, and Location of Number. Numbers shall be of a color that contrasts with their background color and shall be a minimum of four (4) inches in height. Numbers shall be located to be visible from the road at all times of the year.

4. Proper number. Every person whose duty is to display an assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

5. Owners of properties failing to exhibit their assigned number(s) in accordance with this Article shall be notified by certified mail, using the current address to which the real estate tax assessment is mailed. Such notice shall include a copy of this Ordinance, without Appendices, and advise that the owner is in default of this Ordinance and that a fine of twenty-five ($25.00) dollars will be assessed to the property if compliance is not accomplished within forty-five (45) days of the date of the mailing of the certified letter. Additionally, a fine of one (1) dollar will be assessed for each day after the forty-fifth (45th) day that the owner remains in non-compliance. It shall be the owner’s responsibility to have compliance verified by the appropriate official(s) after notification of default.

6. All monies, if any, collected in accordance with Section 5 above will be used to administer this Ordinance. At the Annual Town Meeting, the balance, if any, at the end of the fiscal year shall either be re-appropriated to this account or designated as un-appropriated surplus.

ARTICLE V – RESPONSIBILITY

1. The Board of Selectmen, hereinafter referred to as “The Board”, shall be responsible for approving the naming and numbering of streets. The Board may assign or delegate the approval process to the Addressing Office, who will utilize the Public Safety Committee to review new requests for naming streets prior to notification of requesting individuals.

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.

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

Updated: July 2, 2018
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.

**DEFINITIONS**

**CUL-DE-SAC:** A loop on the dead end of a street to provide a convenient turn around without encroaching upon private driveways.

**DRIVEWAY:** A vehicular access from a street to a residence or business.

**SQUARE:** A center of activity, usually business and usually the intersection of several streets. It also can be a memorial or historical plot. Residences and businesses located in a Square may be numbered as on the Square or on a street forming the Square.

**STREET:** Any way that provides vehicular access to two (2) or more residences, businesses or properties (existing or planned) or has the potential for same, whether public or private. It may be called an Alley, Avenue, Boulevard, Circle, Court, Drive, Lane, Parkway, Place, Road, Way, or other such descriptive title.

**TURN-AROUND:** A bulbous end of a dead-end street to facilitate a reversal of direction with a minimum of backing and filling usually made to accommodate automobiles not larger trucks.

**APPENDICES**

APPENDIX I: A list of all Kennebunkport streets, public and private (click to view).
APPENDIX II: Maps of Kennebunkport streets and index thereof.
APPENDIX III: Record of changes.
Kennebunkport Subdivision Regulations, Revised ------

History

The “Planning Board Standards for Reviewing Land Subdivisions” as adopted by YCRPC on January 11, 1972 and amended by the SMRPC on April 25, 1972 for use by municipal planning boards were adopted by the Kennebunkport Planning Board on March 23, 1972, and Updated by the Kennebunkport Planning Board, fall, 1977. The Standards were amended on April 25, 1984 to increase the subdivision fees. The standards were again amended on February 11, 1987 to repeal Article IV pertaining to pre-application. Article IV, Application Procedure, was adopted in place of the pre-application article.

The Standards were updated during summer 1987 based on the 1986 “Model Subdivision Regulations for Maine Planning Boards” issued by the Southern Maine Regional Planning Commission. The updated Standards are known as the Kennebunkport Planning Board Subdivision Regulations” as adopted by the Kennebunkport Planning Board on July 22, 1987.

Beginning in October of 2002, The Kennebunkport Planning Board began the process of updating the Subdivision Regulations based on the “Model Subdivision Regulations for Use by Maine Planning Boards”, eleventh edition dated December 1996. Public workshops were held, the Southern Maine Regional Planning Commission was used as consultants, input from responsible Town of Kennebunkport officials was received, and outside resources and references were used where appropriate.

A number of minor revisions were made in 2013 in order to conform the subdivision regulations with changes in the Land Use Ordinance, update the sections on fees for major and minor subdivisions and on performance guarantees, and to conform to the twelfth edition- June 2006 of the “Model Subdivision Regulations for Use by Maine Planning Boards” published by the SMRPC.

These Revised Subdivision Regulations were approved by the 2013 Kennebunkport Planning Board on March 20th 2013 by unanimous vote subsequent to a Public Hearing held on the same date.

David Kling, Chairman

Gordon Ayer

Leo Famolare

John Hathaway

Peter Fellenz

Greg Reid

Helen Conaty
Kennebunkport Subdivision Regulations

Article 1--- Purposes

These subdivision regulations are based on Title 30-A MSRA §4401 through §4407 as amended.

1.1 To provide for an expeditious and efficient process for the review of proposed subdivisions;
1.2 To clarify the approval criteria of the state Subdivision Law, found in Title 30-A M.R.S.A., §4404;
1.3 To ensure that new development in the Town of Kennebunkport meets the goals and conforms to the policies of the Kennebunkport Comprehensive Plan and subsequent amendments or revisions and the State of Maine Growth Management Act goals under Title 30-A, §4312;
1.4 To ensure comfort, convenience, safety, health, and welfare of the people of the Town of Kennebunkport;
1.5 To protect the environment and conserve the natural and cultural resources identified in the Kennebunkport Comprehensive Plan and subsequent amendments or revisions as important to the community;
1.6 To ensure that minimal levels of services and facilities are available to the residents of the new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
1.7 To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
1.8 To promote the development of an economically sound and stable community.
Article 2---Authority and Administration

2.1 Authority
A. These standards have been prepared in accordance with the provisions of Title 30- A M.R.S.A., §4403.
B. These standards shall be known and may be cited as “Subdivision Regulations of the Town of Kennebunkport, Maine.”

2.2 Administration
A. The Planning Board of the Town of Kennebunkport, hereinafter called the Board, shall administer these regulations.
B. The provisions of these regulations shall pertain to all land and buildings, as proposed in Title 30-A MRSA §4403, and proposed for subdivision within the boundaries of the Town of Kennebunkport.

2.3 Amendment
A. These regulations may be amended by:
   1. The legislative body of the Town of Kennebunkport
   2. The Planning Board if the legislative body has not adopted or amended the standards.
Article 3----Definitions

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Kennebunkport Land Use Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

Affordable Housing: (As defined by MRSA) those housing units that will meet the sales price and/or rental targets established by the Comprehensive Plan and subsequent amendments or revisions for housing affordability.

Applicant: The person applying for subdivision approval under these regulations.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the subdivision or travel over a specific section of road.

Buffer Area: A part of a property that is not built upon and that is specifically intended to separate, and thus minimize, the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Capital Improvements Program (CIP): The Town of Kennebunkport’s proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the Comprehensive Plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, that is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations, with the exception of those submissions that have been waived by a vote of the Board. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of a portion of the improvements that represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.
Comprehensive Plan and subsequent amendments or revisions: A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

Conservation Easement: A non-ownership interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; ensuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Construction Substantially Complete: See Complete Substantial Construction, above.

Contiguous Lots: Lots that adjoin at any line or point, or that are separated at any point by a body of water less than 15 feet wide.

Density: The number of dwelling units per acre of net residential area.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

Engineered Subsurface Wastewater Disposal System: A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of wastewater per day or more as defined by the Maine Subsurface Wastewater Rules and Regulations.

Final Plan: The final drawings, on which the applicant’s plan of subdivision is presented to the Board for approval and that, if approved, may be recorded at the Registry of Deeds.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 of an acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

Industrial Park or Development: A subdivision in an area zoned exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Net Residential Area: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the exclusion areas specified in the Land Use Ordinance definition of Net Residential Area in addition to the acreage of required open space per Section 11.8 B. 7 that is not already included in these exclusions.
New Structure or Structures: Includes any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

Planning Board: The Planning Board of the Town of Kennebunkport.

Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

Professional Engineer: A professional engineer registered in the State of Maine.

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days per year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and that needs show only information relevant to the transfer of an interest in the property, and that does not necessarily show other information such as sewer and water line locations and sizes, culverts, and building lines.

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision that affects the lot lines, including land transactions by the sub-divider not indicated on the approved plan.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

Solar Collector: A device or combination of devices, structure or part of a device or structure that transforms direct solar energy into thermal, chemical, electrical or any other type of energy and that contributes to a building’s energy supply or other functions.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

Street: A public or private way such as an alley, avenue, highway, road, and other rights of way, as well as areas on subdivision plans designated as a right-of-way for vehicular access other than driveways.

Street Classifications:

Arterial Street: A major thoroughfare that serves as a major traffic way for travel within and through the municipality.

Collector Street: A street with average daily traffic of 200 vehicles per day or greater, or a street that serves as a feeder to arterial streets, or as a collector of traffic from minor streets such as, but not limited to, North Street and Route 9.
Cul-de-sac: A Street with only one principal outlet and with the other end designed for the reversal of traffic movement. Cul-de-sacs are limited to 1000 feet in length.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Minor Residential Street: A Street servicing only residential properties with an average daily traffic of fewer than 200 vehicles per day.

Private Right-of-Way: A vehicular access way serving one or two dwelling units.

Subdivision: For purposes of these regulations, the term “Subdivision” is as defined in the MRSA, Section 30-A, §4401 as amended.

Tract, or Parcel, of Land: For purposes of these regulations they are defined in Section 30-A, section §4401, subsection 6, of the State of Maine Statutes---as amended.

Usable Open Space: That portion of the common open space that due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must be well drained and not have ledge outcroppings or areas with slopes exceeding 10%.

Vernal Pool: A naturally occurring, temporary or permanent body of water occurring in shallow depressions that typically fills during the spring and fall and may dry during the summer. Vernal pools have no permanent or viable populations of predatory fish. Vernal pools provide the primary breeding habitat for wood frogs, spotted salamanders, blue-spotted salamanders and fairy shrimp, and often provide habitat for other wildlife including several endangered and threatened species. Vernal pools intentionally created for the purposes of compensatory mitigation are included.
Article 4----Administration Procedure

In order to establish an orderly, equitable, and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall have prepared a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board’s agenda at least thirty days in advance of a regularly scheduled meeting by contacting the Code Enforcement Office. Under no circumstances will any published agenda item begin after 10 PM.
Article 5----Pre-application Meeting, Sketch Plan, and Site Inspection

5.0 Purpose: The purpose of the pre-application meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board’s comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

5.1 Filing Procedure. The initial pre-application shall be presented to the secretary to the Code Enforcement Office Kennebunkport Town offices. A fee of $250.00 shall accompany the application. The applicants are responsible for delivering the required materials 30 days prior to the Board meeting and are to supply 16 copies. Upon delivery the town will issue a dated receipt to the applicant. The Code Enforcement Office will submit the application and information to the Board for its consideration at the next eligible Board meeting. The following must be included with the application form.

A. The Pre-application Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch with an indicated scale, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor’s map(s) on which the land is located and all existing subdivisions in the area are noted. The Sketch plan shall be accompanied by:

1. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision unless the proposed subdivision is less than ten acres in size.
2. A copy of that portion of the county soil survey covering the proposed subdivision, showing the outline of the proposed subdivision.
3. If required by the Board, a general list of any waivers that may eventually be requested by the applicant so that the Board fully understands them so they can be discussed during the on-site inspection. Failure to present a potential waiver at the sketch plan stage does not prevent the applicant from submitting a new waiver request at the preliminary plan phase.
4. A summary of any deed restrictions or easements that would materially impact the application.
5. An evaluation of the potential of the site for a Cluster Development as well as “affordable housing” as defined in the Kennebunkport Comprehensive Plan.

5.2 Planning Board Meeting and Action.

A. The applicant shall attach a Pre-application Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
B. Following the applicant’s presentation, the Board may ask questions and make suggestions to be incorporated by the applicant into the application.
C. The date of the on-site inspection is selected if required by the Board.
5.3 Contour Interval and On-Site Inspection.

Within thirty days of the pre-application meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan. The applicant shall place “flagging” at the centerline of any proposed streets, and at the approximated intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall not conduct on-site inspections when there is more than one foot of snow on the ground.

5.4 Rights Not Vested.

The pre-application meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

5.5 Establishment of File.

Following the pre-application meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting and application shall be maintained in the file.
Article 6----Section Intentionally Left Blank for Future Use
Article 7----Preliminary Plan for a Subdivision

7.1 Procedure

A. Within six months after the Board’s on-site inspection held as a result of the Sketch Plan meeting, the applicant shall submit 16 copies of the application for approval of a preliminary plan at least 30 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or delivered to the Code Enforcement Office. Failure to submit the application within six months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. All applications for preliminary plan approval for a subdivision shall be accompanied by a non-refundable application fee of $1,000.00 plus $250.00 per lot or dwelling unit, payable by check to the Town of Kennebunkport, Maine and stating the specific purpose of the fee on the application. A dated receipt will be issued by the town. In addition, the applicant shall pay a fee of $2,000.00 plus $250.00 per lot (or a higher amount if deemed necessary by the Board or the Code Enforcement Officer) to be deposited in a special account designated for that subdivision application and to be used by the Board for hiring independent consulting services to review the application, if necessary. If the balance of this special account is drawn down by 75%, the Board or its designee shall notify the applicant, and require that an additional amount per lot or dwelling unit be deposited by the applicant. The Board or its designee shall continue to notify the applicant and require an additional amount per lot or dwelling unit be deposited whenever the balance of the account is drawn down by 75% of the original deposit. Any balance remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board an additional fee shall be required to cover the costs of advertising.

C. The applicant or his duly authorized representative shall attend the meeting of the Board to present the preliminary plan. Failure to attend the meeting to present the preliminary plan shall result in a delay of the Board’s receipt of the plan until the next meeting that the applicant attends.

D. At the meeting at which an application for preliminary plan approval of a subdivision is initially presented the Board shall:

1. Verify that the applicant has a dated receipt of the submission and that the appropriate fees have been paid.
2. Verify that all owners within 200 feet of the property have been notified that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
3. Verify that the review authorities of neighboring municipalities have been notified if any portion of the subdivision abuts or crosses the municipal boundary.

E. Within 30 days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
F. Upon a determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination. The Board shall determine whether to hold a public hearing on the preliminary plan application.

G. Assuming that the Board decides to hold a public hearing, it shall hold the hearing within 30 days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the Town of Kennebunkport at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant and abutters.

H. Within 30 days from the public hearing or within 60 days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall specify in writing its findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application.

I. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
   1. The specific changes that it will require in the final plan;
   2. The character and the extent of the required improvements for which waivers may have been requested and that the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
   3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.

J. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received. The Board may, of course, deny any application at the preliminary plan stage.

7.2 Submissions

The preliminary plan application shall consist of the following items:

A. An application form that can be obtained from the Kennebunkport Municipal Office of the Code Enforcement Officer.

B. Location Map. The location map shall be drawn at a scale not over 400 feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area and to allow the Board to locate the subdivision within Kennebunkport and to allow the Board to determine if any portion of the proposed subdivision lies within another municipality. In addition to hard copies of the map, the applicant will submit a CD in CAD file DWG format. The location map will show:

   1. All of the area within 2,000 feet of any property line of the proposed subdivision, or
   2. Any smaller area between the tract and all surrounding existing streets provided any part of such a street used as part of the perimeter for the Location Map is at least 500 feet from any boundary of the proposed subdivision.
3. Existing subdivisions in the proximity of the proposed subdivision and approximate tract lines of acreage parcels together with the names of the record owners of all adjacent parcels of land, namely, those directly abutting or directly across any street adjoining the proposed subdivision.

4. Locations and names of existing and proposed streets, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designated in Paragraph (3) above.

5. Boundaries and designations of zoning districts, school districts and parks or other public places.

6. An outline of the proposed subdivision and any remaining portion of the owner’s property if the final plan submitted covers only a portion of the owner’s entire contiguous holding.

C. Preliminary Plan. The preliminary plan shall be submitted at least 30 days in advance of the Board meeting with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail could easily be read. In addition, one copy of the plan (s) reduced to a size of 8 ½ by 11 inches or 11 by 17 inches, and all accompanying information shall be submitted to the Code Enforcement Office no less than 30 days prior to the meeting.

D. Application Requirements. The application for approval of a preliminary plan shall include the following information. The Board may require additional information to be submitted, if it finds it necessary in order to determine whether the criteria of Title 30-A M.R.S.A. §4404 are met.

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in that it is located, plus the Assessor’s Map, Block, and Lot numbers.

2. Verification of right, title, or interest in the property.

3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

4. A copy of the most recently recorded deed for the parcel. A copy of all restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

5. A list of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.

6. A list of proposed restrictions or covenants that will apply to the eventual declaration of condominium and/or the homeowner’s association agreement, if applicable.

7. Indication of the type of sewage disposal to be used in the subdivision.

A. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Kennebunkport Sewer Department stating there is adequate capacity to collect and treat the wastewater shall be provided by the applicant.
B. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

8. An indication of the type of water supply system(s) to be used in the subdivision.
   a. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision and the district approves the plans for the extensions where necessary. Where the district’s supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the district approving the design of the extension shall be submitted.
   b. When water is to be supplied by private wells, neither the Planning Board nor the Town of Kennebunkport guarantees the purchaser of property within the subdivision that there is adequate water.

9. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, applicant, and individual or company who prepared the plan, and the names of adjoining property owners. (Abutters)

10. A high intensity soil survey by a Certified Soil Scientist. Wetland areas shall be identified on the survey, regardless of size. The boundaries of the subdivision shall be superimposed.

11. Contour lines will be at two (2) foot intervals unless otherwise specified by the Board. The preferable vertical datum is North American Vertical Datum 1988 (NAVD 88). However, if only National Geodetic Vertical Datum 1929 (NGVD 29) is possible, that is permissible. The choice of vertical datum must be indicated on the digital submission. The ellipsoid is GRS 80 (Geodetic Reference System 1980).

12. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard area and the 100-year flood elevation, as depicted on Kennebunkport’s Flood Insurance Rate Map, shall be delineated on the plan.

13. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by a public sewer and
   a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled “Hydrogeologic Data for Significant Sand and Gravel Aquifers”, by Maine Geological Survey, 1985, Map No. 4, most recent revision or edition.
   b. The subdivision contains lots less than 100,000 square feet in total area; or
   c. The subdivision has an average density of less than 100,000 square feet per dwelling unit.

The Board may require a hydrogeologic assessment in other cases where the site considerations or development design indicate greater potential of adverse impact on ground water quality. These areas include extensive
areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess on one dwelling unit per 80,000 square feet; or proposed use of shared or common subsurface waste water disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of section 11.12.A.1 below.

14. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for roads, lawns, dwelling units and other structures shall be permitted, as well as any proposed restrictions on clearing existing vegetation. In areas where clearing is proposed, the plan shall indicate the location of any existing large specimen trees (generally with a diameter larger than 21 inches at breast height, or other diameter specified by the Board).

15. Calculations of net residential area, showing details determining compliance with sec. 11.17.

16. The approximate location and size of all proposed building envelopes including dwellings, driveways and lawns or gardens.

17. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate that great pond.

18. The zoning district in which the proposed subdivision is located and the location of any boundaries affecting the subdivision.

19. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or within 200 feet of the property to be subdivided.

20. The location, names and present widths of existing streets and highways, spaces on or adjacent to the subdivision, if any.

21. The width and location of any proposed streets, public improvements or open space shown upon the official map and the Comprehensive Plan and subsequent amendments or revisions, if any, within the subdivision.

22. The location of any open space to be preserved and a description of the proposed improvements and its management.

23. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

24. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from “Trip Generation Manual”, most recent edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

25. For subdivisions involving 40 or more parking spaces or projected to generate more than 200 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets that may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

26. A storm water management plan, prepared by a registered professional engineer in accordance with the “Stormwater Management for Maine: Best Management
Practices”, published by the Maine Department of Environmental protection (1995), most recent revision or edition.

27. An erosion and sedimentation control plan prepared in accordance with the “Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices”, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, most recent edition. The Board may waive submission of the erosion and sedimentation control plan if the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

28. Areas within or adjacent to the proposed subdivision that have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife (See “Beginning With Habitat Project”) or within the Comprehensive Plan and subsequent amendments or revisions, if any. If any portion of the subdivision is located within an area designated as a critical natural area by the Comprehensive Plan and subsequent amendments or revisions or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values that qualify the site for designation.

29. All areas within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places, or prehistoric sites noted on maps provided by the Maine Historic Preservation Commission (MHPC), or have been identified in the Comprehensive Plan and subsequent amendments or revisions as sensitive or likely to contain such sites.

30. Evidence of the Applicant’s technical and financial capacity to complete the proposed subdivision per Section 11.10.
Article 8----Final Plan for a Subdivision

8.1 Procedure.

A. Within six months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan at least 30 days prior to a scheduled meeting of the Board. Applications shall be submitted Code Enforcement Office. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board may refuse without prejudice to act on the final plan and shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made due progress in preparation of the final plans before other agencies, and that municipal ordinances or regulations that may impact on the proposed development have not been amended.

B. All applications for final approval for a subdivision shall be accompanied by an application fee of $1,000.00 plus $250.00 per lot or dwelling unit, payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. Prior to submittal of the final plan application the following approvals shall be obtained in writing by the applicant, where applicable.

1. From the Maine Department of Environmental Protection under the Site Location of Development Act, if the Board is unsure whether a permit or license from the state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations or laws.

2. From The Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a wastewater discharge license is needed.

3. From The Maine Department of Human Services, if the applicant proposes to provide a public water system.

4. From The Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized.

5. From The U.S. Army Corps of Engineers, if a permit under §404 of the Clean Water Act is required.

6. From The Maine Department of Transportation Traffic Movement Permit and/or highway Entrance---Driveway Access Management Permit.
7. From The Maine Department of Environmental Protection Storm Water Permit, pursuant to Chapter 500 and 502 regulations.

D. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic places, in accordance with Section 7.2, D.27, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission prior to submitting the final plan application.

E. The applicant or the applicant’s duly authorized representative shall attend the meeting of the Board to discuss the final plan. At the meeting at which an application for final plan approval of a major subdivision is initially presented, the Board shall issue a dated receipt to the applicant. Within 45 days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

F. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant. The Board shall determine whether to hold a public hearing on the final plan application. When a subdivision is within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved at least ten days prior to the hearing.

G. If the Board decides to hold a public hearing, it shall hold this hearing within 45 days of determining that it has received a complete application and shall publish a notice of the date, time, and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing.

H. The Code Enforcement Office shall notify the Town Manager, road commissioner, school superintendent, police chief, fire chief, and the waste water treatment plant superintendent of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi family, commercial or industrial buildings. The Code Enforcement Office shall request that these officials comment upon the adequacy of their departments’ existing capital facilities to service the proposed subdivision. The Code Enforcement Office may also notify other municipal or quasi-municipal officials of the application. The police chief, fire chief, and highway superintendent should also comment on the public health, safety, and welfare aspects of the application.

I. No permits may be issued, nor lots sold, nor any construction activity commence until the applicant satisfies the performance guarantee requirements contained in Article 13.

J. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the site, pursuant to 30-A M.R.S.A. 4403.

K. Within 30 days from the public hearing or within 60 days of receiving a complete application if no hearing is held or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and
conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the standards of these regulations have not been met, the board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2 Submissions.

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail is easily read. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of 2 inches outside of the borderline on the left side for binding and a 1-inch margin outside the border along the remaining sides. Space must be reserved on the plan for the Board endorsement. Two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of the plan shall be submitted. The applicant may instead submit one reproducible stable-based transparency of the original of the final plan and one recording plan with three copies of the final plan. In addition, one copy of the final plan reduced to a size of 8 ½ by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting. All copies will note the current date of the plans on the documents.

The final plan shall be accompanied by the following information:

A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor’s map and lot numbers.

B. The number of acres within the proposed subdivision, location of property lines, existing buildings, water-courses, and other essential existing physical features.

C. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer department indicating the district has reviewed and approved the sewerage design shall be submitted.

D. If different than that submitted with the preliminary plan, an indication of the type of water supply system (s) to be used in the subdivision.

1. When water is to be supplied by private wells evidence of adequate ground water supply and quality shall be submitted by a well driller or hydrogeologist familiar with the area. Neither the Planning Board nor the Town of Kennebunkport guarantees the purchaser of property within the subdivision that there is adequate water.

2. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating that the district has reviewed and approved the water system design. A written statement must be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
E. The date the plan was prepared, north point, graphic map scale, names and addresses of the record owner, subdivider, the individual or company who prepared the plan, and adjoining property owners (abutters).

F. The location of any zoning boundaries affecting the subdivision.

G. A copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision and, if applicable, a copy of the proposed declaration of condominium and/or the homeowner’s association agreement. Any such deed or agreement will include, as appropriate, conditions imposed by the Planning Board in its final approval. No changes in such deeds or agreements related to these conditions will be effective without prior Planning Board approval.

H. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

I. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a registered land surveyor. The original reproducible plan shall be embossed with the seal of the registered land surveyor and be signed by that individual.

J. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan and subsequent amendments or revisions, if any, within the subdivision.

K. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.

L. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots and that provides evidence that the applicant has financial commitments or resources to cover these costs. The list will include but is not limited to: all infrastructure costs including utilities, roads, sidewalks, water supply, storm water drainage, and sewage disposal. A separate list of construction and maintenance items, with both capital and annual operating cost estimates that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

   i. Schools, including busing
   ii. Street maintenance and snow removal
   iii. Police and fire protection
   iv. Solid waste disposal
   v. Recreation facilities
vi. Storm water drainage
vii. Wastewater treatment
viii. Water supply

M. The boundaries of any flood hazard area and the 100-year flood elevation as depicted on the municipality’s Flood Insurance Rate Map, shall be delineated on the plan.

N. Street plans, meeting the requirements of Section 12.2.B.2.

O. If different than that submitted with the preliminary plan, a storm water management plan, prepared by a registered professional engineer in accordance with the Storm Water Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection (1995), most recent revision or edition. The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading that changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

P. If different than that submitted with the preliminary plan, an erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991, most recent revision or edition. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading that changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

Q. The location and method of disposal for land clearing and construction debris.

R. Calculations of Net Residential Area: See requirements as stated in Section 11.8 and the Kennebunkport Land Use Ordinance, definition of net residential area.

S. Estimate of Net Increase in taxable assessed valuation when the subdivision is completed.

### 8.3 Final Approval and Filing.

A. The Board will not consider or approve any plan as long as the applicant is in violation of the provisions of a previously approved Plan within Kennebunkport.

B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. The Board shall retain one copy of the signed plan as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon that the plan is approved and signed by the Board shall become null and void.
C. At the time the Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) that will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the plan to be divided into sections to prevent classroom overcrowding. If the expansion, addition or purchase of the needed facilities is included in the municipality’s capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds. As mentioned in 8.2 G. above, no conditions imposed by the Board may be changed without prior approval of the Board whether or not included in the deed restrictions and/or condominium or homeowners association declarations whether or not amended by a vote of said owners.

E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

F. Except in the case of a phased development plan, or unless otherwise determined by the Board, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision’s approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.
G. Final drawings and as build drawings shall also be submitted as CAD drawings on a CD and all outside corners of the property should have the GPS coordinates noted.
Article 9----Revisions to Approved Plans

Major Revisions

9.1 Procedure
An applicant for a major revision to a previously approved plan shall, at least 30 days prior to a scheduled meeting of the Board, request to be placed on the Board’s agenda. If the revision involves the creation of additional lots or dwelling units, the application shall be considered a request for a major revision and the procedures for preliminary plan approval shall be followed, as well as the fee schedule.

9.2 Submissions
The applicant shall submit a copy of the previously approved plan as well as copies of the proposed revised plan, and other submissions according to the requirements of the preliminary plan application. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

9.3 Scope of Review
The Board’s scope of review shall be limited to those portions of the plan that are being proposed for change.

Minor Revisions

9.4 Procedure
An applicant for minor revision to a previously approved plan shall, at least 15 business days prior to a scheduled meeting of the Board, request to be placed on the Board’s agenda. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units (for example: a lot line change; a driveway relocation within the lot; or the relocating of a subsurface wastewater disposal system location within the lot), the application will be considered as a request for a minor revision and the procedures for a final approval shall be followed. The fee for minor revision shall be $250 plus costs.
9.5 Submissions

The applicant shall submit a copy of the previously approved plan as well as copies of the proposed revised plan, and other submissions according to the requirements of the final plan application. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

9.6 Scope of Review

The Board’s scope of review shall be limited to those portions of the plan that are being proposed for change.

Article 10---Inspections and Enforcement

10.1 Inspection of Required Improvements.

A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:

1. Notify the Code Enforcement Officer in writing of the time when (s) he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to ensure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to ensure the satisfactory completion of improvements and utilities required by the Board.

2. Deposit with the municipal treasurer a check in the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.

B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, town manager, Code Enforcement Officer, Board, and the subdivider and builder. The town shall take any steps necessary to ensure compliance with the approved plans.

C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen
circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 9.

D. Between October 1 and October 31 of each year, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1, of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems that were encountered.

E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monuments shown on the plan has been installed.

F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. “As built” plans shall be submitted to the municipal officers.

G. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners’ association.

10.2 Violations and Enforcement.

A. No plan of a division of land within the municipality that would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan is approved by the Board in accordance with these regulations.

B. A person shall not convey, offer or agree to convey any land in a subdivision that has not been approved by the Board and recorded in the Registry of Deeds.

C. A person shall not sell, lease or otherwise convey any land in an approved subdivision that is not shown on the plan as a separate lot.

D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which the Board has not approved a final plan.

E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings that require a plan approved as provided in these regulations and recorded in the Registry of Deeds.

F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts and all required improvements are completed in
accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

G. Violations of the above provisions of this section are a nuisance and shall be prosecuted in accordance with Title 30-A M.R.S.A. sec. 4452.
Article 11---Performance Standards

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of Article 12 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of Article 12 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met. All proposed subdivisions shall be in conformity with the Comprehensive Plan and subsequent amendments or revisions or policy statement of Kennebunkport and with the provisions of all pertinent state and local codes and ordinances.

The Planning Board may, at the expense of the applicant, require a peer review by a licensed engineer(s) of both Preliminary and Final Applications to ensure compliance with the performance standards of these subdivision regulations as well as Town of Kennebunkport ordinances generally.

11.1. Pollution.

A. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.

B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface water bodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

C. The homeowner association covenants will include a requirement to follow the guidelines in the most current edition of “Best management Practices for the Application of Turf Pesticides and Herbicides” as published by the State of Maine Pesticide Control Board.

11.2. Sufficient Water.

A. The statutory criterion is that the proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision. This means an adequate supply of good quality water.

1. Any subdivision within the area designated in the Comprehensive Plan and subsequent amendments or revisions for future public water supply service shall make provisions for connection to the public system. When public water supply service will not be available at the time of construction of the subdivision, a “capped system” shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.
2. Any subdivision within 1,000 (one thousand) feet of an existing public water supply will be connected to any source it’s water supply from that public system unless the relevant water authority indicates in writing that it does not have the capacity to serve the subdivision.

3. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the fire chief.

3. When a proposed subdivision is not within the area designated for public water supply service in the Comprehensive Plan and subsequent amendments or revisions, water supply shall be from individual wells or a private community water system with a map provided showing where the water supply is located.

   a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.

   b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.

   c. When a central water supply system is provided by the applicant the location and protection of the source, the design, construction and operation of the system will conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).

   d. In areas where the Comprehensive Plan and subsequent amendments or revisions or other regulations or ordinances or the Fire Chief have identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities. All structures within the subdivision must be within 1000 feet of a water supply. The distance from water supply to structure to be measured as a motorized vehicle would have to place the hose. A static water supply must be provided with a fixed drafting connection (dry hydrant) capable of providing a minimum flow capability of 750 gallons of water per minute with a minimum storage capacity of 60,000 gallons. Storage capacity is to be calculated at worst draught conditions and to allow for a 3 foot ice cover in cold months. Underground cisterns shall be provided with a water supply that maintains the water level in the cistern. An easement shall be granted to the municipality granting access to the dry hydrant. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the fire chief has indicated in writing that alternate methods of fire protection are available.
e. The Fire Chief must approve in writing the adequacy and accessibility of water supply for the proposed subdivision, whether the water is from public or private sources.

B. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

11.3 Impact on Existing Water Supplies.

In meeting the standards of Section 11.2.A, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district’s or company’s system as necessary to alleviate existing deficiencies.

11.4 Soil Erosion.

A. The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.

B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

C. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

D. Cutting or removal of vegetation along or adjacent to waterbodies shall not result in shoreline erosion or sedimentation.

11.5 Traffic Conditions.

A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:

1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;

2. Avoid traffic congestion on any street; and

3. Provide safe and convenient circulation on public streets and within the subdivision; and

4. Provide adequate, unimpeded access to emergency vehicles and personnel to all lots and structures within the subdivision at all times under normal and adverse conditions. The Fire And Police Chiefs must approve in writing their satisfaction with the emergency vehicle access to and within the subdivision.
B. More specifically, access and circulation shall also conform to the following standards.

1. The vehicular access to the subdivision shall be arranged to avoid through traffic use of existing or proposed streets that the Comprehensive Plan and subsequent amendments or revisions has classified as residential access streets. Gates or other form of permanent access restriction across access roads, streets or pedestrian ways are not permitted.

2. The street giving access to the subdivision and neighboring streets and intersections that can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to “E” or below, unless the Comprehensive Plan and subsequent amendments or revisions has indicated that Levels of Service “E” or “F” are acceptable for that street or intersection.

3. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.

4. Access ways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.

6. Unless not feasible for topographic and other site conditions, provisions in the form of rights of way or street stubs shall be made for street connections to adjoining lots of similar existing or potential use within areas of Kennebunkport designated as growth areas in the Comprehensive Plan and subsequent amendments or revisions. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Superintendent of Highways, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic. In non-residential subdivisions such access will be provided to adjoining lots or similar existing or potential use, if it will:
   a. facilitate fire protection services as approved by the fire chief; or
   b. enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.

6. Street Names, Signs and Lighting.

Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall be named in accordance with the Town of Kennebunkport Street Ordinance and shall not duplicate, nor bear phonetic resemblance to the names of existing streets within
the municipality, and shall be subject to approval of the Board. No street name shall be the common given the name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as required or approved by the Board and the cost of the installation and the operating costs will be borne by the subdivision residents or the applicant until such time as the lighting is accepted by the Town of Kennebunkport by vote of its citizens.

7. Clean-up.

Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

11.6 Sewage Disposal.

A. Public System.

1. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1000 feet of the proposed subdivision at its nearest point.

2. When it is proposed that a subdivision be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.

3. The sewer department shall certify that providing service to the proposed subdivision is within the capacity of the system’s existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.

4. The sewer department shall review and approve the construction drawings for the sewerage treatment. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer department or department.

B. Private Systems.

1. When a proposed subdivision is not within the area designated for public sewage disposal service in the Comprehensive Plan and subsequent amendments or revisions and as per the Comprehensive Plan and subsequent amendments or revisions Map, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility with surface discharge.

2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
a. The site evaluator shall certify in writing that all test pits that meet the requirements for a new system represent an area large enough to provide a disposal area on soils that meet the Disposal Rules.

b. Unless the subdivision is a cluster development served by a clustered subsurface waste water disposal system, the following standards will apply:
   1. Each proposed lot must be served by a septic system located within its boundaries.
   2. If the depth to a limiting factor, as defined by the above rules is less than 24 inches, both the septic system and a replacement system site must be located within each proposed lot. Both the Primary and The reserve area shall be shown on the plan and restricted so it will not be built on.
   3. Septic systems serving a structure on one lot are not allowed to be located on abutting or neighboring lots.
   4. Septic systems shall be designed to ensure that there is no net increase in the flow of nitrates across the perimeter of the subdivision as a result of the subdivision’s septic systems.

c. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.

11.7 Solid Waste-Kennebunkport’s Ability to Dispose of Solid Waste.
If the additional solid waste from the proposed subdivision exceeds the tipping tonnage capacity of Kennebunkport, causes Kennebunkport to exceed its contract with the non-municipal facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility that is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

11.8 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, or Public Access to the Shoreline.
A. Preservation of Natural Beauty and Aesthetics.
   1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
   2. Except in areas of the municipality designated by the Comprehensive Plan and subsequent amendments or revisions as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads. Outside of designated growth areas, a subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
3. The Board may require the application to include a landscape plan that will show the preservation of any existing large specimen trees, the replacement of trees and vegetation, and graded contours. Cutting of trees on the northerly borders of the lots should be avoided if possible, to retain a natural wind buffer. Subsequent to final approval, the Code Enforcement Officer may permit the removal of trees otherwise identified for preservation for reasonable cause (e.g., in order to replace a septic system).

4. When a proposed subdivision street traverses open fields the plans shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

B. Retention of Open Spaces and Natural or Historic Features.

1. If any portion of the subdivision is located within an area designated by the Comprehensive Plan and subsequent amendments or revisions as open space or greenbelt, that portion shall be reserved for open space preservation.

2. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan and subsequent amendments or revisions or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values that qualify the site for such designation.

3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the Comprehensive Plan and subsequent amendments or revisions, the National Register of Historic Places or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.

4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics. In determining the need for recreational open space the Board shall also consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; and the type of development. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage.

5. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
6. Reserved open space acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.

7. The developer shall provide no less than fifteen percent of the total area as open space. At least one third (1/3) of the total area of required open space will be upland areas or areas suitable for active or passive recreation. Trails and walkways within wetlands or otherwise unusable areas will be allowed as part of the area for passive recreation. Where the land within the subdivision is not suitable or is in insufficient amount, where the applicant prefers, or when suggested by the Comprehensive Plan and subsequent amendments or revisions, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land acquisition or improvement fund. In the case where a payment is made in lieu of reservation of land, 5% of the gross acreage in lieu of required open space will be excluded from the total acreage of developable land for purposes of calculating net residential area.

C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan and subsequent amendments or revisions as:
   
   a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
   
   b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
   
   c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
   
   d. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or

2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;

3. Or other important habitat areas identified in the Comprehensive Plan or the Maine Department of Inland Fisheries and Wildlife (“Beginning with Habitat Project”) and subsequent amendments or revisions including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the
subdivision will have no adverse impacts on the habitat and the species it supports.

D. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or be included in the open space with provisions made for continued public access.

11.9 Conformance with Zoning Ordinance and Other Land Use Ordinances.

A. All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. If all of the land within a subdivision will be owned as a condominium, i.e., owned in common by all dwelling unit owners, minimum dimensional requirements will be applied to nominal lots shown on the preliminary and final plans. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance.

11.10 Financial and Technical Capacity

A. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

B. Technical Ability.

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

2. In determining the applicant’s technical ability the Board shall consider the applicant’s previous experience, the experience and training of the applicant’s consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

11.11. Impact on Water Quality or Shoreline

Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation of water bodies.

11.12. Impact on Ground Water Quality

A. Ground Water Quality.

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

a. A map showing the basic soils types.

b. The depth to the water table at representative points throughout the subdivision.

c. Drainage conditions throughout the subdivision.

d. Data on the existing ground water quality, either from test wells in the
subdivision or from existing wells on neighboring properties.

e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.

f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

6. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

B. Ground Water Quantity.

1. Based on the assessment of a licensed hydrogeologist, the ground water withdrawals by a proposed subdivision will not have a material adverse impact on the level of the water table in the immediate vicinity of the subdivision.

11.13 Floodplain Management

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

11.14 Identification of Freshwater Wetlands

Freshwater wetlands within the proposed subdivision shall be identified in accordance
with the 1987 (or most recent) edition of the Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

11.15  Storm Water Management.

A. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under drains, storm drains and best management practices equivalent to those described in The Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), in conformance with the policies of the Comprehensive Plan and subsequent amendments or revisions. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains and to meet the following standards:

1. Quantity.

   Peak discharge rates shall be limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.

2. Quality.

   A. Subdivisions.

      Storm water run-off in subdivisions must be treated by the use of best management practices equivalent to those described in the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 (or most recent edition), to achieve, by design, 40% reduction in total suspended solids.

   B. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

   C. Proposed projects which need a storm water permit from the Maine Department of Environmental Protection, pursuant to Chapter 500 and Chapter 502 regulations, shall meet both the State regulations and the requirements of this ordinance. In the case of any conflicting requirements, the stricter shall be applied.

11.16  Reservations or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.

A. All open space common land, facilities and property shall be owned by:

   1. The owners of the lots or dwelling units by means of a lot owners’ association;
2. An association that has as its principal purpose the conservation or preservation of land in essentially its natural condition; or

3. The Town of Kennebunkport.

B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.

C. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:

1. It shall not be used for future building lots; and

2. Which portions of the open space, if any, may be dedicated for acceptance by the municipality

D. The final plan application shall include the following:

1. Covenants for mandatory membership in the lot owners’ association setting forth the owners’ rights, interests, and privileges in the association and the common property and facilities, shall be reviewed by the Board and shall be included in the deed for each lot or dwelling.

2. Draft articles of incorporation of the proposed lot owners’ association as a not-for-profit corporation; and

3. Draft by-laws of the proposed lot owners’ association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

E. In combination, the documents referenced in paragraph D above shall provide for the following.

1. The homeowners’ association shall have the responsibility of maintaining the common property or facilities.

2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.

3. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. The Board upon request of the lot owners’ association or the developer shall make such determination.
11.17 Calculation of Net Residential Area

A. The area or lot site available for development determined by the Code Enforcement Officer by subtracting from the gross acreage of the lot the exclusions listed in the Kennebunkport Land Use Ordinance (“LUO”) definition of Net Residential Area in addition to open land as required by Section 11.8 that is not already included within the exclusions required by the LUO definition of Net Residential Area.

B. The maximum number of dwelling units permissible (maximum density) in any subdivision will be determined by dividing the net residential area as determined by Section 11.17 A. above by the minimum lot size required by the Land Use Ordinance.

11.18 Land Within 250 Feet of High Water Mark

When a proposed subdivision is situated, in whole or in part, within 250 feet of the normal high water mark of any pond in excess of 10,000 square feet in area, lake, river or tidal waters, no part of any subsurface wastewater disposal systems; no roads; except for crossings and property access; and no dwellings, shall be installed or constructed within 250 feet of the normal high water mark. The Board may use such lands in the lot area calculation if such lands are not excluded by any other provision of these regulations or any provision of the Kennebunkport Land Use Ordinance. This section is intended to be stricter than the Land Use Ordinance and carries forward provisions in existence since 1972. Stricter setbacks from water bodies for subdivisions than for lots not in subdivisions continue to protect the important and significant public benefits associated with ponds, lakes, rivers, and tidal waters from the impact of subdivision development.

11.19 Cluster Developments.

Cluster developments are encouraged for subdivisions and should be considered for any proposed subdivision. Cluster Development must conform to the applicable Kennebunkport Land Use Ordinance.

11.20 Town Approvals

Prior to final Planning board approval of a subdivision, approval of the public safety aspects of the subdivision must be obtained in writing from each of: Town Manager, Police and Fire Chiefs, Highway Superintendent and the Code Enforcement Officer. These officials will also comment on whether and to what extent the subdivision is consistent with the standards in paragraphs 1.3 through 1.8 of Article 1 as well as the Performance and Design Standards of these Regulations.
Article 12---Design Guidelines

This article is intended to provide an example of design guidelines, that if followed will result in meeting the appropriate performance standards of Article 11. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this article may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

12.1. Sufficient Water.

A. Well Construction.

1. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.

2. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the affected lots.

12.2. Traffic Conditions.

A. Access Control.

1. Where a subdivision abuts or contains an existing or proposed collector street, no residential lot may have vehicular access directly onto the major collector street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.

2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

3. Subdivision Access Design for Subdivisions Entering onto a collector Street and specifically, for Kennebunkport, those subdivisions entering onto Route 9, North Street, Log Cabin Road, and Ocean Avenue.

When the access to a subdivision is a street, the street design and construction standards of Section 12.2.B below shall be met. Where there is a conflict between the standards in this section and the standards of Section 12.2.B, the more stringent shall apply.

a. General.

Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the Trip Generation Manual, 1991(or latest edition) published by the Institute of Transportation Engineers.
1. Low Volume Access: An access with 50 vehicle trips per day or less.

2. Medium Volume Access: Any access with more than 50 vehicle trips per day but less than 200 peak hour vehicle trips per day.

3. High Volume Access: Peak hour volume of 200 vehicle trips or greater.

b. Sight Distances.

Accesses shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver’s seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder, with the height of the eye 3 1/2 feet, to the top of an object 4 1/2 feet above the pavement. The required sight distances are listed by road width and for various posted speed limits.

1. Two Lane Roads.

A minimum sight distance of 10 feet for each mile per hour of posted speed limit shall be maintained or provided.

2. Four Lane Roads.

The sight distances provided below are based on passenger cars exiting from accesses onto four lane roads and are designed to accommodate exiting vehicles:

(a) Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than 10 miles per hour, and

(b) Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

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c. Vertical Alignment.

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3% or less for at least 75 feet. The maximum grade over the entire length shall not exceed 10%.
d. Low Volume Accesses.

1. Skew Angle.

Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

2. Curb Radius.

The curb radius shall be between 10 feet and 15 feet, with a preferred radius of 15 feet.

3. Access Width.

The width of the access shall be between 20 feet and 24 feet with a preferred width of 20 feet.

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e. Medium Volume Accesses

1. Skew Angle.

Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90° as site conditions permit, but in no case less than 60°.

2. Curb Radius.

Curb radii will vary depending whether the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one-way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5-foot radius on the opposite curb.

3. Width.

On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet; however where truck traffic is anticipated,
the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.


On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

f. High Volume Accesses.

High Volume Accesses shall intersect the road at an angle as nearly to 90° as site conditions permit, but in no case less than 60°.

2. Curb Radius.

Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.
3. Curb Cut Width.

Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet with a preferred width of 254 feet.

4. Entering and exiting accesses shall be separated by a raised median that shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.

5. Width.

Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, with a preferred width of 20 feet.

6. Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization islands.

g. Special Case Accesses.

Special Case Accesses are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These accesses are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed access. These accesses are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.

1. Perpendicular Driveways.

(a) Curb Radii.

Curb radii shall be between 30 feet and 50 feet, with a preferred radius of 50 feet.

(b) Access Width.

Access width shall be between 26 feet and 30 feet with a preferred width of 30 feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the one-way drive shall be between 15 feet and 24 feet with a preferred width of 20 feet.

(c) Curb-Cut Width.

The total curb-cut width shall be between 86 feet and 130 feet with a preferred width of 130 feet.

(d) Channelization Island.

The channelization island on two-way accesses shall be raised and curbed. Corner radii shall be 2 feet.
2. Skewed Accesses.

(a) Skew Angle.

The skew angle shall be between 45° and 60°, with a preferred angle of 45°.

(b) Curb Radii.

Curb radii shall be between 30 feet and 50 feet on the obtuse side of the intersection, with a preferred radius of 50 feet. Curb radii shall be between 5 feet and 10 feet on the acute side of the intersection with a preferred radius of 5 feet.

(c) Access Width.

Access width shall be between 15 feet and 24 feet with a preferred width of 20 feet. Where entering and exiting access meet, the width shall be between 24 and 30 feet with a preferred width of 30 feet.

(d) Curb-Cut Width.

The curb-cut width for each access shall be between 35 feet and 75 feet with a preferred width of 42 feet.

h. Access Location and Spacing.

1. Minimum Corner Clearance.

Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed in Table 12.2-1, based upon access volume and intersection type.

Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets; the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

Table 12.2-1. Minimum Standards for Corner Clearance

<table>
<thead>
<tr>
<th>Access Type</th>
<th>Intersection Signalized</th>
<th>Intersection Unsignalized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Volume</td>
<td>150</td>
<td>50</td>
</tr>
<tr>
<td>Medium Volume</td>
<td>150</td>
<td>50</td>
</tr>
<tr>
<td>High Volume</td>
<td>500</td>
<td>250</td>
</tr>
<tr>
<td>Special Case</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right turn in only</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Right turn out only</td>
<td>100</td>
<td>50</td>
</tr>
<tr>
<td>Right turn in or out only</td>
<td>100</td>
<td>50</td>
</tr>
</tbody>
</table>

Accesses and street intersections shall be separated from adjacent accesses, streets and property lines as indicated in Table 12.2-2, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

<table>
<thead>
<tr>
<th>Access Type</th>
<th>Low Volume</th>
<th>Medium Volume</th>
<th>High Volume (w/o RT)*</th>
<th>High Volume (w/ RT)**</th>
<th>Special Case</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5</td>
<td>10</td>
<td>75</td>
<td>75</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td></td>
<td>75</td>
<td>75</td>
<td>250</td>
<td>75</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>150</td>
<td>500</td>
<td>75</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>40***</td>
</tr>
</tbody>
</table>

**Table 12.2-2. Minimum Access Spacing**

**Figure 12.2-4. Access Location and Spacing**

**Diagram:**
- PROPERTY LINE
- PROPOSED DRIVE
- EDGE OF ROADWAY
- PROPOSED DRIVES
- MAIN STREET
- Dc = DISTANCE TO CORNER
- Wd = DRIVEWAY WIDTH
- Dsp = SPACING BETWEEN DRIVEWAYS
- Dist = DISTANCE TO PROPERTY LINE
- F = PARCEL FRONTAGE LENGTH
- P.T. = POINT OF TANGENCY
1. Dpl measured from point of tangency of access to projection of property line on roadway edge.
2. For two more accesses serving a single parcel or from a proposed access from an existing access.
3. Dsp measured from point of tangency of access to point of tangency of adjacent access.
* High volume access without right turn channelization
** High Volume access with right turn channelization
*** Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

i. Number of Accesses.

The maximum number of accesses on to a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

1. No low volume traffic generator shall have more than one two-way access onto a single roadway.
2. No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.

j. Construction Materials/Paving.

1. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.

2. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses, regardless of access volume, shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

B. Street Design and Construction Standards.

1. General Requirements.

a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plans shall include the following information:

1. Date, scale, and north point, indicating magnetic or true.
2. Intersections of the proposed street with existing streets.
3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.

5. Complete curve data shall be indicated for all horizontal and vertical curves.

6. Turning radii at all intersections.

7. Centerline gradients.

8. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

c. Upon receipt of plans for a proposed public street the Board shall forward one copy to the municipal officers, the road commissioner, and the municipal engineer, if appropriate, and the sewer department for review and comment. Plans for streets that are not proposed to be accepted by the municipality shall be sent to the municipal engineer for review and comment. Plans for private streets must be sent to the Sewer Department if there are sewer lines in the subdivision.

d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.

e. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners.” This will be recorded on the approved plan and in the deed of conveyance.

2. Street Design Standards.

a. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of Article 11.

b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.

c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone that permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the Comprehensive Plan and subsequent amendments or revisions indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance. When such widening or realignment is included in the municipality’s capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

e. Any subdivision expected to generate average daily traffic of 200 trips per day or more and has 20 dwelling units or more shall have at least two street connections with existing public streets, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.

f. The design standards of Table 12.2-3 shall apply according to street classification.

### Table 12.2-3. Street Design Guidelines

<table>
<thead>
<tr>
<th>Type of Street Description</th>
<th>Arterial Minimum Right-of-Way Width 80'</th>
<th>Collector Minimum Traveled Way Width 44'</th>
<th>Private Industrial/Commercial Minimum Right-of-Way Width 60'</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Right-of-Way Width</td>
<td>50'</td>
<td>24'</td>
<td>30'</td>
</tr>
<tr>
<td>Minimum Traveled Way Width</td>
<td>80'</td>
<td>44'</td>
<td>60'</td>
</tr>
<tr>
<td>Minimum Grade</td>
<td>.5%</td>
<td>.5%</td>
<td>.5%</td>
</tr>
<tr>
<td>Maximum Grade*</td>
<td>5%</td>
<td>8%</td>
<td>5%</td>
</tr>
<tr>
<td>Minimum Centerline Radius</td>
<td>500'</td>
<td>280'</td>
<td>175'</td>
</tr>
<tr>
<td>With super elevation</td>
<td>350’</td>
<td>175’</td>
<td>110’</td>
</tr>
<tr>
<td>Roadway Crown**</td>
<td>1/4&quot;/ft</td>
<td>1/4&quot;/ft</td>
<td>1/4&quot;/ft</td>
</tr>
<tr>
<td>Minimum angle of street Intersections****</td>
<td>90°</td>
<td>90°</td>
<td>75°</td>
</tr>
<tr>
<td>Maximum grade within 75 ft. of intersection</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
</tr>
<tr>
<td>Minimum curb radii at Intersections</td>
<td>30'</td>
<td>25'</td>
<td>20'</td>
</tr>
<tr>
<td>Minimum r/o/w radii at intersections</td>
<td>20'</td>
<td>10'</td>
<td>10'</td>
</tr>
</tbody>
</table>

* Maximum grade may be exceeded for a length of 100 feet or less.
** Roadway crown is per foot of lane width.
*** Gravel surfaces shall have a minimum crown of 3/4 inch per foot of lane width.
**** Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.
***** Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

   g. The centerline of the roadway shall be the centerline of the right-of-way.

h. Dead End Streets.

   In addition to the design standards in Table 12.2-3, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line: 80 feet; outer edge of pavement: 50 feet; inner edge of pavement: 30 feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. Where future subdivision of abutting parcels is possible, the Board shall require the reservation of a 50 foot wide easement in line with the street to provide continuation of the road and appropriate utilities. Where future subdivision of abutting parcels is not possible, the Board shall require the reservation of a 20 foot wide easement to provide continuation of pedestrian traffic or utilities. Dead end streets or cul-de-sacs will be no longer than 1000 feet.

i. Grades, Intersections, and Sight Distances.

   1. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

   2. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

<table>
<thead>
<tr>
<th>Design Speed (mph)</th>
<th>20</th>
<th>25</th>
<th>30</th>
<th>35</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stopping Sight Distance (ft.)</td>
<td>125</td>
<td>150</td>
<td>200</td>
<td>250</td>
</tr>
</tbody>
</table>

   Stopping sight distance shall be calculated with a height of eye at 3½ feet and the height of object at 1/2 foot.

   3. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto that traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver’s seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder, with the height of the eye 3½ feet, to the top of object 41/4 feet above the pavement.

<table>
<thead>
<tr>
<th>Posted Speed Limit (mph)</th>
<th>25</th>
<th>30</th>
<th>35</th>
<th>40</th>
<th>45</th>
<th>50</th>
<th>55</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sight Distance (ft.)</td>
<td>250</td>
<td>300</td>
<td>350</td>
<td>400</td>
<td>450</td>
<td>500</td>
<td>550</td>
</tr>
</tbody>
</table>

   Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.
4. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan and subsequent amendments or revisions or at other important traffic intersections. A minimum distance of 125 feet shall be maintained between centerlines of minor streets and 200 feet between collectors or a collector and minor street.

j. Sidewalks.

Sidewalks shall be installed within all subdivisions within or partially within areas designated as growth and transitional areas in the Comprehensive Plan and subsequent amendments or revisions. Where sidewalks exist adjacent to a proposed subdivision outside of growth areas, sidewalks shall be installed connecting to existing sidewalks. Where installed, sidewalks shall meet these minimum requirements.

1. Location.

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 1/2 feet from the curb facing or edge of shoulder if the street is not curbed.

2. Bituminous Sidewalks.

(a) The “sub-base” aggregate course shall be no less than twelve inches thick after compaction.

(b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.

3. Portland Cement Concrete Sidewalks.

(a) The “sub-base” aggregate shall be no less than 12 inches thick after compaction.

(b) The Portland cement concrete shall be reinforced with 6-inch square, number 10 wire mesh and shall be no less than four inches thick.

k. Curbs shall be installed within all subdivisions within areas designated as growth areas in the Comprehensive Plan and subsequent amendments or revisions. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

3. Street Construction Standards.

a. The minimum thickness of material after compaction shall meet the specifications in Table 12.2-4.
### Table 12.2-4. Minimum Pavement Materials Thickness

<table>
<thead>
<tr>
<th>Street Materials</th>
<th>Arterial</th>
<th>Collector</th>
<th>Minor</th>
<th>Private Right of Way</th>
<th>Industrial/Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aggregate Sub-base Course (Max. sized stone 6&quot;)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Without base gravel</td>
<td>24&quot;</td>
<td>18&quot;</td>
<td>18&quot;</td>
<td>15&quot;</td>
<td>24&quot;</td>
</tr>
<tr>
<td>With base gravel</td>
<td>20&quot;</td>
<td>15&quot;</td>
<td>15&quot;</td>
<td>12&quot;</td>
<td>20&quot;</td>
</tr>
<tr>
<td>Crushed Aggregate Base Course (if necessary)</td>
<td>4&quot;</td>
<td>3&quot;</td>
<td>3&quot;</td>
<td>3&quot;</td>
<td>4&quot;</td>
</tr>
<tr>
<td>Hot Bituminous Pavement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Thickness</td>
<td>3&quot;</td>
<td>3&quot;</td>
<td>3&quot;</td>
<td>N/A</td>
<td>4&quot;</td>
</tr>
<tr>
<td>Surface Course</td>
<td>1 1/4&quot;</td>
<td>1 1/4&quot;</td>
<td>1 1/4&quot;</td>
<td>N/A</td>
<td>1 1/4&quot;</td>
</tr>
<tr>
<td>Base Course</td>
<td>1 3/4&quot;</td>
<td>1 3/4&quot;</td>
<td>1 3/4&quot;</td>
<td>N/A</td>
<td>2 3/4&quot;</td>
</tr>
<tr>
<td>Surface gravel</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>3&quot;</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**b. Preparation.**

1. Before any clearing has started on the right-of-way, the centerline and sidelines of the new road shall be staked or flagged at fifty-foot intervals.

2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from right-of-way and the entire cleared area.

3. All organic materials or other deleterious material shall be removed to a depth of two feet below the sub grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub grade of the roadway. On soils that have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the sub grade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.

4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.

5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

**c. Bases and Pavement.**

1. **Bases/Sub-base.**

   (a) The Aggregate sub-base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay
and other deleterious substances. The gradation of the part that passes a 3-inch square mesh sieve shall meet the grading requirements of Table 12.2-5.

Table 12.2-5. Aggregate Sub-base Grading Requirements

<table>
<thead>
<tr>
<th>Sieve Designation</th>
<th>Percentage by Weight Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/4 inch</td>
<td>25-70%</td>
</tr>
<tr>
<td>No. 40</td>
<td>0-30%</td>
</tr>
<tr>
<td>No. 200</td>
<td>0-7%</td>
</tr>
</tbody>
</table>

Aggregate for the sub-base shall contain no particles of rock exceeding six inches in any dimension.

(b) If the Aggregate Sub-base Course cannot be finely graded because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the sub-base course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3-inch square mesh sieve shall meet the grading requirements of Table 12.2-6.

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

Table 12.2-6. Base Course Grading Requirements

<table>
<thead>
<tr>
<th>Sieve Designation</th>
<th>Percentage by Weight Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/2 inch</td>
<td>45-70%</td>
</tr>
<tr>
<td>1/4 inch</td>
<td>30-55%</td>
</tr>
<tr>
<td>No. 40</td>
<td>0-20%</td>
</tr>
<tr>
<td>No. 200</td>
<td>0-5%</td>
</tr>
</tbody>
</table>

2. Pavement Joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3. Pavements.

(a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.
(b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

4. Surface Gravel.

Private Rights-of-Way need not be paved and may have a gravel surface. Surface gravel shall be placed on top of the aggregate subbase, shall have no stones larger than two inches in size and meet the grading requirements of Table 12.2-7.

**Table 12.2-7. Surface Gravel Grading Requirements**

<table>
<thead>
<tr>
<th>Sieve Designation</th>
<th>Percentage by Weight Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Square Mesh Sieves</td>
<td></td>
</tr>
<tr>
<td>2 inch</td>
<td>95-100%</td>
</tr>
<tr>
<td>1/2 inch</td>
<td>30-65%</td>
</tr>
<tr>
<td>No. 200</td>
<td>7-12%</td>
</tr>
</tbody>
</table>

5. Curbs and Gutters.

i. Street curbs and gutters shall be installed as required by the Board.

ii. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.

iii. Where curbs and gutters are not required, stabilized shoulders and proper drainage shall be the responsibility of the subdivider.

12.3 **Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.**

A. Preservation of Natural Beauty and Aesthetics.

1. Unless located in areas designated as a growth area in the Comprehensive Plan and subsequent amendments or revisions, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.

2. Unless located in areas designated as a growth area in the Comprehensive Plan and subsequent amendments or revisions, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.

3. When a proposed subdivision contains a ridge-line identified in the Comprehensive Plan and subsequent amendments or revisions as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.
4. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

B. Retention of Open Spaces and Natural or Historic Features.

1. As specified in Article 11.8. B. 7, the subdivision shall reserve no less than 15% of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the Comprehensive Plan and subsequent amendments or revisions or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision and the policies of the plan for meeting those needs; the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.

2. Sites selected primarily for scenic or passive recreation purposes shall have such access, as the Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

3. Proposed subdivisions that include or are adjacent to buildings or sites on the National Register of Historic Places or that the Comprehensive Plan and subsequent amendments or revisions has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

C. Protection of Significant Wildlife Habitat and Important Habitat Areas.

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions that include significant wildlife habitat or resources identified in Section 11.8.C.

1. Protection of Habitat of Endangered or Threatened Species.

   a. Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.

   b. Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation
within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

2. Protection of Waterfowl, Shorebird, and Wading Bird Habitat, Atlantic salmon Spawning and Nursery Areas.
   a. There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:
      1. Shorebird nesting, feeding and staging areas and seabird nesting islands;
      2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
      3. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
      4. Other important habitat areas identified in the Comprehensive Plan and subsequent amendments or revisions.
   b. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

3. Protection of Deer Wintering Areas.
   The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas.

4. Protection of Important Shoreland Areas.
   a. Except as in areas described in Section 12.3.C.2, within all areas subject to the state mandated 250 foot Shoreland zone:
      1. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 \( \frac{1}{2} \) feet above the ground level on any lot in any ten-year period.
      2. Cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whatever is greater, including land previously developed.
   b. These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

5. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Comprehensive Plan and subsequent amendments or revisions, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

12.4 Storm Water Management Design Guidelines.
   A. Design of best management practices shall be substantially equivalent to those described in the Storm Water Management for Maine: Best Management Practices.
published by the Maine Department of Environmental Protection, 1995 or most recent edition.

B. Drainage easements for existing water courses or proposed drainage ways shall be provided at least 30 feet wide, conforming substantially with the lines of existing natural drainage.

C. The minimum pipe size for any storm drainage pipe shall be 15 inches for driveway entrances and eighteen inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

D. Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.

E. Storm Drainage Construction Standards.

1. Materials.
   a. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street under drains. Bituminous-coated steel pipes shall not be used.
   
   b. Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a 50-year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.
   
   c. Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.

2. Pipe Gauges.

Metallic storm drainage pipe shall meet the thickness requirements of Table 12.4-1, depending on pipe diameter:

<table>
<thead>
<tr>
<th>Inside Diameter</th>
<th>Galvanized CMP</th>
<th>Aluminum/Zinc Coated CMP</th>
<th>Aluminum Coated CMP</th>
</tr>
</thead>
<tbody>
<tr>
<td>15&quot; to 24&quot;</td>
<td>14 ga.</td>
<td>14 ga.</td>
<td>16 ga.</td>
</tr>
<tr>
<td>30&quot; to 36&quot;</td>
<td>12 ga.</td>
<td>12 ga.</td>
<td>14 ga.</td>
</tr>
<tr>
<td>42&quot; to 54&quot;</td>
<td>10 ga.</td>
<td>10 ga.</td>
<td>12 ga.</td>
</tr>
<tr>
<td>60&quot; to 72&quot;</td>
<td>8 ga.</td>
<td>8 ga.</td>
<td>10 ga.</td>
</tr>
</tbody>
</table>

3. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the municipal engineer.
4. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400-foot intervals.

F. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

12.5. Impact on Water Quality or Shoreline.

Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots that include any such land shall contain the following restrictions:

A. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the footpath shall be limited to six feet.

B. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten-year period.

C. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.

D. Pruning of tree branches on the bottom third of the tree is permitted.

12.6 Blocks.

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in Section 12.2.B.2.j. Maintenance obligations of the easement shall be included in the written description of the easement.

12.7 Lots.

A. Wherever possible, side lot lines shall be perpendicular to the street.

B. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
C. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.

D. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

E. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers.

12.8 Utilities.

Utilities serving subdivisions in areas designated by the Comprehensive Plan and subsequent amendments or revisions as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125 feet or less shall be installed underground. The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the Comprehensive Plan and subsequent amendments or revisions.

A. Utilities shall be installed underground except as otherwise approved by the Board

B. Underground utilities shall be installed prior to the installation of the final gravel base of the road.

C. The size, type and location of streetlights, electric gas lines, telephone, and other utilities shall be shown on the plan and approved by the Board.

12.9 Monuments.

A. Stone or pre-cast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.

B. Stone or pre-cast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.

C. Stone or pre-cast concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill hole 1/2 inch deep shall locate the point or points described above.

D. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monuments, as required by the Maine Board of Registration of Land Surveyors.
Article 13---Performance Guarantees

13.1 Types of Guarantees.

With submittal of the application for final plan approval, the applicant shall provide a specific list of infrastructure and other costs for required improvements that are to be covered by a performance guarantee for review by the Planning Board. At the time of final plan approval, the Planning Board, with input from the Town Manager and Town Engineer and/or other applicable agent, shall approve, or approve with required modification, the list of infrastructure elements and other improvement costs that must be covered by a performance guarantee. Following final plan approval, no permits of any kind may be issued nor may any lots be sold until after receipt by the Town Manager, confirmed in writing to the Planning Board, of one of the following performance guarantees for an amount adequate to cover not less than 125% of the total estimated costs of infrastructure elements and required improvements specified by the Planning Board, taking into account the timing and time-span of the construction schedule (including any approved phasing under Section 13.6 below, if applicable) and the inflation rate for construction costs:

A. Either a certified check payable to The Town of Kennebunkport or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;

B. A performance bond payable to The Town of Kennebunkport issued by an acceptable surety company, approved by the municipal officers, or town manager; or

C. An irrevocable letter of credit (see Appendix B for a sample) from an acceptable financial institution establishing funding for the construction of the subdivision, from which The Town of Kennebunkport may draw if construction is inadequate, approved by the municipal officers, or town manager.

13.2 Contents of Guarantee.

The performance guarantee shall cover the infrastructure elements specified by the Planning Board in its final approval, and shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the Town of Kennebunkport shall have access to the funds to finish construction.

13.3 Escrow Account.

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town of Kennebunkport, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the
applicant, the Town of Kennebunkport shall be named as owner. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in that case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

13.4 **Performance Bond.**

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

13.5 **Letter of Credit.**

An irrevocable letter of credit from a bank or other lending institution shall indicate which funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

13.6 **Phasing of Development.**

The Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street that is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

13.7 **Release of Guarantee.**

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the Town of Kennebunkport and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for that the release is requested.

13.8 **Default**

If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality’s rights.

13.9 **Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures, and the installation of electric and other necessary utilities.
Article 14---Waivers

14.1 Waivers Authorized.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan and subsequent amendments or revisions, the zoning ordinance, or these regulations.

14.2 Findings of Fact Required.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan and subsequent amendments or revisions, The Land Use Ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

14.3 Conditions.

Waivers may only be granted in accordance with Sections 14.1 and 14.2. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

14.4 Waivers to Be Shown on Final Plan.

When the Board grants a waiver to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.
Article 15---Appeals

15.1 Appeals to Superior Court.

An aggrieved party may appeal any decision of the Board under these regulations to The York County Superior Court within thirty days of the date the Board issues a written order of its decision.
Appendix A---Title 30-A, Chapter II, Subchapter IV
SUBDIVISIONS

As Effective September 19, 1997
Please Refer To The Current State of Maine Law Regarding Subdivisions
**Appendix B---Sample Letter Of Credit**

Chairman  
Kennebunkport Planning Board  
Town Hall  
Your Town, ME 04000

Re:  *Letter of Credit for:*
    Developer, Inc.  
    Sunshine Estates  
    Your Town, Maine

Dear Chairman:

This letter will confirm to The Town of Kennebunkport that the Big Town Savings Bank has issued a loan commitment to Developer, Inc. for the purpose of constructing all required improvements in the “Sunshine Estates” subdivision.

Big Town Savings Bank will set aside $230,000 in a Construction Escrow Account for completion of the required improvements. This account can be drawn upon by The Town of Kennebunkport in the event that Developer, Inc. fails to complete steps A through H listed below for Windy Road on or before (two years from date of Final Plan approval).

Approximate Length of road 2,350 feet:

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>Grub roadways full width of 50 feet @ $4/ft.</td>
<td>$9,400</td>
</tr>
<tr>
<td>B.</td>
<td>Shape sub-base and grade it @ $4/ft.</td>
<td>9,400</td>
</tr>
<tr>
<td>C.</td>
<td>Install under–drain culverts @ $16/ft.</td>
<td>37,600</td>
</tr>
<tr>
<td>D.</td>
<td>Install sewer @ $22/ft. x 2,050 feet plus pump $16,500</td>
<td>61,600</td>
</tr>
<tr>
<td>E.</td>
<td>Install water mains @ $14/ft x 2,400 feet</td>
<td>33,600</td>
</tr>
<tr>
<td>F.</td>
<td>Apply and shape 18&quot; gravel base @ $8.30/ft x 2,350 feet</td>
<td>19,500</td>
</tr>
<tr>
<td>G.</td>
<td>Apply and shape 3&quot; of crushed gravel; apply 1 3/4&quot; of base course bituminous concrete to width of 24 feet, apply bituminous curb and 2&quot; of bituminous concrete to a width of 5 feet @ $10/ft. x 2,350 feet</td>
<td>23,500</td>
</tr>
<tr>
<td>H.</td>
<td>Apply 3/4&quot; of surface bituminous concrete to width of 24 feet @ $5/ft</td>
<td>11,800</td>
</tr>
</tbody>
</table>

Big Town Bank understands that Developer, Inc., or the contractor, will notify the Town Engineer or Code Enforcement Officer before any of the above work has begun and obtain his approval in writing as he completes each phase of the road construction.

This Account will expire when Kennebunkport acknowledges in writing to Developer, Inc. that the work outlined in Steps A through H has been completed in accordance with Kennebunkport’s subdivision regulations and street acceptance ordinance, and the approved plans of Sunshine Estates. Any funds remaining in the account on (date specified above) for work outlined in Steps A through H that has not been completed and approved by the Town on that date will be released to the Town to complete such work. As the Town Engineer or Code Engineer.
Appendix B, Continued

Enforcement Officer issues his written approvals for each step above to Developer, Inc. the funds in this Account will be released based upon the schedule above.

Drafts drawn upon this account must be for this particular subdivision and to complete any work that is outlined above. Furthermore, drafts must be accompanied by itemized statements showing costs of work to be completed and must be submitted prior to (six to nine months following date specified above). The Town of Kennebunkport will not be responsible for repayment or interest cost for any funds released to the Town for work not completed on or before (date specified above).

Very Truly Yours,

Bob Banker
Loan Officer

SEEN AND AGREED TO: ______________________

Developer, Inc.

The Town of Kennebunkport hereby accepts this original letter as evidence of Developer, Inc.'s obligation to be performed.

__________________________

Town Manager
or
Chair of the Select Board
Appendix C---SAMPLE STORM DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That ________________, of ________________, County of York, being the owner of a certain lot or parcel of land in the Town of Kennebunkport, County of York in the State of Maine, which premises are more fully described in a certain subdivision plan entitled ________________, by ________________, dated ________________, and recorded in the ________________ County Registry of Deeds in Plan Book ________________, Page ________________, that description of said premises is included herein by reference. For and in consideration of the sum of One Dollar and other good and valuable considerations paid by the Inhabitants of the Town of Kennebunkport, State of Maine, the receipt of which is hereby acknowledged, Grantor(s) do(es) hereby give, grant and quit–claim unto the said Inhabitants of the Town of Kennebunkport an easement and right–of–way for the construction, maintenance, repair or replacement of storm drains on or across said premises. Said easement shall be thirty (30) feet in width and ________________ ( ) feet in length across Lots numbered ________________ and shall be located as shown on the above–mentioned subdivision plan.

TO HAVE AND TO HOLD the said easement and right–of–way unto the said Inhabitants of the Town of Kennebunkport for use for storm drainage so long as the same shall be used and maintained for such purposes; and the Grantor(s) hereby dedicate(s) their respective interests in said strip of land to public use for such purposes. Grantor(s) further grant(s) to the Inhabitants of the Town of Kennebunkport the right to enter upon said land for purposes hereinbefore mentioned and Grantor(s), their heirs or assigns shall not construct any structure within said easement or plant vegetation within said easement without the express written consent of the Director of the Town of Kennebunkport Department of Public Works and the Town Engineer of the Town of Kennebunkport.

IN WITNESS WHEREOF, the said ________________ have hereunto set my (our) hand(s) and seal(s) this ________ day of ________________, in the year of our Lord Two thousand and ________________.

SIGNED, SEALED AND DELIVERED

In the presence of

__________________________________ _________________________________
__________________________________ _________________________________
__________________________________ _________________________________

STATE OF MAINE

__________________________________, ss. ________________________________, 19___

Personally appeared, before me, the above-mentioned __________________________ and acknowledged the foregoing instrument to be ________ free act and deed.

____________________________________
Notary Public/Justice of the Peace
Appendix D---MODEL APPLICATION FORM

Town of Kennebunkport Subdivision Application

Subdivision Name ______________________
Application Number _________

APPLICANT INFORMATION

Name of Property Owner: ___________________________________________________________
Address: _____________________________________________________________________
Telephone: (____)_______-___________

Name of Applicant: ___________________________________________________________
Address: _____________________________________________________________________
Telephone: (____)_______-___________

If applicant is a corporation, check if licensed in Maine ☐ Yes ☐ No and attach a copy of State's Registration.

Name of applicant's authorized agent: ___________________________________________________
Address: _____________________________________________________________________
Telephone: (____)_______-___________

Name of Land Surveyor, Engineer, Architect or others preparing plan:
______________________________________________________________________________
______________________________________________________________________________
Address: _____________________________________________________________________
Telephone: (____)_______-___________ Registration #___________

Person and Address to which all correspondence regarding this application should be sent:
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

What legal interest does the applicant have in the property to be developed (ownership, option, purchase and sales contract, etc.)?
______________________________________________________________________________

What interest does the applicant have in any abutting property?
______________________________________________________________________________

LAND INFORMATION
Location of Property (Street Location)

________________________________________________

(From County Registry of Deeds): Book ______ Page _______
(From Tax Maps): Map _____ Block____ Lot(s) ______

Current zoning of property:

___________________________________________________________________________

Is any portion of the property within 250 feet of the high water mark of a pond, river or saltwater body?

T Yes T No

Total Acreage of Parcel: ________________________________

Acreage to be developed: ________________________________

Indicate the nature of any restrictive covenants to be placed in the deeds:

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

Has this land been part of a prior approved subdivision?

T Yes T No

Or other divisions within the past 5 years?

T Yes T No

If the answer to the above is yes, please give name of subdivision__________________

Identify existing use(s) of land (farmland, woodlot, etc.)_____________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

Does the parcel include any water bodies? T Yes T No

Does the parcel include any wetlands? T Yes T No

Is any portion of the property within a special flood hazard area as identified by the Federal Emergency Management Agency?

T Yes T No

List below the names and mailing addresses of property owners within a 200 foot radius from all boundary lines.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
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<td></td>
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</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
GENERAL INFORMATION

Proposed name of development: _______________________________________________________

Number of lots or units: _____________________________________________________________________

Anticipated date for construction: _____________________________________________________________________

Anticipated date of completion: _____________________________________________________________________

Does this development require extension of public infrastructure?  ☐ Yes  ☐ No
☐ Roads  ☐ Storm drainage  ☐ other
☐ Sidewalks  ☐ Water lines
☐ Sewer lines  ☐ Fire protection equipment

Estimated cost for infrastructure improvements $ __________________

Identify method of water supply to the proposed development:
☐ Individual wells
☐ Central well with distribution lines
☐ Connection to public water system
☐ Other-- please state alternative

Identify method of sewage disposal to the proposed development:
☐ Individual septic tanks
☐ Central on site disposal with distribution lines
☐ Connection to public sewer system
☐ Other-- please state alternative

Identify method of fire protection for the proposed development:
☐ Hydrants connected to the public water system
☐ Dry hydrants located on an existing pond or water body
☐ Existing fire pond
☐ Other, please state alternative.

Does the applicant propose to dedicate to the public any streets, recreation or common lands?

<table>
<thead>
<tr>
<th>Street(s)</th>
<th>☐ Yes</th>
<th>☐ No</th>
<th>Estimated Length</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recreation area(s)</td>
<td>☐ Yes</td>
<td>☐ No</td>
<td>Estimated Acreage</td>
</tr>
<tr>
<td>Common land(s)</td>
<td>☐ Yes</td>
<td>☐ No</td>
<td>Estimated Acreage</td>
</tr>
</tbody>
</table>

Does the applicant intend to request waivers of any of the subdivision submission requirements?
If yes, list them and state reasons for the request.
___________________________________________________________________________
___________________________________________________________________________
___________________________________________________________________________

To the best of my knowledge, all the above stated information submitted in this application is true and correct.

___________________________________________________ _________
(Signature of Applicant) (Date)
Appendix E---RECEIPT OF SUBDIVISION APPLICATION

Date __________________________

Name ________________________________________________
Address ________________________________________________

______________________________  
______________________________  

Dear _____________________________:

The Planning Board of the Town of Kennebunkport has received your application for a _______ lot/unit subdivision at _________________________.

In accordance with Title 30-A M.R.S.A., §4403, sub-§3, the Board will, within 30 days, notify you in writing either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application. After the Board has determined that a complete application has been filed, it will notify you and begin its full evaluation of the proposed subdivision.

Sincerely,

______________________________
Chair of the Planning Board
Town of Kennebunkport
Appendix F---MODEL NOTICE TO ABUTTERS OF RECEIPT OF APPLICATION

Date ________________

Name ____________________________________________
Address __________________________________________
__________________________________________________
__________________________________________________

Dear ____________________________________________:

The Town of Kennebunkport Planning Board has received an application for a ____________ lot/unit subdivision at ________________________.

Our records indicate that you own property within a 200 foot radius of the parcel proposed to be subdivided. In accordance with Title 30-A M.R.S.A., §4403, sub§3, the Planning Board is required to notify you it has received this application. We have not yet determined that the application is complete and have not reviewed the application.

The application is available for your review at _________________________. The next scheduled meeting to discuss the application is _________________________.

Sincerely,

_________________________
Chair of the Planning Board
Town of Kennebunkport
Appendix G---MODEL NOTICE TO PLANNING BOARD
AND CLERK OF NEIGHBORING MUNICIPALITIES

Date __________

Name ______________________________
Address ______________________________
____________________________________
____________________________________

Dear _____________________________:

The Town of Kennebunkport Planning Board has received an application for a ______ lot/unit subdivision at ____________________.

In accordance with Title 30-A M.R.S.A., §4403, sub§3, the Planning Board is required to notify you it has received this application, because it abuts or crosses the municipal boundary (if the proposed subdivision crosses municipal boundaries). Title 30-A M.R.S.A., §4403, sub§3 requires a joint meeting between the two Planning Boards. Please contact me at (phone number) to set up such a meeting.

The application is available for your review at The Kennebunkport Municipal offices. The next scheduled meeting of the Town of Kennebunkport Planning Board to discuss the application is____________________.

Sincerely,

_________________________
Chair of Planning Board
Town of Kennebunkport
Appendix H---NOTICE OF INCOMPLETE APPLICATION

Date ____________

Name _______________________________________
Address _______________________________________
_____________________________________________
_____________________________________________

Dear _____________________________:

The Planning Board of the Town of Kennebunkport has reviewed your application for a _______ lot/unit subdivision at ____________________ and found it to be incomplete.

In order to be considered a complete application the following materials must be submitted:

A.
B.
C.

Sincerely,

_____________________
Chair of Planning Board
Town of Kennebunkport
Appendix I—NOTICE OF COMPLETE APPLICATION

Date ___________

Name ______________________________
Address ______________________________

Dear _____________________________:

The Town of Kennebunkport Planning Board has reviewed your application for a ______ lot/unit subdivision at ____________________ and found it to be complete.

The Board has scheduled a meeting for ____________________ (date) at ________ p.m. (time) at which time your application will be reviewed for conformance with criteria of Title 30-A M.R.S.A., §4404 and the standards of the ____________ Subdivision Regulations. You or your authorized representative is encouraged to attend the meeting.

At that time the Board will determine whether to hold a public hearing.

Sincerely,

_____________________
Chair of Planning Board
Town of Kennebunkport
Appendix J---MODEL NOTICE OF PUBLIC HEARING

KENNEBUNKPORT PLANNING BOARD

The Kennebunkport Planning Board will hold a public hearing on an application for the proposed ________________ subdivision, as requested by ____________________________.

The Public Hearing will take place on ____________________________ (date) at ____________ p.m. (time), in the ____________________________ (place).

The application for a subdivision proposes to establish ______ lots/dwellings on __________ acres on the __________________ Road.

_________________________________________
Town Clerk or Deputy Clerk
Town of Kennebunkport

-----------------------------------------------------------------------------------------------------------------------------------------
(For newspaper use only)

Publish the above notice on the following dates: _________________________

__________________________

Charge to: ____________________________

__________________________
Appendix K---AGREEMENT TO EXTEND SUBDIVISION REVIEW PERIOD

Kennebunkport Planning Board

WHEREAS The State Subdivision Law, Title 30-A M.R.S.A., §4403, requires that the municipal reviewing authority approve, approve with conditions, or deny an application for subdivision review within 60 days of having determined a complete application had been submitted, or within 30 days of a public hearing if one is held; and

WHEREAS The complete subdivision application submitted by the undersigned applicant can not be adequately reviewed in the specified time period because of the complexity of the application, and would therefore have to be denied and resubmitted; and

WHEREAS It would be mutually advantageous to the undersigned parties to extend the review period; and

WHEREAS Title 30-A M.R.S.A., §4403 stipulates that the time period within which a subdivision application must be reviewed may be extended by mutual agreement;

NOW THEREFORE the undersigned parties mutually agree that:

1. The subdivision review period shall be extended to ________________.

2. The decision on the subdivision shall be rendered by that date, unless the review period is again extended by mutual agreement.

Signed ________________________________________________
Chair of the Planning Board
Town of Kennebunkport

______________________________________________
Applicant

Date ____________________
Appendix L---MODEL NOTICE OF APPROVAL OF PRELIMINARY PLAN APPLICATION

Date: ______________________

To: ______________________

____________________
____________________

Dear ______________________;

This letter is to inform you that on ___________________ (date) the Kennebunkport Planning Board approved your preliminary plan application for the proposed subdivision.

In accordance with Section ______ of the Town of Kennebunkport Subdivision Regulations, the Planning Board has granted approval with the following conditions:

1. 
2. 
3. 

The Final Plan application must include cost estimates and proposed performance guarantees for the following improvements:

A. 
B. 
C. 

In addition, you should be aware that Section _____ of the Subdivision Regulations requires that the Final Plan application is submitted within six months of this decision.

Sincerely,

________________________
Chair of the Planning Board
town of Kennebunkport

cc: Code Enforcement Officer
Municipal Officers
Date: ______________________

To: ______________________
    ______________________
    ______________________

Dear ______________________:

This letter is to inform you that the Kennebunkport Planning Board has acted on your application for a subdivision as follows:

Findings of Fact

1. The owner of the property is ______________________.
2. The property is located at ______________________, in the _________ zoning district, identified as Assessor’s Map ____, Lot ____, and contains ________ (acres, sq. ft.).
3. The applicant is ______________________, who has demonstrated a legal interest in the property by providing a copy of a __________________________ (deed, option, purchase and sales agreement).
4. The applicant proposes to establish a _____ lot subdivision on the subject property. The lots range in size from ______ (sq. ft., acres) to _______ (sq. ft., acres).
5. The application was determined to be complete on ______________________ (date).
6. A public hearing was held on ______________________ (date).
7. Water is to be supplied by (private wells, the _________ Water Department).
8. Sewage is to be disposed of by (individual subsurface disposal systems, the _________ Sewer Department). Site evaluations for each lot, meeting the requirement of the Maine Plumbing Rules were completed by ____________________, Licensed Site Evaluator, on ______________. (or) The Kennebunkport Sewer District has approved the plans for sewer lines and indicated it will be able to adequately treat the waste.
9. A storm water drainage plan has been prepared by ______________________, P.E.
10. The applicant proposes to construct a street of approximately _____ feet in length, that is proposed to (be dedicated as a public way, remain as a private way).
11. The applicant has submitted (A certified check, certificate of deposit, a performance bond, a letter of credit) adequate to cover the costs of all required improvements.
12. _________________________________.
13. _________________________________.
Conclusions

1. The criteria of Title 30-A M.R.S.A., §4404 have been met. (or) The following criteria of Title 30-A M.R.S.A., §4404 have not been met: ____________________, ____________________, ____________________.

2. The standards of the Town's subdivision (regulations, ordinance) have been met, except for the following that have been waived by the Planning Board: ____________________, ____________________, ____________________. (or) The following standards of the Town's subdivision (regulations, ordinance) have not been met: ____________________, ____________________, ____________________.

3. __________________________________________________________.

4. __________________________________________________________.

Decision

Based on the above facts and conclusions, on ______________________, the Kennebunkport Planning Board voted to (approve, deny) your application for a subdivision.

(If Approved)

Conditions of Approval

In order to further promote the purposes of the State Subdivision Law, the Town of Kennebunkport’s Subdivision Regulations, Zoning Ordinance, and Comprehensive Plan and subsequent amendments or revisions, the Planning Board has voted to impose the following conditions on the approval of this subdivision:

1. __________________________________________________________.

2. __________________________________________________________.

3. __________________________________________________________.

In addition, the Board wants to make sure you are aware of the following requirements from its Subdivision Regulations.

1. Any subdivision not recorded at the York County Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void, unless an extension is granted by the Board in writing.

2. No changes, erasures, modification, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Board and the Board approves any modifications.

3. Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the plan null and void.

4. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of the improvements, so that inspections can be made.

5. At the close of each summer construction season, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control
measures are in place, are properly installed, and appear adequate to do the job for which they were designed.

6. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monuments shown on the plan have been installed.

7. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to town meeting, a written certification signed by a professional engineer shall be submitted to the town certifying that the proposed town way meets or exceeds the design and construction requirements of the regulations and the Road and Street Ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

*(If Denied, or if conditions are imposed on approval)*

In accordance with Section ________ of the Kennebunkport Subdivision Regulations, you have the right to appeal this decision to _________________ County Superior Court within thirty days of the decision.

Sincerely,

________________________
Chair of the Planning Board

CC: Code Enforcement Officer
Municipal Officers
Water Department
Appendix N---PRELIMINARY PLAN APPLICATION  
CHECKLIST FOR SUBDIVISIONS

Subdivision Name _______________________    Date ____________

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide in assembling the information necessary for a complete application. However, the checklist does not substitute for the requirements of Article 7 of the Subdivision Regulations. The Planning Board also will be using the checklist to make sure that your application is complete. Indicate if the information has been submitted or if the applicant has been requested it to be waived. If you feel that information is not applicable to your project, please indicate in the second column. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. However, detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans may best be presented on a separate sheet or sheets.

Note that this checklist only covers the submission requirements for a preliminary plan for subdivisions. It does not address the standards that the preliminary plan must meet. There are two other checklists (Articles 11 and 12) that address the performance standards and the design guidelines that the applicant may find of assistance.

<table>
<thead>
<tr>
<th>SUBDIVISION REGULATIONS</th>
<th>Submitted by Applicant</th>
<th>Not Applicable</th>
<th>Applicant Requests to be Waived</th>
<th>Received by Planning Board</th>
<th>Waived by Planning Board</th>
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<tbody>
<tr>
<td><strong>7.1.A</strong>  Sixteen copies of application plus accompanying information</td>
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<td><strong>7.2.B.</strong> LOCATION MAP</td>
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<td>B.1. Area within 2000 feet of proposed subdivision or,</td>
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<td>B.2. Smaller area between the tract and all surrounding existing street, provided any</td>
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<td>B.3. Existing subdivisions in the proximity of proposed subdivision</td>
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<td>B.4. Locations and names of existing and proposed streets</td>
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<td>B.5. Zoning boundaries and designations</td>
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<td>B.6. Outline of proposed subdivision and owner's remaining contiguous land</td>
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<td><strong>7.2.C.</strong> PRELIMINARY PLAN</td>
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<tr>
<td>C. Sixteen copies of all maps and/or drawings printed or reproduced on paper</td>
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<td>C. Scale not smaller than 1&quot;= 100'; for subdivision more than 100 acres, not smaller</td>
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<td>C. Copies of the plans and drawing on 8.5&quot; x 11&quot; or 11&quot; x 17&quot; sheets plus accompanying</td>
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<td><strong>7.2.D.</strong> APPLICATION REQUIREMENTS</td>
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<td>Appendix N, Continued</td>
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<td>D.1. Name of subdivision, name of town and assessor's map and lot number(s)</td>
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<td>D.2. Verification of right, title or interest in property</td>
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<td>D.3. Standard boundary survey with bearings and distances</td>
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87
| D.4. | Copy of most recently recorded deed; all restrictions, easements, rights-of-way and other encumbrances |
| D.5. | Deed restrictions on proposed new lots or dwellings |
| D.6. | Condominium and/or Homeowners Assoc. agreement, if applicable. |
| D.7.a | Type of sewage disposal |
| D.7.b | Written statement from Sewer District |
| D.7.c | Test pit analyses by Site Evaluator and test sites location map |
| D.8. | Type of water supply system(s) |
| D.8.a | Water Department letter of capacity and Fire Chief’s approval of hydrant placement. |
| D.9. | Date plan prepared, north point and graphic map scale |
| D.9.a | Names and addresses of record owner, subdivider, plan preparer(s) and adjoining property owners |
| D.10 | High intensity soil survey by Certified Soil Scientist; all wetlands identified. |
| D.11 | Contour lines @ two (2) foot intervals--------. |
| D.12 | Delineate 100-year flood prone area------. |
| D.13 | Hydrogeologic assessment-------. |
| D.14 | Total acres in subdivision; location of property lines, existing building(s), vegetative cover type and other essential physical features |
| D.14.b | Location of trees more than 16” in diameter |
| D.15 | Calculation of Net Residential Area |
| D.16 | Location of rivers and Streams |
| D.17 | Zoning districts and boundaries |
| D.18 | Location and size of existing and proposed sewers, water mains, culverts---------. |
| D.19 | The location, names, present widths of existing streets and highways on or adjacent to the subdivision-------. |
| D.20 | The width and location of any streets, public improvements or open space shown upon the official map and the Comprehensive Plan and ------------. |
| D.21 | Location of any open space----------------. |
| D.22 | Parcels of land proposed to be dedicated to public use and the conditions of such dedication-----------. |

**Appendix N, Continued**

| D.23 | An estimate of the amount of vehicular traffic to be generated on a daily basis and at peak hours---------. |
| D.24 | For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis------------. |
| D.25 | Storm water management plan. |
| D.26 | An erosion and sedimentation control plan. |
| D.27. | Identify moderate value wildlife habitat, if applicable--
       |
|-------|------------------------------------------------------|
|       |                                                     |

<table>
<thead>
<tr>
<th>D.28.</th>
<th>All areas within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the Comprehensive Plan------.</th>
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</table>
Appendix O---FINAL PLAN APPLICATION CHECKLIST FOR SUBDIVISIONS

Subdivision Name _______________________    Date ____________

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide in assembling the information necessary for a complete application. However, the checklist does not substitute for the requirements of Article 8 of the Subdivision Regulations. The Planning Board also will be using the checklist to make sure that your application is complete. Indicate if the information has been submitted or if it is requested to be waived. If you feel that information is not applicable to your project, please indicate in the second column. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. However, detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans may best be presented on a separate sheet or sheets.

Note that this checklist only covers the submission requirements for a final plan for a subdivision. It does not address the standards that the final plan must meet. There are two other checklists which address the performance standards and the design guidelines which the applicant may find of assistance.

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<tr>
<td>8.1. PROCEDURE</td>
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<td>8.1.A.</td>
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<td>Submittal of draft Final Plan within 6 months of approval of the Preliminary Plan OR submittal of request for an extension to the filing deadline</td>
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<td>8.1.B.</td>
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<td>Filing of appropriate Final Plan application fee</td>
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<td>8.1.C.</td>
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<td>Prior to submittal of Final Plan application, the following approvals shall be obtained where applicable:</td>
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<td>1. Maine DEP permit(s)</td>
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<td>2. Maine DEP permit(s) storm and wastewater</td>
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<td>3. Maine DHS permit(s) if public water system</td>
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<td>4. Maine DHS permit(s) if subsurface wastewater</td>
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<td>5. U.S. Army Corp Eng Permit if Clean Water Act</td>
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<td>6. MDOT Permit-highway entrance/driveway mgmt</td>
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<td>7. Maine DEP Storm Water Permit-Ch. 500/502</td>
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<td>8.1.D/K</td>
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<td>Scheduling procedure and possible public hearing</td>
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<td>Performance Guarantee specified in Article 13</td>
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8.2. SUBMISSIONS

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<td>8.2.</td>
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<td>Two reproducible and three copies of one or more maps at scale of not more than 1&quot;=100'; subdivision more than 100 acres, not larger than 1&quot;=200'</td>
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<td>Plans not larger than 24&quot; x 36&quot; with 2&quot; border on binding side; 1&quot; for borders elsewhere</td>
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<td>Block for Planning Board signatures</td>
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<td>Seven copies of plan reduced to 8.5&quot;x11&quot; or 11&quot;x17&quot;</td>
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8.2. FINAL PLAN INFORMATION

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<th></th>
<th>Submitted by Applicant</th>
<th>Not Applicable</th>
<th>Applicant Requests to be Waived</th>
<th>Received by Planning Board</th>
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<td>Section</td>
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<tr>
<td>8.2.A.</td>
<td>Name of Subdivision, Name of Town and Assessor's Map and Lot Number(s)</td>
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<td>B.</td>
<td>Total acres in subdivision; location of property lines, existing building(s), vegetative cover type and other essential physical features</td>
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<td>C.</td>
<td>Type of sewage disposal proposed</td>
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<td>C.1.</td>
<td>Sewer District approval of sewerage design</td>
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<td>8.2.D.</td>
<td>Water District approval of water system design</td>
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<td>8.2.D.1.</td>
<td>Fire Chief letter on hydrants or other fire protection measures</td>
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<td>8.2.D.2.</td>
<td>Well driller or hydrologist letter on ground water supply and quality</td>
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<td>8.2.E.1.</td>
<td>Date plan prepared, north point, graphic map scale</td>
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<td>8.2.E.2.</td>
<td>Names and addresses of record owner, subdivider, plan preparer(s) and adjoining property owners</td>
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<td>8.2.F.</td>
<td>Location of any zoning boundaries affecting the property</td>
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<td>8.2.G.</td>
<td>If different than Preliminary Plan submittal, any deed restrictions on proposed new lots or dwellings</td>
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<td>8.2.H.</td>
<td>If different than that submitted with the preliminary plan, a copy of the declaration of condominium and/or homeowner’s association agreement if applicable.</td>
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<td>8.2.I.</td>
<td>Location and size of existing and proposed sewers, water mains, culverts and drainage ways on and adjacent to proposed subdivision</td>
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<td>8.2.J.</td>
<td>Location, name and widths of existing and proposed streets, easements, building lines, parks and open spaces on or adjacent to subdivision tied to survey points and certified by a registered land surveyor</td>
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<td>8.2.K.</td>
<td>Street designs</td>
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<td>8.2.L.</td>
<td>Land dedicated to public use and conditions.</td>
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<td>8.2.M.</td>
<td>A list of construction items and cost estimates.</td>
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<td>8.2.N.</td>
<td>Boundaries of flood hazard area and 100-year flood elevations as depicted on Flood Insurance Map.</td>
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<td>8.2.O.</td>
<td>Street plans meeting the requirements of 12.2.B.2.</td>
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<td>8.2.P.</td>
<td>Storm Water management plan.</td>
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<td>8.2.Q.</td>
<td>Erosion and sedimentation plan.</td>
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<td>8.2.R.</td>
<td>The location and method of disposal for land clearing and construction debris.</td>
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<td>8.2.S.</td>
<td>Lands not suitable for development.</td>
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<td>8.2.T.</td>
<td>Estimate of net increase in assessed valuation.</td>
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# Appendix P---SUBDIVISION PLAN REVIEW CHECKLIST

## ARTICLE 11 - PERFORMANCE STANDARDS

**SUBDIVISION NAME _______________________ DATE _______**

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide. The checklist does not substitute for the statutory criteria or the requirements of Article 11 of the Subdivision Regulations. The Planning Board also will be using the checklist to make sure that your application is complete. Indicate if the information has been submitted or if it is requested to be waived. If you feel that information is not applicable to your project, please indicate in the second column. The application need not contain separate plans as implied below. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. However, detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans may best be presented on a separate sheet or sheets.

<table>
<thead>
<tr>
<th>SUBDIVISION REGULATIONS</th>
<th>Submitted by Applicant</th>
<th>Not Applicable</th>
<th>Applicant Requests to be Waived</th>
<th>Received by Planning Board</th>
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<td><strong>11.1 POLLUTION</strong></td>
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<tr>
<td>A. DEP license for discharge of wastewater to a water body</td>
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<td>B. Oil, grease and sediment separator(s) at catch basins before storm water is discharged to water body(s)</td>
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<td>B. Removal of excess nutrients before discharge to a water body within the watershed of a great pond</td>
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<td><strong>11.2 SUFFICIENT WATER</strong></td>
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<td>A.1. Provide for future connections in public water supply service area</td>
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<td>A.2. Public water system components approved by water company and fire chief</td>
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<tr>
<td>A.3.a. Citing and construction of individual wells to prevent surface and ground water infiltration</td>
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<td>A.3.b. Lot configuration to allow for proper Citing of well, on-site septic disposal area and reserve area</td>
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<td>A.3.c. Location and protection of the source and operation of a central water supply system</td>
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<td>A.3.d. Water storage for fire fighting capacity</td>
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<td>B. Water quality to comply with Drinking Water Rules</td>
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<td><strong>11.3 Impact on the existing water facilities is within the company's or district's capacity</strong></td>
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<td><strong>11.4 SOIL EROSION</strong></td>
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<td>A. Prevention of soil erosion from entering water bodies</td>
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<td>B. Erosion and sedimentation control plan</td>
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<td>C. Topsoil removal and reapplication plan</td>
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<td><strong>11.5 TRAFFIC CONDITIONS</strong></td>
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<td>A. Safeguard against hazards to pedestrians; of congestion; safe and convenient circulation</td>
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<td>B.1. Vehicular access through other than residential streets</td>
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<td>B.2. No subdivision shall reduce the Level of Service (LOS) of street giving access to the subdivision and neighboring streets and intersections to “E” or below—--------.</td>
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**Appendix P, Continued**

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<tr>
<td><strong>B.3. Provisions shall be made for turning lanes.</strong></td>
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<td><strong>B.4.</strong></td>
<td>Avoidance of queuing to enter access way to non-residential and multi-family developments.</td>
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<td><strong>B.5.</strong></td>
<td>Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential uses.</td>
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<td><strong>B.6.</strong></td>
<td>Street Names, signs, lighting</td>
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<td><strong>B.7.</strong></td>
<td>Clean-up plans.</td>
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<td><strong>11.6.</strong></td>
<td><strong>SEWAGE DISPOSAL</strong></td>
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<td><strong>A.</strong></td>
<td>Public System criteria.</td>
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<td><strong>B.</strong></td>
<td>Private System criteria.</td>
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<td><strong>11.7.</strong></td>
<td>Capacity of Town solid waste system vis-à-vis proposed subdivision, or an alternate disposal</td>
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<td><strong>11.8.</strong></td>
<td><strong>IMPACTS ON ENVIRONMENT</strong></td>
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<tr>
<td><strong>A.1.</strong></td>
<td>Limitations on the clearing of trees in designated areas</td>
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<td><strong>A.2.</strong></td>
<td>Screening of buildings from existing public roads in designated non-growth areas</td>
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<td><strong>A.3.</strong></td>
<td>Landscape plan preserving trees larger than 16&quot; diameter, preservation of vegetation and contours</td>
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<td><strong>A.4.</strong></td>
<td>Planting of Trees</td>
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<td><strong>B.1.</strong></td>
<td>Reserved open space per Comprehensive Plan and subsequent amendments or revisions</td>
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<td><strong>B.2.</strong></td>
<td>Preservation of designated critical natural areas</td>
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<td><strong>B.3.</strong></td>
<td>Protection of historic or prehistoric resources</td>
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<td><strong>B.4.</strong></td>
<td>Reservation of open space for recreation</td>
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<td><strong>B.5.</strong></td>
<td>Suitability of reserved open space</td>
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<td><strong>B.6.</strong></td>
<td>Open space to be dedicated to the town</td>
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<td><strong>B.7.</strong></td>
<td>Payment in lieu of dedication of open space</td>
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<td><strong>C.</strong></td>
<td>Preservation of wildlife habitat</td>
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<td><strong>C.1-3.</strong></td>
<td>Avoidance of adverse impacts on designated significant wildlife habitat</td>
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<td><strong>D.</strong></td>
<td>Protection of existing public accesses to shorelines</td>
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<td><strong>11.9.</strong></td>
<td>Conformance with all requirements and standards of the zoning ordinance and other land use ordinances</td>
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<td><strong>11.10.</strong></td>
<td><strong>FINANCIAL AND TECHNICAL CAPACITY</strong></td>
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<td><strong>A.</strong></td>
<td>Financial capacity to construct the total development</td>
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<td><strong>B.</strong></td>
<td>Technical ability to complete the subdivision</td>
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<td><strong>11.11.</strong></td>
<td>Does not increase water temperature or erosion</td>
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<td><strong>11.12.</strong></td>
<td><strong>IMPACTS ON GROUND WATER</strong></td>
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<tr>
<td><strong>A.</strong></td>
<td>Ground water quality</td>
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<tr>
<td><strong>A.1.a</strong></td>
<td>A map showing basic soil types.</td>
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<td><strong>A.1.b.</strong></td>
<td>Depth of water table.</td>
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<td><strong>A.1.c.</strong></td>
<td>Drainage conditions throughout the subdivision.</td>
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<td><strong>A.1.d.</strong></td>
<td>Ground water quality from test wells or existing in area.</td>
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<td><strong>A.1.e</strong></td>
<td>Effect of the subdivision on ground water resources.</td>
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<td><strong>A.1.f.</strong></td>
<td>Map showing subsurface waste disposal systems.</td>
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<td><strong>A.2.</strong></td>
<td>Ground water quality projections based on</td>
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<td><strong>Appendix P, Continued</strong></td>
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<td><strong>A.3.</strong></td>
<td>No subdivisions to increase contaminants.</td>
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</table>
A.4. If ground water contaminants in excess of primary stds
A.5. If ground water contaminants in excess of secondary stds
A.6. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment.

11.13. **FLOODPLAIN MANAGEMENT**
A. Public utilities located to avoid flood damage
B. Drainage to reduce flood hazards

11.14. **Freshwater wetlands identified using Federal Manual for Identifying and Delineating Jurisdictional Wetlands**

11.15. **STORM WATER MANAGEMENT**
A. Storm water management plan
B. Storm water management easements

11.16. **OPEN SPACE AND COMMON LAND**
A. Ownership of open space, common land and facilities
B. Limitations on common land; conservation easements
C. Final Plan notation for common land
D. Lot owner association rules and by-laws
E. Lot owner association duties and responsibilities

11.17. **Land Not Suited for Development**

11.18. Land Below 250 Foot Normal High Water Mark
Appendix Q---SUBDIVISION PLAN REVIEW CHECKLIST
ARTICLE 12 - DESIGN STANDARDS

SUBDIVISION NAME _______________________ DATE ________

This checklist has been prepared to assist applicants in developing their subdivision plans. It should be used as a guide. The checklist does not substitute for the statutory criteria or the requirements of Article 12 of the Subdivision Regulations. The Planning Board also will be using the checklist to make sure that your application conforms to the design guidelines or otherwise meets the performance standards. Indicate if information has been submitted to provide evidence the guideline will be met or if you feel your design will otherwise meet the appropriate performance standard of Article 12. If you feel that a guideline is not applicable to your project, please indicate in the second column.

Shaded boxes indicate that the action is not recommended to be taken by the Applicant.

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<tr>
<th>DESIGN GUIDELINES</th>
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<td>12.1 SUFFICIENT WATER</td>
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<td>A. Well construction</td>
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<td>A.1. Dug wells prohibited on lots one acre and smaller</td>
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<td>A.2. Wells at least 100 from a street or 50 feet if uphill</td>
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<td>12.2 TRAFFIC CONDITIONS</td>
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<td>A. Access control</td>
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<td>A.1. Vehicular access from residential lot to arterial street</td>
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<td>A.2. Double frontage lots</td>
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<td>A.3. Subdivision street entering onto an collector street</td>
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<td>3.b. Sight distances</td>
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<td>3.c. Vertical alignment</td>
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<td>3.d. Low volume accesses</td>
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<td>3.e. Medium volume accesses</td>
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<td>3.f. High volume accesses</td>
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<td>3.g. Special case accesses</td>
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<td>3.h. Access Location Spacing</td>
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<td>3.i. Number of Accesses</td>
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<td>3.j. Construction Materials, Paving</td>
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<td>B. STREET DESIGN AND CONSTRUCTION STANDARDS</td>
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<td>B.2. Street Design Standards</td>
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<td>2.b. Reserve strips prohibited</td>
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<td>2.c. Right-of-way width for commercial zoning districts</td>
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<td>2.d. Land reserved for required widening of existing street</td>
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<td>2.e. Two accesses to when 200 or more trips per day</td>
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Appendix Q, Continued

DESIGN GUIDELINES

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<td>2.g. Layout of centerline of roads</td>
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</table>
2.h. Dead-end streets; cul-de-sacs
2.i. Grades, intersections and sight distances
2.j. Sidewalks
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Without Curbs

With Curbs

50' R.O.W.

3'

20'-24'

3'

5'

3'' Gravel

15'' Gravel

4-6'' Loam

-- 5''

Crushed Aggregate Base: 3'' Gravel, N/M/T 2'' Stone Size
Use only when necessary

Aggregate Sub-base: 16'' Gravel, N/M/T 6'' Stone Size
Only 15'' if crushed aggregate is necessary

Pavement: 1 3/4'' Base Course, Grade B
1 1/4'' Surface Course, Grade C

Drainage Swales: Slopes No Steeper than 3:1
To Be Used For Notes
Traffic & Parking Control Ordinance

Town of Kennebunkport - Traffic and Parking Control Ordinance

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Section 1. Unlawful Parking

A. No person within the limits of the Town of Kennebunkport shall stop, stand, or park any motor vehicle or self-propelled machinery in any street, way, highway, road, parking area or public place under control of the Town so that:

1. It in any way blocks a public way, sidewalk, a private driveway or pedestrian crosswalk;
2. It is double-parked, so called, except by the verbal permission of the Chief of Police or one of his/her duly authorized Police Officers while on traffic control;
3. Any part of said vehicle is in, over, or on the area of the sidewalk or any adjoining or adjacent marked parking space;
4. Any part of said vehicle is within twelve (12) feet of a fire hydrant;
5. Any part of said vehicle is within twenty (20) feet of the corner of an intersecting street or way except where designated parking is allowed by signs or markings;
6. It is in that section or part of any street, way, highway, road, parking area, or public place that is designated as a “No Parking” area or space and clearly marked “No Parking” by signs and/or painting;
7. It is parked in such a manner as to be against the flow of traffic (i.e. drivers side of the vehicle against the curb or side of street).

B. No recreational vehicle or bus may park on any street located in the Village Residential Zone, except tour buses in designated areas on Cross Street.
C. No parking, standing or off-loading of passengers for buses, recreational vehicles and cars with trailers on Ocean Avenue from the Colony Hotel to Wandby Beach.
D. The fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.
E. It is unlawful for vehicles using the 30 North Street parking area to have anything in tow. No commercial bus parking allowed at 30 North Street. No recreation vehicles larger than those that will fit – bumper to bumper – in an existing 10’ x 20’ parking space at 30 North Street. Running engines while parked is prohibited.
F. No motor vehicle, self propelled machine, or trailer (whether attached or unattached) shall be parked overnight in any town-owned off-street parking area.
G. Emergency and Spot Parking Regulations in the Interest of Public Safety: In the case of a special event which may cause a parking overflow, the Chief of Police or his/her designee may choose areas and roadways in Kennebunkport to park vehicles beyond areas described in this ordinance in order to keep open pedestrian and vehicular lanes of traffic and to insure the immediate response of emergency vehicles.

Section 2. Parking Control Regulations

No person shall stop, stand, or park any motor vehicle or self-propelled machinery in any of the following described “No Parking” zones:

1. ATLANTIC AVENUE: No parking on the southwesterly side of Atlantic Avenue. No parking on the northeasterly side of Atlantic Avenue from CMP Pole 81 to Ocean Avenue. Parking is allowed on the northeasterly side of Atlantic Avenue from CMP Pole 81 to Summit Avenue.
2. BELVIDERE AVENUE: No parking on the northerly side of Belvidere Avenue.
3. BROADWAY: No parking on either side of Broadway.
4. CENTRAL AVENUE: No parking on either side of Central Avenue.
5. CHESTNUT STREET: No parking on the southerly side of Chestnut Street, except in designated areas adjacent to the Town Office for municipal employees from 8 a.m. to 5 p.m. Monday through Friday – the general public may park in said designated areas during all other hours Monday through Friday and any time on Saturday and Sunday. No parking on the westerly side of Chestnut Street, except in designated areas adjacent to the Town Office for municipal employees from 8 a.m. to 5 p.m. Monday through Friday – the general public may park in said designated areas during all other hours Monday through Friday and anytime on Saturday or Sunday. No parking on the easterly side of Chestnut Street. No parking within the Town Office parking area in front of the garage bay doors located on the easterly side of the Town Office building, except for municipal business from 8:00 a.m. to 5:00 p.m. Monday through Friday – the general public may park in said designated areas during all other hours Monday through Friday and anytime on Saturday and Sunday. No parking twenty (20) feet from the intersections of Chestnut Street and Ocean Avenue.
6. CHURCH LANE: No parking on Church Lane from the intersection of Church Lane and Temple Street (westerly side of Church Lane) including the traffic circle up to Carter Harris’s
driveway. Parking is allowed on the easterly side of Church Lane from the end of the granite curbing by the South Congregational Church up to Carter Harris’s driveway.

7. **COMMUNITY HOUSE ROAD**: No parking on either side of Community House Road from property located on map 35, block 18, lot 2 to the intersection of Wildwood Avenue Extension. No parking on the pavement from property located on map 35, block 18, lot 2 to Community House Road and Skyline Drive intersection.

8. **CROSS STREET**: No parking on either side of Cross Street, except for designated spots for the purpose of unloading and loading of people from buses and trolleys, and delivery vehicles.

9. **DYKE ROAD**: No parking tow away zone on the easterly side from Route 9 to the intersection of Kings Highway. No parking on the westerly side from Route 9 to CMP Pole 103. No parking on the pavement from CMP Pole 103 to the bridge over Batson’s River. No parking continuing from (and including) the bridge over Batson’s River to the intersection of Kings Highway (excepting one handicapped parking space and four regular parking spaces) at the intersection of Dyke Road and Kings Highway.

10. **EAST AVENUE**: No parking on either side of East Avenue.

11. **ELM STREET**: No parking on either side of Elm Street, from Maine Street to Ocean Avenue, except the area immediately adjacent to the Town Office for Town Business (specifically, the area of the north side of Elm Street and the driveway beside the Town Office).

12. **GRANDVIEW AVENUE**: No parking on either side of Grandview Avenue.

13. **GREEN STREET**: No parking on the southerly side of Green Street from Ocean Avenue to Maine Street. Parking is allowed on the northerly side of Green Street from Ocean Avenue to Maine Street.

14. **HIGH STREET**: No parking on the easterly side of High Street from the intersection of School Street to the end of the road.

15. **JEFFREY’S WAY**: No non-handicapped parking on either side of the road. Briefly stopping (less than 15 minutes) on the westerly side of the road to load or unload a vehicle, does not constitute parking under this subsection, providing the operator stays with the vehicle. There will be one handicapped parking space on the westerly side of the road, as close to the beach as practical.

16. **KINGS HIGHWAY**: No parking on pavement on Kings Highway from the intersection of South Main Street to the intersection of Ocean Avenue.

   - **16a. KINGS HIGHWAY**: No parking on pavement on the northerly side of Kings Highway from the intersection of Dyke Road to CMP Pole J-79-1. Five minute parking or standing is allowed on the northerly side in the designated space opposite CMP Pole J-42. Parking is allowed for four (4) vehicles on the northerly side of Kings Highway, in designated spaces, between CMP Pole J-79-1 and a point opposite CMP Pole J-80. No parking – tow away zone will be marked on the southerly side between CMP Pole J-42 and J-44. No parking on the southerly side of the road from CMP Pole J-42 to a point opposite CMP Pole J-80.
   - **16b. KINGS HIGHWAY**: No parking on the southerly side of Kings Highway from the intersection of Dyke Road to CMP Pole J-34. No parking on the northerly side of Kings Highway from the intersection of New Biddeford Road to the Goose Rocks Beach General Store so-called.
   - **16c. KINGS HIGHWAY**: No parking on the southerly side of Kings Highway from the intersection of Jeffrey’s Way to a point 100’ beyond the bridge over the creek from Little River. No parking on the northerly side of Kings Highway from the bridge over the creek from Little River, to a point opposite CMP Pole J-3. No parking on the northerly side of Kings Highway, from a point opposite CMP Pole J-1 to the intersection of the New Biddeford Road.

17. **LANGSFORD ROAD**: No parking on the westerly side of the road from the intersection with Pier Road to 15’ from CMP Pole J-1. No parking easterly side of the road from the intersection with Pier Road to the end of the ledge abutting the Captain’s Restaurant property so-called.

18. **LOCKE STREET**: No parking on either side of Locke Street from the intersection of Locke Street and North Street to the intersection of Locke Street and Oak Street.
19. **MAINE STREET**: No parking on the easterly side of Maine Street from the intersection of Maine Street and Wildes District Road. Exception: Thirty-minute parking in three well marked, posted spaces for library patrons directly in front of the library. No parking on the westerly side of Maine Street from the intersection of Maine Street and Green Street to the intersection of Maine Street and Wildes District Road. On the westerly side of Maine Street, the two parking spaces located between the intersection of Maine Street and Union Street and CMP Pole J-9 shall be designated thirty-minute parking spaces for patrons of the library. Also, the eight (8) spaces between Spring Street and Union Street shall be designated as three (3) hour parking spaces from the start of Memorial Day weekend until the end of Columbus Day until 7:00 pm each day. Such spaces will be well marked and posted.

20. **MAST COVE LANE**: No parking on the southerly side of Mast Cove Lane from the intersection with Maine Street to the end of the Lane. No parking on the northerly side of Mast Cove Lane from Briggs’s driveway so-called to the end of the Lane.

21. **MESERVE LANE**: No parking on either side of Meserve Lane.

22. **MILL LANE**: No parking on either side of Mill Lane.

23. **MUNICIPAL LOT EXIT**: No parking on either side of the exit road.

24. **NEW BIDDEFORD ROAD**: No parking on the westerly side of the road from the intersection of Winter Harbor Road to Kings Highway. No parking on the easterly side of the road from CMP Pole J-1 to the intersection of Kings Highway.

25. **NORTH STREET**: No parking on the easterly side of North Street from Spring Street to River Road. No parking on the westerly side of North Street from Spring Street to West Street. No parking on the westerly side of North Street from Locke Street to River Road. Parking is allowed on the westerly side of North Street from West Street to Locke Street.

26. **OAK STREET**: No parking on either side of Oak Street from the intersection of Oak Street and Locke Street to the intersection of Oak Street and West Street.

27. **OCEAN AVENUE**: No parking on the easterly side of Ocean Avenue starting from Spring Street to CMP Pole J-33. No parking continuing on the easterly side of Ocean Avenue from CMP Pole J-35 to and including the bridge at Fairfield Creek (excepting two parking spaces by the driveway at the Kennebunk River Club closest to the Fairfield Creek Bridge). No parking continuing on the easterly side of Ocean Avenue from Kings Highway to Haverhill Street. No parking on the northerly side of Ocean Avenue from Haverhill Street to a point approximately fifty (50) feet before Sprouting Rock Avenue. No parking on the pavement starting at a point approximately fifty (50) feet before Sprouting Rock Avenue and continuing to Atlantic Avenue, excepting that area by the Atlantic Avenue sewer pumping station. No parking continuing on the northerly side of Ocean Avenue from Atlantic Avenue to Summit Avenue. No parking continuing on the westerly side of Ocean Avenue from Summit Avenue to CMP Pole J-010. No parking continuing on the easterly side of Ocean Avenue from CMP Pole J-08 to the intersection of the Turbats Creek Road. No parking on the westerly side of Ocean Avenue starting from Spring Street to CMP Pole J-3 (intersection with Union Street). One hour parking from May 1st to the end of the Columbus Day weekend, unrestricted parking before and after, allowed on the westerly side of Ocean Avenue starting from CMP Pole J-3 to the entrance of the Landing Restaurant so-called. No parking continuing on the westerly side of Ocean Avenue from the entrance of the Landing Restaurant so-called (excepting a trolley/shuttle bus stop adjacent to this entrance) to a point approximately twenty (20) feet beyond the bridge at Fairfield Creek. No parking on the westerly side of Ocean Avenue from a point approximately twenty (20) feet on the northerly side of the intersection of Wharf Street to the entrance of the Colony Beach. No parking on the pavement on the westerly side of Ocean Avenue starting from the entrance of the Colony Beach and continuing to the first driveway into St. Ann’s Church so-called. No parking continuing on the southerly side of Ocean Avenue from the first driveway of St. Ann’s Church so-called to Summit Avenue. No parking continuing on the southerly side of Ocean Avenue from Summit Avenue to the end of the stone wall closest to Blowing Cave. Fifteen minute parking is allowed on the southerly side of Ocean Avenue in the designated parking area, starting at the end of the above wall to a point opposite CMP Pole J-94. No parking continuing on the southerly side of Ocean Avenue from a point opposite CMP.
Pole J-94 to the Wandby Beach parking area so-called. No parking on the easterly side of Ocean Avenue from the eastern most end of the Wandby Beach parking area so-called to a point opposite CMP Pole J-010. No parking continuing on the easterly side of Ocean Avenue from a point opposite CMP Pole J-08 to the intersection of the Turbats Creek Road.

28. **OLD CAPE ROAD:** No parking on the northerly side of the road from the intersection of Route 9 to CMP Pole J-9. No parking on the pavement on the southerly side of the road from CMP Pole J-4 to the intersection of Route 9.

29. **PEARL STREET:** No parking on the southerly side of Pearl Street from Maine Street to Ocean Avenue.

30. **PIER ROAD:** No parking on the pavement on the southerly side of the road from the intersection of the Langsford Road to a point opposite Fishers Lane excepting no parking between CMP Pole J-97 and CMP Pole J-98. No parking on the south west side of the Pier Road from Fishers Lane to the end of the Spicer Property so-called except between CMP Poles J-126 and J-129. No parking on the northerly side of the Pier Road from a point opposite CMP Pole J-97 to Fisher’s Lane except that 10 minute parking is permitted between CMP Pole J-103 and CMP Pole J-104 (in front of 24 Pier Road). No parking continuing on the north east side of the Pier Road to the stone wall abutting the pier parking area. Excepting off pavement parking on the Town Right of Way is allowed, where possible, between CMP Pole J-109 and CMP Pole J-110 (one space), between CMP Pole J-113 and CMP Pole J-117.1 (by the entrance road to the Stone Haven Hill development), and the small boat launch area adjacent to the causeway. Blocking access to the boat launch is prohibited and subject to fine and towing. No overnight parking is permitted adjacent to the causeway boat launch area. No parking – loading zone only, for the service ramp from the pier parking area to Cape Porpoise Pier. Additionally, no parking 11 p.m. to 4 a.m. for the service ramp. The pier parking area consists of those areas suitable for parking located on Town-owned property on the Cape Porpoise Pier, subject to the limitations above and in the Cape Porpoise Pier Ordinance.

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. 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.

31. **PLEASANT STREET BETWEEN PEARL STREET AND GREEN STREET:** No parking on the easterly side of Pleasant Street between Green and South Streets.

32. **PLEASANT STREET BETWEEN GREEN STREET AND SOUTH STREET:** No parking on the easterly side of Pleasant Street between Green and South Streets.

33. **SOUTH STREET:** No parking on southerly side of street from the intersection of Maine Street to the intersection of Pleasant Street.

34. **SOUTH MAIN STREET:** No parking on either side of South Main Street from the intersection of Wildes District Road to the intersection of Kings Highway.

35. **SPRING STREET:** No parking on the northerly side of Spring Street from the intersection of Spring Street and Maine Street to the intersection of Spring Street with the entrance of the Municipal Parking Lot. No parking on the southerly side of Spring Street from the intersection of Spring Street and Maine Street to the intersection of Spring Street and Ocean Avenue. One-hour parking, from May 1st to the end of the Columbus Day weekend, unrestricted parking before and after, on the northerly side of Spring Street, from the Municipal Parking Lot entrance to the swing bridge, excepting the last parking space before the swing bridge will be
a loading zone from 7 a.m. to 10 a.m. and 3 p.m. to 5 p.m. One-hour parking, from May 1st to the end of the Columbus Day weekend, unrestricted parking before and after, from the pharmacy front facing the Monument to Ocean Avenue, excepting four (4) 15 minute parking spaces immediately adjacent to the handicapped parking space. No parking on the southerly side of Spring Street from the swing bridge to the corner of the pharmacy building adjacent to the monument. One POLICE PARKING ONLY on the southerly side of Spring Street at the intersection with Ocean Avenue.

36. SUMMIT AVENUE: No parking on the southerly side of Summit Avenue from Central Avenue to Ocean Avenue. No parking on the northerly side of Summit Avenue from Central Avenue to the fire hydrant adjacent to CMP Pole J9. No parking on pavement from hydrant adjacent to CMP Pole J9 to CMP Pole J8. No parking continuing on the northerly side of Summit Avenue from CMP Pole J8 to Ocean Avenue.

37. TEMPLE STREET: No parking on either side of Temple Street twenty (20) feet from the intersection of Temple Street and Spring Street. No parking in front of the South Congregational Church the length of the granite curbing. Parking, one hour parking from May 1st to the end of the Columbus Day weekend, unrestricted parking before and after, on the westerly side of Temple Street to the exit of the Municipal Parking Lot, excepting one handicapped parking space nearest the fire hydrant. Parking is allowed on the easterly side of Temple Street. Parking is allowed on the westerly side of Temple Street from the end of the granite curbing in front of the South Congregational Church to the intersection of Temple and North Streets. One hour parking from May 1st to the end of the Columbus Day weekend, unrestricted parking before and after, on the easterly side of Temple Street from the intersection with Spring Street to the entrance of the United States Post Office parking area. Fifteen (15) minute parking between 8 a.m. and 6 p.m., from the entrance of the Post Office Parking area to the exit of the Post Office Parking area. Parking is allowed on the easterly side of Temple Street from the exit of the Post Office Parking area to the intersection of North Street.

38. TURBATS CREEK ROAD: No parking on the southerly side of the road, from the intersection of Ocean Avenue to Turbats Creek. No parking on the northerly side of the road, from CMP Pole J-24 to Ocean Avenue.

39. UNION STREET: No parking on either side of Union Street, from Ocean Avenue to Maine Street.

40. WESMORE LANE: No parking (tow away zone) on the northerly side of the street. Parking (7 spaces) is allowed on the southerly side of the street from the intersection of North Street to a point twenty-one (21) feet beyond CMP Pole J-2 as marked.

41. WEST STREET: No parking on the northerly side of West Street. Parking allowed on the southerly side of West Street.

42. WHARF LANE: No parking on either side of Wharf Lane.

43. WILLOWOOD AVENUE: No parking on either side of Wildwood Avenue, from the intersection of Bellewood Avenue to BelAir Avenue. No parking on the pavement on either side of Wildwood Avenue, from the easterly side of the intersection of BelAir Avenue to the intersection of Proctor Avenue.

- 43a. WILLOWOOD AVENUE EXTENSION: No parking on either side of Wildwood Avenue Extension from Proctor Avenue to Broadway.

Section 3. Stopping at Intersections

Except when directed to proceed by a police officer, every driver or operator of a motor vehicle or self-propelled machinery shall, when approaching a through way or a stop intersection indicated by a stop sign, bring such vehicle to a full stop before proceeding through the intersection. The following intersections shall be controlled by stop signs for the purpose of regulating and controlling traffic moving in the direction designated:

1. Acacia Road & School Street: For traffic moving from Acacia Road onto School Street.
2. Arundel Road & North Street: For traffic moving from Arundel Road onto North Street.
3. Arundel Road & Goose Rocks Road: For traffic moving from Arundel Road onto Goose Rocks Road.
4. Atlantic Avenue & Ocean Avenue: For traffic moving from Atlantic Avenue onto Ocean Avenue.
5. Bailey Court & School Street: For traffic moving from Bailey Court onto School Street.
6. Beachwood Avenue Ext. & Beachwood Avenue: For traffic moving from Beachwood Avenue extension onto Beachwood Avenue.
7. Beachwood Avenue & Mills Road: For traffic moving from Beachwood Avenue onto Mills Road.
8. Beachwood Avenue & North Street: For traffic moving from Beachwood Avenue onto North Street.
9. Beacon Avenue & Guinea Road: For traffic moving from Beacon Avenue onto Guinea Road.
10. Bellewood Avenue & Kings Highway: For traffic moving from Bellewood Avenue onto Kings Highway.
11. Birch Court & School Street: For traffic moving from Birch Court onto School Street.
12. Central Avenue & Ocean Avenue: For traffic moving from Central Avenue onto Ocean Avenue.
13. Clover Leaf Farm Road & Mills Road: For traffic moving from Clover Leaf Farm Road onto Mills Road.
14. Chestnut Street & Ocean Avenue: For traffic moving from Chestnut Street onto Ocean Avenue.
15. Church Lane & Temple Street: For traffic moving from Church Lane onto Temple Street.
16. Community House Road & Wildwood Avenue: For traffic moving from Community House Road onto Wildwood Avenue.
17. Crescent Avenue & Bartlett Avenue: For traffic moving in an easterly and westerly direction on Crescent Avenue.
18. Cross Street & Union Avenue: For traffic moving from Cross Street onto Union Avenue.
19. Dyke Road & Mills Road: For traffic moving from Dyke Road onto Mills Road.
20. East Avenue & Ocean Avenue: For traffic moving from East Avenue onto Ocean Avenue.
21. East Avenue & South Main Street: For traffic moving from East Avenue onto South Main Street.
22. Eel Bridge Lane & Mills Road: For traffic moving from Eel Bridge Lane onto Mills Road.
23. Elm Street & Maine Street: For traffic moving from Elm Street onto Maine Street.
24. Elm Street & Ocean Avenue: For traffic moving from Elm Street onto Ocean Avenue.
25. Fishers Lane & Pier Road: For traffic moving from Fishers Lane onto Pier Road.
26. Goose Rocks Road & Log Cabin Road: For traffic moving from Goose Rocks Road onto Log Cabin Road.
27. Goose Rocks Road & Mills Road: For traffic moving from Goose Rocks Road onto Mills Road.
28. Grandview Avenue & South Main Street: For traffic moving from Grandview Avenue onto South Main Street.
29. Grandview Avenue & Ocean Avenue: For traffic moving from Grandview Avenue onto Ocean Avenue.
30. Green Street & Maine Street: For traffic moving from Green Street onto Maine Street.
31. Green Street & Ocean Avenue: For traffic moving from Green Street onto Ocean Avenue.
32. Guinea Road & Goose Rocks Road: For traffic moving from Guinea Road onto Goose Rocks Road.
33. Guinea Road & Whitten Hills Road: For traffic moving from Guinea Road right onto Whitten Hills Road and left continuing on Guinea Road.
34. Haverhill Street & Ocean Avenue: For traffic moving from Haverhill Street onto Ocean Avenue.
35. High Street & School Street: For traffic moving from High Street onto School Street.
36. Highpoint Drive & Wildes District Road: For traffic moving from Highpoint Drive onto Wildes District Road.
38. Kings Highway (from East End) & New Biddeford Road: For traffic moving from Kings Highway onto New Biddeford Road.
39. Kings Highway (from West End) & New Biddeford Road: For traffic moving in an easterly direction onto New Biddeford Road, Jeffrey’s Way or continuing straight.
40. Kings Highway (from West End) & Dyke Road: For traffic moving from Kings Highway onto Dyke Road or continuing in an easterly direction onto Kings Highway.
41. Kings Highway & Ocean Avenue: For traffic moving from Kings Highway onto Ocean Avenue.
42. Kings Highway & South Main Street: For traffic moving from Kings Highway onto South Main Street.
43. Langsford Road & Cape Porpoise Square: For traffic moving from Langsford Road into Cape Porpoise Square.
44. Locke Street & North Street: For traffic moving from Locke Street onto North Street.
45. Magnolia Drive & School Street: For traffic moving from Magnolia Drive onto School Street.
46. Mapview Avenue & Guinea Road: For traffic moving from Mapview Avenue onto Guinea Road.
47. Mast Cove Lane & Maine Street: For traffic moving from Mast Cove Lane onto Maine Street.
48. Meserve Lane & North Street: For traffic moving from Meserve Lane onto North Street.
49. Mill Lane & North Street: For traffic moving from Mill Lane onto North Street.
50. Mount Kineo Road & Arundel Road: For traffic moving from Mount Kineo Road onto Arundel Road.
51. Municipal Parking Lot Exit & Temple Street: For traffic moving from Municipal Parking Lot Exit onto Temple Street.
52. New Biddeford Road & Mills Road: For traffic moving from New Biddeford Road onto Mills Road.
53. New Biddeford Road & Kings Highway: For traffic moving from New Biddeford Road onto Kings Highway.
54. Northwood Drive & Old Cape Road: For traffic moving from Northwood Drive onto Old Cape Road.
55. Northwood Drive & North Street: For traffic moving from Northwood Drive onto North Street.
56. Norwood Lane & Kings Highway: For traffic moving from Norwood Lane onto Kings Highway.
57. Oak Ridge Road & Goose Rocks Road: For traffic moving from Oak Ridge Road onto Goose Rocks Road.
58. Old Cape Road & School Street: For traffic moving from Old Cape Road onto School Street.
59. Old Cape Road & Beachwood Avenue: For traffic moving from Old Cape Road onto Beachwood Avenue.
60. Pearl Street & Maine Street: For traffic moving from Pearl Street onto Maine Street.
61. Pearl Street & Ocean Avenue: For traffic moving from Pearl Street onto Ocean Avenue.
62. Pier Road & Cape Porpoise Square: For traffic moving from Pier Road into Cape Porpoise Square.
63. Pleasant Street & Green Street: For traffic moving from Pleasant Street onto Green Street.
64. Port Farm Road & Wildes District Road: For traffic moving from Port Farm Road onto Wildes District Road.
65. Proctor Road & Wildwood Avenue: For traffic moving from Proctor Road onto Wildwood Avenue.
66. River Road & North Street: For traffic moving from River Road onto North Street.
67. River Road & Arundel Road: For traffic moving from River Road onto Arundel Road.
68. Saddle Way & Highpoint Drive: For traffic moving from Saddle Way onto Highpoint Drive.
69. Sand Point Road & Kings Highway: For traffic moving from Sand Point Road onto Kings Highway.
70. School Street & Maine Street: For traffic moving from School Street onto Maine Street.
71. South Street & Maine Street: For traffic moving from South Street onto Maine Street.
72. South Street & Green Street: For traffic moving from South Street onto Green Street.
73. South Main Street & Wildes District Road: For traffic moving from South Main Street onto Wildes District Road.
74. South Main Street & Kings Highway: For traffic moving from South Main Street onto Kings Highway.
75. Spouting Rock Road & Ocean Avenue: For traffic moving from Spouting Rock Road onto Ocean Avenue.
76. Spring Street & Maine Street: A Three Way Stop Sign for traffic moving from Spring Street onto Maine Street and from Maine Street onto Spring Street.
77. Stone Road & Beachwood Avenue: For traffic moving from Stone Road onto Beachwood Avenue.
78. Stone Road & Goose Rocks Road: For traffic moving from Stone Road onto Goose Rocks Road.
79. Stonewood Lane & Northwood Drive: For traffic moving from Stonewood Lane onto Northwood Drive.
80. Summit Avenue & Central Avenue: For traffic moving from Summit Avenue onto Central Avenue.
81. Summit Avenue & Ocean Avenue: For traffic moving from Summit Avenue onto Ocean Avenue.
82. Temple Street & Maine Street: For traffic moving from Temple Street onto Maine Street.
83. Touchstone Drive & South Main Street: For traffic moving from Touchstone Drive onto South Main Street.
84. Towne Street & School Street: For traffic moving from Towne Street onto School Street.
85. Turbats Creek Road & Ocean Avenue: For traffic moving from Turbats Creek Road onto Ocean Avenue.
86. Turbats Creek Road & Wildes District Road: For traffic moving from Turbats Creek Road onto Wildes District Road.
87. Union Street & Maine Street: For traffic moving from Union Street onto Maine Street.
88. Wakefield Pasture Road & Wildes District Road: For traffic moving from Wakefield Pasture Road onto Wildes District Road.
89. Walkers Lane & North Street: For traffic moving from Walkers Lane onto North Street.
90. Walkers Lane & Beachwood Avenue: For traffic moving from Walkers Lane onto Beachwood Avenue.
91. Ward Road & Maine Street: For traffic moving from Ward Road onto Main Street.
92. Ward Road & Langsford Road: For traffic moving from Ward Road onto Langsford Road.
93. Washington Court & School Street: For traffic moving from Washington Court onto School Street.
94. West Street & North Street: For traffic moving from West Street onto North Street.
95. Whitten Hills Road & Goose Rocks Road: For traffic moving from Whitten Hills Road onto Goose Rocks Road.
96. Wildes District Road & Main Street: For traffic moving from Wildes District Road onto Main Street.
97. Willey Road & Goose Rocks Road: For traffic moving from Willey Road onto Goose Rocks Road.
98. Windmere Place & Ocean Avenue: For traffic moving from Windmere Place onto Ocean Avenue.
99. Winslow Lane & Highpoint Drive: For traffic moving from Winslow Lane onto Highpoint Drive.
100. Winter Harbor Road & Mills Road: For traffic moving from Winter Harbor Road onto Mills Road.
101. Winter Harbor Road & New Biddeford Road: For traffic moving from Winter Harbor Road onto New Biddeford Road.
102. Woodlawn Avenue & Wildes District Road: For traffic moving from Woodlawn Avenue onto Wildes District Road.

**Section 4. One Way Traffic**

1. Cross Street: from Spring Street toward Union Street.
2. East Avenue: from South Main Street toward Ocean Avenue.
3. Green Street: from Ocean Avenue toward Maine Street.
4. Haverhill Street: from Arlington Street toward Ocean Avenue.
5. Municipal Parking Lot Exit: from parking lot toward Temple Street.
6. Pearl Street: from Maine Street toward Ocean Avenue.
7. Spouting Rock Avenue: from Summit Avenue toward Ocean Avenue.
8. Temple Street: from Spring Street toward North Street.

**Section 5. Fire Lanes**

1. Access Road: Both sides of the road.
2. Bartlett Avenue: Both sides of the road.
3. BelAir Avenue: Both sides of the road.
4. Bellewood Avenue: Both sides of the road.
5. Chestnut Street: Southerly side only.
6. Dorrance Road: Both sides of the road.
7. Edgewood Avenue: Both sides of the road.
8. Elm Street: The northerly side of Elm Street except for limited parking spaces in front of the Town Office.
9. Haywood Avenue: Both Sides of the road.
10. Proctor Avenue: Both sides of the road.
11. Summer Street: Easterly side only.

**Section 6. Handicapped Parking**

The Town of Kennebunkport will provide for the maintenance and policing of parking stalls or spaces designated for handicapped persons. There shall be immediately adjacent to and visible from, a wheelchair with occupant in white on a blue background with the wording “Handicapped Parking”. Any vehicle parked in such a stall or space that does not have a special registration plate or placard issued under M.R.S.A. Title 29, Section 252, or a similar plate issued by another state, shall be cited for a fine of two hundred dollars ($200.00) and towed away at the owner’s expense.

The Selectmen of Kennebunkport may enter into agreement with the owners of private off-street parking facilities for the policing, when notified, of stalls and spaces dedicated for handicapped persons’ vehicles, under which agreements the owner of the vehicle shall be cited for a fine of two hundred dollars ($200.00) and the unauthorized vehicle shall be towed away at the owner’s expense.

Spaces shall be designated for handicapped persons at the following locations:

1. One space on the southerly side of Spring Street at the intersection of Spring Street with Austin’s Alley so-called.
2. Two non-parallel spaces at the southerly end of Parson’s Way abutting St. Ann’s Church.
3. Three spaces nearest the entrance in the Municipal Parking Lot on the easterly side of the lot.
4. One space on the westerly side of the Municipal Parking Lot.
5. One space on the westerly side of Dyke Road, at the intersection of Dyke Road and Kings Highway.
6. One space on Jeffrey’s Way at the intersection of Kings Highway.
7. Two spaces on Kings Highway, opposite Edgewood Avenue.
8. One space at the Municipal Office Building.
9. One space on the Pier Road, at the Cape Porpoise Pier.
10. One space on the westerly side of Temple Street, nearest the fire hydrant.
Section 7. Emergency Vehicles

Authorized emergency vehicles shall include private automobiles or trucks owned by and operated by members of the Fire and Police Departments, and the cars, trucks and equipment owned by Fire Police, Public Utility, and other similar emergency organizations, while employed on emergency duty and having their emergency lights in operation.

The provisions of this Ordinance shall apply to authorized emergency vehicles as follows:

A driver operating any such vehicle in an emergency, except when otherwise directed by a Police Officer, may:

1. Park or stand such emergency vehicle notwithstanding the provisions of this Ordinance.
2. Proceed past a red light or stop signal, but only after slowing down as may be necessary for safe operation.
3. Exceed the posted speed limit, as long as he/she does not endanger life or property.
4. Disregard regulations specifying direction or movement or turning, as long as he/she does not endanger life or property.
5. Proceed with caution past a school bus that is stopped and that has red lights flashing, only:
   1. After coming to a complete stop; and
   2. When signaled by the school bus operator to proceed.

The foregoing exceptions, however, shall not protect the driver of any such vehicle from the consequences of reckless disregard for the safety of others.

Section 8. Tampering With Signs

No person shall maliciously tamper with, deface, alter or destroy any traffic or parking sign, printing or painting posted by the Town of Kennebunkport.

Section 9. Snow Removal

Parking is prohibited on any public way between 12:00 midnight and 6:00 a.m. from December 1st to April 15th the next following year. Exception: In the event that a snow emergency is declared by the Chairman of the Board of Selectmen, or his/her designated representative, based upon a recommendation of the Highway Superintendent or his/her representative, then parking on any public way will be prohibited for the time or period indicated in the declaration. The emergency declaration can be for the Town as a whole, or a portion thereof, depending upon the needs of the Highway Superintendent. Any vehicle found in violation of this section, by either the Highway or Police Departments may be removed by the Chief of Police or one of his/her authorized officers. Any towing or garage expense shall be paid by the owner of any vehicle so removed.

Section 10. Sleeping in Vehicles

It shall be unlawful for any person to sleep overnight in any vehicle or trailer, so-called, parked upon any public park, parking lot, road, street or highway within the limits of the Town of Kennebunkport without first obtaining permission from the Chief of Police or his/her representative.

Section 11. Motor Vehicles Prohibited on Sidewalk

No person shall operate a motor vehicle upon a sidewalk in the Town of Kennebunkport. This section does not prohibit the crossing over a sidewalk to enter any way, drive, or other property.
Section 12. Violations

Any vehicle of any kind or description found stopped, standing, or parked upon any street, way, highway, road, parking area, or public place under the control of the Town in a manner or for a length of time prohibited by the Ordinance, is hereby declared to be an obstruction in such place and a menace to the safe and proper regulation of traffic.

Section 12A. Commercial Operation of a Horse Drawn Vehicle

1. **Purpose:** The purpose of this Ordinance is to provide for public safety and convenience as well as the welfare of the animal(s), and to preclude added traffic congestion in the downtown area during the crowded summer season. This Ordinance applies only to commercial operations as defined below. Commercial operation of horse drawn vehicles in other areas of the Town may be allowed upon request and on approval of the Chief of Police so long as he/she determines that there is no threat to public safety.

2. **Definitions:** For purposes of this Ordinance, Operation of a Horse Drawn Vehicle shall mean any carriage, wagon, cart, sled or sleigh, or other device, whose principal means of propulsion is a single or a two horse hitch. Commercial Operation, for purposes of this Ordinance, means a business enterprise which provides or offers to the public, for a fee, the ability to ride a horse drawn vehicle. Business Enterprise, for the purposes of this Ordinance, shall mean any individual, partnership, corporation, association or other legal entity.

3. **Regulations:**
   1. From June 15 to October 15 the commercial operation of a horse drawn vehicle without a permit is prohibited in the following areas:
      1. Village Residential Zone
      2. Village Residential East Zone
      3. Dock Square Zone
      4. River Front Zone
      5. Cape Arundel Zone
   6. **Exception:** The operation of a horse drawn vehicle when it is used for the movement of wedding parties.

2. The Town Clerk shall issue a maximum of two carriage permits (but no more than one carriage for each permit) annually for the commercial operation of horse drawn vehicles between June 15 and October 15 along the specific route described below.
   1. Two permits (but no more than one carriage for each permit) will be available on the first Monday in January at the Town Clerk’s office during the Clerk’s regular business hours. If there are more qualified applicants than permits as of the close of business on that Monday (or such later date until all permits are issued), then the permits shall be issued on a first come, first served basis with priority preference to Kennebunkport taxpayers; provided, however, there shall be a right of first refusal for existing permit holders for an overall term not to exceed five (5) years. Permits will be Twenty-Five Dollars ($25). Permits are non-transferable, except where there is a change of ownership of the business, in which case the permit is transferable to the new owner for the balance of that permit period.

2. Permit holders are restricted in operation to the following route:
   1. Maine Street between Spring Street and South Street
   2. Dock Square (without stopping)
   3. Ocean Avenue between Dock Square and Green Street
   4. Spring, Union, Chestnut, Elm, Pearl, Pleasant, Green and South Streets

3. Except as otherwise provided for weddings, passenger pick up and discharge may be done only in front of the Trolley Stop so-called, on Ocean Avenue.

3. The vehicle to be used must be inspected by the Police Department before a permit is granted. Prior to the issuance of a permit, the operator of the horse drawn vehicle must certify in writing prior to operation, that the horses will be equipped with either leather,
rubber or Borium horse shoes in order to prevent damage to the road surface. Note: The use of metal shoes is prohibited on a year round basis on any street within the Town of Kennebunkport. (This provision does not apply to recreational horse riding.)

4. Liability insurance must be carried by the owner of the horse(s) and vehicle in at least the following amount: $500,000 general liability combined single limit. Evidence of insurance must be presented prior to the issuance of a permit, with the Town as an additional named certificate holder. Thirty (30) days advance notice of cancellation shall be required.

5. Prior to the issuance of a permit, a veterinary certificate showing that the horse(s) is(are) capable of performing the work required, and that it is (they are) in suitable health shall be presented.

6. Horse drawn vehicles shall not operate when the temperature is 90 degrees or over, or in a combined temperature and humidity of 140 degrees or over, or in weather detrimental to either the horse or the public.

7. Horses shall not be worked more than eight (8) hours in any continuous twenty-four (24) hour period. There shall be rest of fifteen (15) minutes after each two (2) hour working period.

8. A manure catching device shall be used. The operator shall be responsible for cleaning up any spillage immediately. Failure to clean up spillage will result in revocation of the permit. Disposal of such spillage shall be in a covered container provided by the operator. The operator shall ensure that the container is emptied on a daily basis, but not into the town’s receptacles.

4. **Severability:** The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

5. **Enforcement:** The Chief of Police or any of his/her designated officers will enforce this Ordinance. Any officer who observes a violation of this Ordinance may summons that individual to the District Court. Any officer who receives a complaint of a violation of this Ordinance from a citizen may, after investigation of the complaint and determining that sufficient evidence exists to conclude that a violation of the Ordinance occurred, summons the offender to the District Court.

6. **Civil Penalty:** Any person adjudicated in violation of this Ordinance shall be liable for a civil penalty.

   - First Offense: Written Warning and a copy of this Ordinance.
   - Second and Subsequent Offenses: Fine of One Hundred Dollars ($100.00)
   - Any second or subsequent offender of this Ordinance who is summoned for violation may waive all court action by payment of the civil penalty to the Town within ten (10) days of the date of the summons. If the penalty is not paid and/or if court action ensues, the offender shall be liable for any and all costs incurred by the Town in enforcing this Ordinance, including but not limited to court filing fees and the cost of legal counsel.

7. **Penalties Accrue to the Town:** All civil penalties collected under this Ordinance shall accrue to the Town of Kennebunkport.

8. **Effective Date:** This Ordinance shall become effective immediately upon approval by a majority vote of the Kennebunkport Board of Selectmen.

**Section 12B. Commercial Operation of a Tour Bus:**

1. **Purpose:** The purpose of this Ordinance is for public safety and convenience, for the welfare of the citizens and is intended to provide for safe passage and to reduce traffic congestion of vehicles on the Town’s narrow and winding roads. This Ordinance applies only to operations as defined below.

2. **Definition:** For purposes of this Ordinance a commercial tour bus is defined as a motor vehicle designed for carrying more than 15 persons, including the operator.
3. **Exceptions:** a) School buses; and b) The “Trolley” and “Shuttle Bus” so-called, used for the conveyance of persons within the Kennebunks at the time of the adoption of this Ordinance shall continue to utilize the designated “Trolley Stops” for pick up and discharge of passengers. Expansion of either existing service within the communities will be governed by this Section (Exceptions).

4. **Regulations:**
   1. Commercial Tour Buses may utilize Cross Street to discharge or pick up passengers and are limited to ten (10) minutes to accomplish their task. Bus engines are required to be turned off at this location while performing either function. Tour Buses shall only discharge and pick up passengers on the south side of Cross Street.
   2. Commercial Tour Buses utilizing any area designated by the Town to discharge or pick up passengers are limited to ten (10) minutes to accomplish their task. Bus engines are required to be turned off at the location while performing either function.
   3. Commercial Tour Buses are prohibited from stopping, standing, parking, loading or unloading on any street or way bounded by Elm Street, Maine Street, North Street, Church Lane, Temple Street, Spring Street and Ocean Avenue, except as otherwise expressly authorized by this Ordinance.
   4. Commercial Tour Buses are prohibited from stopping, standing, parking, loading or unloading on Ocean Avenue.
   5. Commercial tour buses are prohibited from turning around and retracing their route while operating on the following roads; on Ocean Avenue starting from the Colony Hotel so-called, along the Turbats Creek Road and Wildes District Road.

5. **Notification:** Beginning August 15, 2003, between May 1st and October 31st each year, commercial tour buses utilizing any expressly authorized location on any public way, street or other Town owned property to discharge or pick up passengers are required to notify the Town of their intent to utilize an expressly authorized location, by notifying the town or its authorized designated person or entity. Notification must be provided to the Town at least three (3) days in advance to allow the town to prepare for each arrival and departure. Permits will be made available to parties, on a first come first serve basis, which shall be valid for one (1) arrival and one (1) departure. No more than ten (10) commercial tour buses (any combination of arrivals and departures provided the total number of trips does not exceed ten) that have made the required advanced notification will be scheduled per hour each day between the hours of 9:00 am and 7:00 pm. Commercial tour buses arriving without having made the required notification and without having received a permit are subject to space availability (not to exceed the ten (10) bus limit per hour). When issuing permits, the Town shall take into consideration that no more than four (4) commercial buses should be parked simultaneously on Cross Street.

6. **Enforcement:** The Chief of Police or any of his/her designated officers will enforce this Ordinance. Any officer who observes a violation of this Ordinance may summon that individual to the District court. Any officer who receives a complaint of a violation of this Ordinance from a citizen may, after investigation of the complaint and determining that sufficient evidence exists to conclude that a violation of the Ordinance occurred, summons the offender to the District Court.

7. **Civil Penalty:** Any person adjudicated in violation of this Ordinance shall be liable for a civil penalty.

8. **Penalties:**
   - First Offense: A fine of One Hundred Dollars ($100.00) be imposed. (Note: Officers have the discretion of issuing a warning depending on the circumstances.)
   - Second and Subsequent Offenses: A fine of Two Hundred and Fifty Dollars ($250.00) be imposed. Any second or subsequent offender of this Ordinance who is summoned for violation may waive all court action by payment of the civil penalty to the Town within ten (10) days of the date of the summons. If the penalty is not paid and/or if court action ensues, the offender shall be liable for any and all costs incurred by the Town in enforcing this Ordinance, including but not limited to court filing fees and the cost of legal counsel.
9. **Penalties Accrue to the Town:** All civil penalties collected under this Ordinance shall accrue to the Town of Kennebunkport.

10. **Effective Date:** This Ordinance shall become effective immediately upon approval by a majority vote of the Kennebunkport Board of Selectmen.

11. **Severability:** Should any section or part of a section or any provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**Section 12C. Commercial Operation of a Trolley.**

1. **Purpose:** The purpose of this Ordinance is to provide for public safety and convenience, and to preclude added traffic congestion in the downtown area during the crowded summer season. This Ordinance applies only to commercial operations as defined below that utilize the Town Trolley stop on Ocean Avenue.

2. **Definitions:** For purposes of this Ordinance, Operation of a Trolley shall mean any vehicle or other device whose principal means of propulsion is an internal combustion engine. Commercial Operation, for purposes of this Ordinance, means a business enterprise which provides or offers to the public for a fee the ability to ride a trolley. Business Enterprise, for purposes of this Ordinance, shall mean any individual, partnership, corporation, association or other legal entity.

3. **Regulations:**
   1. From June 15 to October 15 the commercial operation of a trolley without a permit is prohibited in the following areas:
      1. Village Residential Zone
      2. Village Residential East Zone
      3. Dock Square Zone
      4. River Front Zone
      5. Cape Arundel Zone
      6. **Exception:** The operation of a trolley when it is used for the movement of wedding parties or one-time special events.
   2. The Town Clerk will issue a maximum of two (2) trolley permits yearly for the commercial operation of a trolley between June 15 and October 15. Two (2) permits (but no more than one trolley for each permit) will be available on the first Monday in January at the Town Clerk's office during the Clerk's regular business hours. If there are more qualified applicants than permits as of the close of business on that Monday (or such later date until all permits are issued), then the permits shall be issued on a first come, first served basis with priority preference to Kennebunkport taxpayers; provided, however, there shall be a right of first refusal for existing permit holders for an overall term not to exceed five (5) years. Permits will be Twenty-Five Dollars ($25). Permits are non-transferable, except where there is a change of ownership of the business, in which case the permit is transferable to the new owner for the balance of that permit period. Permit holders are restricted to loading and unloading at (a) the trolley stop, so-called, located on Ocean Avenue; (b) hotels and motels, inns, and other lodging establishments along the route.
   3. Before a permit is granted, the vehicle operator must show written proof that the Trolley used is registered, inspected and insured in accordance with the laws of the State of Maine.
   4. **Severability:** The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.
   5. **Enforcement:** The Chief of Police or any of his/her designated officers will enforce this Ordinance. Any officer who observes a violation of this Ordinance may summons that individual to the District Court. Any officer who receives a complaint of a violation of this Ordinance from a citizen may, after investigation of the complaint and determining that
sufficient evidence exists to conclude that a violation of the Ordinance occurred, may
summons the offender to the District Court.
6. **Civil Penalty:** Any person adjudicated in violation of this Ordinance shall be liable for a civil
penalty.
   1. First Offense: Written Warning and a copy of this Ordinance.
   2. Second and Subsequent Offenses: Shall be at the discretion of the officer up to and
   including a fine of One Hundred Dollars ($100.00) Any second or subsequent offender of
   this Ordinance who is summoned for violation may waive all court action by payment of
   the civil penalty to the Town within ten (10) days of the date of the summons. If the
   penalty is not paid and/or if court action ensues, the offender shall be liable for any and
   all costs incurred by the Town in enforcing this Ordinance, including but not limited to
court filing fees and the cost of legal counsel.

7. **Penalties accrue to the Town:** All civil penalties collected under this Ordinance shall accrue
to the Town of Kennebunkport.

8. **Effective Date:** This Ordinance shall become effective immediately upon approval by a
majority vote of the Kennebunkport Board of Selectmen.

Section 12D. Restricting Vehicle Weight on Posted Ways

1. **Purpose and Authority:** The purpose of this Section “Restricting Vehicle Weight on Posted
Ways” (hereinafter, the Section) is to prevent damage to town ways and bridges in the Town of
Kennebunkport which may be caused by vehicles of excessive weight, to lessen safety
hazards and the risk of injury to the traveling public, to extend the life expectancy of Town
ways and bridges, and to reduce the public expense of their maintenance and repair. This
Section is adopted pursuant to 30-A M.R.S.A. Section 3009 and 29-A M.R.S.A. Sections 2395
and 2388.

2. **Definitions:** The definitions contained in Title 29-A M.R.S.A. shall govern the construction of
words contained in this Section. Any words not defined therein shall be given their common
and ordinary meaning.

3. **Restrictions and Notices:** The municipal officers may, either permanently or seasonally,
impose such restrictions on the gross registered weight of vehicles as may, in their judgment,
be necessary to protect the traveling public and prevent abuse of the highways, and designate
the town ways and bridges to which the restrictions shall apply. Whenever notice has been
posted as provided herein, no person may thereafter operate any vehicle with a gross
registered weight in excess of the restriction during any applicable time period on any way or
bridge so posted unless otherwise exempt as provided herein. The notice shall contain, at a
minimum, the following information: the name of the way or bridge, the gross registered weight
limit, the time period during which the restriction applies, the date on which the notice was
posted, and the signatures of the municipal officers, or their designee. The notice shall be
conspicuously posted at each end of the restricted portion of the way or bridge in a location
clearly visible from the traveled way. Whenever a restriction expires or is lifted, the notices
shall be removed wherever posted. Whenever a restriction is revised or extended, existing
notices shall be removed and replaced with new notices. No person may remove, obscure or
otherwise tamper with any notice so posted except as provided herein.

4. **Exemptions:** Vehicles that are exempt from the 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,
any vehicle delivering home heating fuel and operating in accordance with a permit issued by
the MDOT under 29-A M.R.S.A. Section 2395 (4) and, when necessary during a period of
drought emergency declared by the governor, any vehicle transporting well-drilling equipment
for the purpose of drilling a replacement well or for improving an existing well on property
where that well is no longer supplying sufficient water for residential or agricultural purpose
and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. Section 2395 (4-A).

5. **Permits:** The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers, or their designee, for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers, or their designee, may issue a permit only upon all of the following findings:
   1. No other route is reasonably available to the applicant;
   2. It is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
   3. The applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same. Even if the municipal officers, or their designee, make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges. In determining whether to issue a permit, the municipal officers, or their designee, shall consider the following factors:
      1. The gross registered weight of the vehicle;
      2. The current and anticipated condition of the way or bridge;
      3. The number and frequency of vehicle trips proposed;
      4. The cost and availability of materials and equipment for repairs;
      5. The extent of use by other exempt vehicles; and
      6. Such other circumstances as may, in their judgment, be relevant. The municipal officers, or their designee, may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number of frequency of vehicle trips, which shall be clearly noted on the permit.

6. **Administration and Enforcement:** This Section shall be administered and may be enforced by the municipal officers or the Kennebunkport Police Department.

7. **Penalties:** Any violation of this Section shall be a civil infraction subject to a fine of not less than $250.00 or more than $1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and all other costs incurred by the Town in enforcing this ordinance. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

8. **Amendments:** This Section may be amended by the municipal officers at any properly noticed meeting.

9. **Severability; Effective Date:** In the event any portion of this Section is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Section shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

**Attachment A - Department Of Transportation**

**RULES AND REGULATIONS RESTRICTING HEAVY LOADS ON CLOSED WAYS**

**SUMMARY:** The following rules and regulations restrict heavy loads on posted State and State Aid Highways from November 15 to June 1, pursuant to the Department's authority under Title 29-A M.R.S.A., Section 2395.

1. **DEFINITIONS:**
1. The definitions contained in Title 29-A, Section 101 of the Maine Revised Statutes Annotated shall govern the construction of the words contained in this regulation.

2. **GROSS WEIGHT** is the combined weight of the vehicle and its load.

3. **Special Mobile Equipment.** “Special Mobile Equipment” shall mean every self-propelled vehicle not designed or used primarily for the transportation of persons or property but which is operated over the highways, including road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, trucks used only as snowplows and for carrying sand for ballast only, well drillers and wood-sawing equipment used for hire. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section.

2. **DESIGNATED CLOSED WAYS:** In order to prevent excessive damage to State and State-Aid Highways, the Director of Bureau of Maintenance and Operations or the Division Engineer in whose Division the highway lies may close all or part of a highway to heavy vehicles during any time from November 15 to June 1. No vehicles shall travel over closed ways except those permitted by this regulation.

3. **NOTICE:** Notice shall be given by erecting at each end of the closed highway a poster indicating the following: (1) the date of the posting; (2) a description of the highway closed; (3) a summary of the vehicles exempt from the closing; (4) the name of the Division Engineer; and (5) statutory and regulatory references.

4. **EXEMPTION – FROZEN HIGHWAYS:** This regulation shall not apply to any closed highway which is solidly frozen. The highway is considered “solidly frozen” only when the air temperature is 32 degrees Fahrenheit or below and no water is showing in the cracks of the road. Both conditions must be met.

5. **EXEMPT VEHICLES:** The following vehicles are exempt from this regulation:

   1. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.

   2. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this sub-section if the combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load is in fact less than 23,000 pounds.

   3. Maine Department of Transportation highway maintenance vehicles or vehicles under the direction of a public jurisdiction with permission of the Department engaged in emergency maintenance of public highways or appurtenances thereto.

   4. Passenger cars, pickup trucks, emergency vehicles, school buses, and vehicles with three axles or less under the direction of a public utility and engaged in plant maintenance or repair. See: Amendment, Posted Road Rules

   5. Any vehicle transporting home heating fuel (oil, gas, coal, stove-size wood) to a private consumer, gasoline, groceries, bulk milk, bulk feed, solid waste, rubbish, or medical gases may apply for an exemption certificate (included). These vehicles must be registered in excess of 23,000 pounds and must be carrying a partial load with a weight equal to or less than that indicated on an exemption certificate issued by the Maine Department of Transportation (included). This certificate shall accompany the vehicle at all times as shall weigh slips, delivery slips, or bills of lading for the load being carried. The allowable weight indicated on the exemption certificate will be based on weights listed in the table included. Applicants for exemption certificates must present a certified weigh slip for the empty weight of the unloaded vehicle as a prerequisite to obtaining an exemption certificate.

   6. Any combination vehicle of five axles or more weighing 80,000 pounds gross or less hauling perishable products. A permit issued by the Department of Transportation shall accompany any load of perishable products. (See STATE OF MAINE Trip Ticket for Perishable Products).
7. Division Engineers, at their discretion and in extraordinary circumstances, may allow heavy loads over posted roadways involving singular, nonrecurring moves. Such permission shall be made in writing and shall accompany the vehicle at all times.

6. PROCEDURES FOR OBTAINING AND USING TRIP TICKETS FOR HAULING PERISHABLE PRODUCTS OVER SEASONALLY POSTED ROADS:
   1. It is now possible for a shipper to haul perishable products over seasonally closed ways by securing a permit from the Maine Department of Transportation at any one of MDOT’s seven Division Offices.
   2. The permit issued will be in the form of individual pre-numbered trip tickets for hauling of perishable products by 5-axle-or-more combination vehicles and will be limited to a combined weight of 80,000 lbs. and may, on occasion, be further limited by time, route, and temperature.
   3. These trip tickets for hauling perishable products over seasonally closed ways will cost $5.00 each. (Checks payable to Treasurer, State of Maine) These trip tickets will consist of three copies each with the following distribution: (1) original copy (white) – for driver; (2) second copy (green) – to be returned immediately to the Maine Department of Transportation; and (3) third copy (pink) – to be retained by the shipper.
   4. The shipper or shipper’s agent will call the appropriate Division Office and complete his/her form simultaneously with, and under guidance of the Permit Clerk. The customer is to have all the information that is required on the trip ticket before he/she makes the call. Trip tickets are to be made out in ink.
   5. After routing check and verification, the customer will be given a permit number which must be entered on the form in order to make it valid for law enforcement purposes. When the required information is entered and the call is completed, the Permit is issued and the move may be made. The original trip ticket must accompany the load.
   6. Each time a trip ticket is filled out, the green copy must be mailed immediately to the Maine Department of Transportation.
   7. MDOT clerks will be available to take information for these trip tickets between the hours of 8 A.M. and 4 P.M., Monday through Friday at the appropriate Division Office.
   8. Additional trip tickets will not be issued to shippers in continual violation of any of the required procedures.
   9. The Department will retain the right to close any posted road to the hauling of perishable products in extreme circumstances.

EFFECTIVE DATE: _____________, 1996
SIGNED ________________________
JOHN G. MELROSE, COMMISSIONER
MAINE DEPARTMENT OF TRANSPORTATION

Amendment, Posted Road Rules. The Commissioner concurred in the action taken by Marc H. Guimont, Director, Bureau of Maintenance and Operations when on March 3, 1998, he amended the Posted Roads Rules to specifically exempt tow trucks from hauling otherwise legal vehicles over a posted road. Such a combination of vehicles will not be considered a loaded vehicle for purposes of subsection D of the exemptions. Subsection D is amended to read: “Passenger cars, pickup trucks, emergency vehicles, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway and vehicles with three axles or less under the direction of a public utility and engaged in plant maintenance and repair.”

3/04/98

ITEM FOR COMMISSION RECORD

2/20/91

The Commissioner has enacted a new rule pursuant to M.R.S.A. Title 29, Sections 902 and 903 entitled “Rules and Regulations Restricting Heavy Loads On Closed Ways.” This new rule replaces the old rule and is not being adopted under the Administrative Procedures Act rulemaking process because the new rule is now exempt from that process as provided by M.R.S.A. Title 29, Section 903. The old rule is rescinded and the new rule is effective as of February 20, 1991.

Approved by Commissioner of Transportation 2/20/91

- Transportation Exemption Certificate Application

Section 12E. Commercial Operation of a Pedicab

1. **Purpose:** The purpose of this Ordinance is to provide for public safety and convenience and to prevent added traffic congestion in the downtown area during the crowded summer season. This Ordinance applies only to commercial operations as defined below. Commercial operation of Pedicab vehicles in other areas of the Town may be allowed upon request and on approval of the Chief of Police or his/her designee so long as he/she determines that there is no threat to public safety.

2. **Definitions:** For purposes of this Ordinance, Operation of a Pedicab Vehicle shall mean a carriage type tricycle whose principal means of propulsion is pedaling by a single person. Commercial Operation, for purposes of this Ordinance, means a business enterprise which provides or offers to the public, for a fee, the ability to ride a humanly propelled vehicle. Business Enterprise, for purposes of this Ordinance, shall mean any individual, partnership, corporation, association or other legal entity.

3. **Regulations:**
   A. From June 15th to October 15th the commercial operation of Pedicab type vehicles without a permit is prohibited in all areas of Kennebunkport. From October 16th to June 14th commercial operation of Pedicab type vehicles is prohibited.
   B. The Town Clerk shall issue a minimum of one (1) and a maximum of three (3) Pedicab permits (but no more than one (1) Pedicab for each permit) annually for the commercial operation of Pedicab vehicles between June 15th and October 15th along the specific routes described below. Three (3) permits (but no more than one (1) Pedicab for each permit) will be available on the first business day in January at the Town Clerk’s office during the Clerk’s regular business hours. If there are more qualified applicants than permits as of the date of business on that day (or such later date until all permits are issued), then the permits shall be issued on a first come, first served basis. Permits will be Twenty-Five Dollars ($25). Permits are non-transferable, except where there is a change of ownership of the business, in which case the permit is transferable to the new owner for the balance of that permit period. The permit issued shall be valid only during the calendar year for which they are issued. Pedicab Operators:
      1. Operators must be 18 years of age or older;
      2. The applicant must have a valid State driver’s license and present a copy to the police department;
      3. A certificate of physical fitness issued by a practicing physician will be presented to the Police Department prior to operating a pedicab;
      4. A neat and clean appearance is expected of all pedicab drivers while on duty; and
      5. Drivers shall not, when otherwise available for hire, refuse to transport any one requesting a ride except under the following circumstances:
         1. The transportation requested is such that the driver may not legally accept such passenger;
         2. The driver has reasonable cause to believe that the proposed passenger will refuse to pay or cannot pay the fare; or
3. The proposed passenger is disorderly, engaged in the commission of any crime, or is otherwise unfit to be transported as a passenger.

C. Permit holders are restricted in operation to the following routes:
   1. Maine Street between Spring Street and South Street;
   2. Dock Square, North Street to 30 North Street (Municipal Lot);
   3. Ocean Ave. between Dock Square and the Rhumb Line, including Kings Highway; and
   4. Temple Street, Church Lane, Mill Lane, Spring Street, Union Street, Chestnut Street, Elm Street, Pearl Street, Pleasant Street, Green Street, South Street and School Street to the Consolidated School, High Street, Towne Street and Birch Lane.

D. The vehicle(s) to be used and the operators of said vehicles must comply with provisions set forth in the Maine Motor Vehicle Statutes and state and local traffic laws and regulations. All Pedicabs will be inspected by the police department prior to June 15th of each year. The following will be grounds for removal of the permit:
   1. Failing to complete an inspection prior to the above date;
   2. Operating a Pedicab while under the influence of alcoholic beverages or controlled substances other than medication prescribed by a physician as long as it does not impair operation;
   3. Operating a Pedicab in any manner which impedes or blocks the normal or reasonable movement of pedestrian or vehicular traffic; and
   4. Operating or causing to be operated any Pedicab upon or along any route unless the Chief of Police or his designee approves such route.

E. Liability insurance must be carried by the owner of the Pedicab vehicles in at least the following amount; $500,000 general liability combined single limit. Evidence of insurance must be presented prior to the issuance of a permit, with the Town as an additional named certificate holder. Thirty (30) days advance notice of cancellation shall be required.

F. Pedicab hours or operation shall be from 8:00 a.m. to 1:30 a.m. within the stated dates.

G. Rates and Prices: A rate card bearing the following statement shall be displayed on each vehicle as to be visible to passengers at all times while the vehicle is in service:
   - Passenger Information
   - Cab No.
     - The Maximum fare for any trip in this vehicle is $5.00 per passenger per quarter hour or fraction thereof, regardless of the distance of the trip. If you have questions or complaints about the fare you have been charged or the service you have received please call the Kennebunkport Police Department at 207-967-2700.

4. Solicitation of Business: No person shall solicit business in any manner for any licensed Pedicab while on route. Prohibited solicitation while standing shall include shouting, hollering, whistling, clapping or making other loud noises, grabbing or otherwise annoying or harassing passersby, or any other conduct detrimental to the image or reputation of the trade or the public safety or disturbance of the peace.

5. Severability: The invalidity of any section or provision of this Ordinance shall not affect the validity of any other section or provision of this Ordinance.

6. Enforcement: The Chief of Police or any of his/her designated officers will enforce this Ordinance. Any officer who observes a violation of this Ordinance may summons that individual to the District Court. Any officer who receives a complaint of a violation of this Ordinance from a citizen may, after investigation of the complaint and determining that sufficient evidence exists to conclude that a violation of the Ordinance occurred, summons the offender to the District Court.

7. Civil Penalty: Any person adjudicated in violation of this Ordinance shall be liable for a civil penalty.
   1. First Offense: Written Warning and a copy of this Ordinance.
2. Second and Subsequent Offenses: Shall be at the discretion of the officer up to and including a fine of One Hundred Dollars ($100.00).

3. Any second or subsequent offender of this Ordinance who is summoned for violation may waive all court action by payment of the civil penalty to the Town within ten (10) days of the date of summons. If the penalty is not paid and/or if court action ensues, the offender shall be liable for any and all costs incurred by the Town in enforcing this Ordinance, including but not limited to court filing fee and the cost of legal counsel.

8. **Penalties Accrue to Town:** All civil penalties collected under this Ordinance shall accrue to the Town of Kennebunkport.

9. **Effective Date:** This Ordinance shall become effective immediately upon approval by a majority vote of the Kennebunkport Board of Selectmen.

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**Section 13. Goose Rocks Beach Parking Stickers**

1. **Restrictions:** In order to promote public safety and the social and aesthetic well-being of the residents and guests of the Town of Kennebunkport, the following restrictions are placed upon vehicles parked in the Goose Rocks Beach area, such area to include public roads that are located in the area which is south of Route 9 and east of the Batson River and west of Little River.

   A. Parking in the designated area of Goose Rocks Beach (public roads that are located in the area which is south of Route 9 and east of the Batson River and west of Little River) by sticker permit only will be in effect daily between the hours of 8:00 a.m. and 6:00 p.m. from the beginning of the Memorial Day weekend through the Labor Day weekend of each year. Parking during all other times shall be in compliance with any other applicable sections of the Kennebunkport Traffic and Parking Control Ordinance.

      1. No vehicle shall display a Goose Rocks Beach parking sticker if that vehicle is greater than seven feet (7') in height and/or eighteen feet (18') in length. (The length of a vehicle includes any attached appurtenances, such as trailers.)

      2. Stickers shall be affixed to motorized vehicles only.

   B. The operator of any vehicle, or the registered owner of said vehicle if the operator cannot be determined, violating this ordinance shall be punished by a fine of not more than Two Hundred Dollars ($200.00) and not less than Fifty Dollars ($50.00) for each offense, to be recovered to the use of the Town of Kennebunkport, provided however, that any such person or registered owner who violates this Ordinance and is issued a parking ticket, may within forty-eight (48) hours from time of issuance pay a fine of Fifty Dollars ($50.00); or after forty-eight (48) hours from time of issuance and before a Court Summons is issued, pay a fine of Sixty Dollars ($60.00) to the Chief of Police or his/her representative for full satisfaction of such parking violation. In the course of an Appeal from such parking fine, such person shall appear before the 10th District Court, Biddeford, Maine, and shall be fined not more than Two Hundred Dollars ($200.00) and not less than Fifty Dollars ($50.00) to the Town of Kennebunkport. Any Parking Tag fines paid to the Chief of Police or his/her representative during the fiscal year of the Town of Kennebunkport shall be turned over to the Treasurer of the Town of Kennebunkport and credited to the general revenues of the Town of Kennebunkport.

   C. During days in the summer when weather conditions are optimal for recreation at Goose Rocks Beach, the Chief of Police or his/her designee may at his/her discretion, issue an advisory to the general public via sticker sales agents that buying a sticker does not guarantee a place to park at Goose Rocks Beach. The buyer will be advised that they can return to the place of purchase and surrender the sticker for a refund. Other information will be made available for alternative locations to recreate.

2. **Governing Body:** The Board of Selectmen shall establish by authority of this Ordinance, such rules and regulations as they deem necessary or convenient to carry out the purposes of this, Section 13, of the Kennebunkport Traffic and Parking Control Ordinance. Such rules and regulations may include but not be limited to: setting fees for the acquisition of parking...
permits/stickers and determining authorized employees or agents responsible for selling and/or distributing parking permits/stickers. Rules and regulations may only be adopted at a duly called public meeting.

Section 14. Impoundment of Motor Vehicles For Failure to Pay Parking Tickets

1. Applicability: Any vehicle that is registered to an individual who has accumulated, for this or any other vehicle, a combined total of three (3) or more notices of violation of any parking regulation or regulations made pursuant to this Ordinance issued after July 1, 1983, for which there has been neither payment or waiver fees nor issuance of court process, and which is then parked in violation of any such provision, may at the option of any Town of Kennebunkport Police or other officer authorized to enforce the parking regulations of the Town of Kennebunkport, be immobilized in place or may be removed and stored until all waiver fees for all such outstanding notices of violations have been paid, including all costs for towing, notice preservation and storage of said vehicle.

2. Procedure: The Police Officer requesting such removal shall at the time of such removal notify the dispatcher of the intended storage location of the subject’s motor vehicle. Such information shall be recorded by the dispatcher for the use of the Chief of Police or his/her duly authorized representative. The Chief of Police shall notify by registered mail the registered owner of such vehicle within five business days of the impoundment thereof, the storage location of such vehicle and the requirements for release.

3. Release of Vehicles: Any person having custody of a motor vehicle, pursuant to the provisions of this Ordinance or of the means to release such immobilized vehicle, shall not release it until the individual requesting its release presents satisfactory evidence of his or her right to possession and signs a receipt therefore and the Chief of Police or his/her duly authorized representative certifies that all waiver fees and all charges have been paid including all costs for towing, notice preservation and storage of said vehicle as established pursuant to the Ordinance.

4. Fees:
   ○ Towing: Actual charge by contractor
   ○ Storage: Actual charge by contractor. The charges by the Town for vehicles impounded or stored on Town property shall be Twenty-Five Dollars ($25.00) per day for the impoundment and storage.

5. Bond: Whenever any person requests the right to post bond, such bond shall be given in cash and a receipt given therefore. Such bond money shall be refunded in the amount of the waiver fee for each alleged violation upon acceptance by such person of service of process initiating a court proceeding to determine his or her liability for the prescribed penalty for such alleged violation. Any bond shall be forfeited unless the person posting it requests and accepts service of such process from the Chief of Police or his/her designated representative within thirty (30) days of posting unless prevented from doing so by the actions or inaction of the Town of Kennebunkport.

6. Refund of Charges for Impoundment: Whenever any person obtains a determination from a Court of competent jurisdiction that the vehicle was not parked in violation at the time it was impounded pursuant to this ordinance, such person shall be reimbursed for the charges for immobilization, or for towing and storage if paid, and if such charges have not been paid they shall be promptly paid or cancelled by the Town.

7. Violations: It shall be a violation of this ordinance for any person to tamper with or to attempt to remove any immobilizing device attached to a vehicle or to obstruct or attempt to prevent the removal of a vehicle as provided herein. The penalty for any such violation shall be not less than One Hundred Dollars ($100.00) and not more than One Thousand Dollars ($1000.00).

Section 15. Penalties
Fine amounts can be set by the Board of Selectmen to comply with State Law. The operator of any vehicle, or the registered owner of said vehicle if the operator cannot be determined, violating Section #1, Section #2, Section #5, Section #6 (if a private parking area), Section #9, Section #11, and Section #12 of this Ordinance shall be punished by a fine of not more than Fifty Dollars ($50.00) and not less than Twenty-Five Dollars ($25.00) for each offense. Section #6 fine amount is Two Hundred Dollars ($200.00) in a municipal parking area, to be recovered for the use of the Town of Kennebunkport, provided, however, that any such person or registered owner who violates one of the parking sections of this chapter (excepting Section #6 municipal parking area), and is issued a Parking Tag, may within forty-eight (48) hours from time of issuance pay a fine of Twenty-Five Dollars ($25.00); or after forty-eight (48) hours from time of issuance and before a Court Summons is issued, pay a fine of Thirty Dollars ($30.00): Section #13 fine amount is Fifty Dollars ($50.00; or after forty-eight (48) hours from the time of issuance and before a Court Summons is issued, pay a fine of Sixty Dollars ($60.00) to the Chief of Police or his/her representative for full satisfaction of such parking violation. In the course of an Appeal from such parking fine, such person shall appear before the 10th District Court, Biddeford, Maine and shall be fined not more than Two Hundred Dollars ($200.00) and not less than One Hundred Dollars ($100.00) to the Town of Kennebunkport.

Any Parking Tag fines paid to the Chief of Police or his/her representative during the fiscal year of the Town of Kennebunkport shall be turned over to the Treasurer of the Town of Kennebunkport and credited to the general revenues of the Town of Kennebunkport.

Section 15A. Penalties: The operator of any vehicle violating Section #4, Section #8 or Section #10 of this Ordinance shall be punished by a fine of not more than Thirty Dollars ($30.00) and not less than Twenty-Five Dollars ($25.00) for each offense, to be recovered to the use of the Town of Kennebunkport, provided, however, that any such person who violates one of the parking sections of this chapter, and is issued a Parking Tag, may within forty-eight (48) hours from time of issuance pay a fine of Twenty-Five Dollars ($25.00); or after forty-eight (48) hours from time of issuance and before a Court Summons is issued pay a fine of Thirty Dollars ($30.00) to the Chief of Police or his/her representative for full satisfaction of such parking violation. In the course of an Appeal from such parking fine, such person shall appear before the 10th District Court, Biddeford, Maine and shall be fined not more than Two Hundred Dollars ($200.00) and not less than One Hundred Dollars ($100.00) to the use of the Town of Kennebunkport.

Any Parking Tag fines paid to the Chief of Police or his/her representative during the fiscal year of the Town of Kennebunkport shall be turned over to the Treasurer of the Town of Kennebunkport and credited to the general revenues of the Town of Kennebunkport.

Section 16. Enforcement

The Town of Kennebunkport authorizes the Chief of Police to represent the Town in District Court in the prosecution of alleged violations of those ordinances that the Police Department is empowered to enforce, if duly certified in accordance with 25 M.R.S.A., §2803-A, subsection 8, or successor statute. The Chief of Police may designate any officer under his/her command, if the officer is so certified, to perform this prosecutorial function.

Section 17. Legal Status Provisions

1. Effective Date: This Ordinance shall take effect and be in force immediately after its approval and upon posting of appropriate signs, and supersedes all previous traffic and parking control ordinances governing the streets covered by this ordinance.

2. Severability: Should any section or part of a section or any provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.
Source URL: https://www.kennebunkportme.gov/town-clerk/pages/traffic-parking-control-ordinance
Section I  Purpose, Authority, License Required, Definitions

A. **Purpose; Authority** – The purpose of this Ordinance is to ensure that establishments serving food or drink within the Town of Kennebunkport (hereafter, the “Town”) and intended for consumption by the public prepare their food and drink in a safe and sanitary environment. This Ordinance is adopted pursuant to the authority granted by 30-A M.R.S.A. § 3812 et seq., 30-A M.R.S.A. § 3001, and the Home Rule provisions of the Constitution of the State of Maine.

B. **License Required** – Any establishment that serves food or drink prepared for consumption by the public within the Town shall be required to annually apply for and be granted a victualer’s license. A license shall be specific to the premises and entity which is requesting the license.

C. **Definitions** – Unless otherwise defined herein or in the text, all words used in this Ordinance shall have their common meanings. As used in this Ordinance, the following terms shall have the meanings indicated:

- **PERSON** – Any individual, person, firm, corporation, association, partnership, organization, or legal entity.

- **VICTUALER** – Any person who serves food or drink prepared for consumption on the premises by the public.

- **TOWN** – The Town of Kennebunkport.

Section 2  Licensing Board and Meetings

A. **Licensing Board** – The Licensing Board shall be the Town of Kennebunkport Board of Selectmen.

B. **Meetings** – The Licensing Board shall meet as provided in this subsection:

1. It shall meet annually during the month of May on a date, time and place determined by the Board of Selectmen.

2. At least seven (7) days before the meeting, the Licensing Board must post notices stating the purpose of the meeting in at least two (2) public places in the Town.
3. The Licensing Board may meet at any other time at a meeting specially called and with public notice as provided in Section 2.B.(2) above.

Section 3  License Issuance, Renewal, Suspension and Revocation

A.  Issuance, Renewal, Suspension and Revocation of Licenses - At any meeting held under Section 2.B. above, the Licensing Board may do the following:

1.  License - The Licensing Board may license as many persons of good moral character to be innkeepers, victualers and tavern keepers in the Town as it considers necessary, in accordance with the requirements set forth herein.

   a)  In determining whether to issue or deny an application, the Licensing Board shall consider (i) whether the applicant has failed any part of a state inspection or local health inspection; (ii) whether the applicant has failed to provide sufficient evidence of compliance with applicable local, state or federal laws and regulations; (iii) whether the applicant is of good moral character, considering the applicant’s criminal record, if any, and all evidence presented; (iv) the applicant’s failure to pay an outstanding fine, penalty or tax owed to the Town; and (v) the Town’s need for additional innkeepers, victualers and tavern keepers.

   b)  The Licensing Board may issue the license under any conditions or restrictions that it deems necessary and reasonably designed to promote the health, safety or welfare of the public.

   c)  The premises must be inspected by the Code Enforcement Officer and Fire Inspector for compliance with local ordinances and state statutes, prior to the issuance of the license. Such inspections shall be noticed to the Licensing Board.

   d)  The license must specify the building in which the business will be conducted.

   e)  The license must specify an issue date and an expiration date.
2. **Renewal** – Renewal applications from persons having obtained a victualer’s license under Section 3.A.(1) above, along with applicable fees, must be submitted to the Town Clerk on or before April 30th of each year. The Licensing Board shall annually review all renewal applications for the purpose of determining the status of the victualer’s prior conformance and likelihood of continued conformance with the requirements of this Ordinance, including the requirements of Section 3.A.(1)(a) above and any conditions or restrictions of the license, and at such time shall make a decision to either approve or deny the renewal application.

3. **Suspension** – A victualer’s license may be suspended by the Licensing Board for any period of time that it considers proper after investigation, notice and hearing if the Licensing Board determines that the licensee has violated any codes, ordinances, conditions or restrictions imposed by the Licensing Board. The Licensing Board shall serve written notice of a hearing on suspension on the licensee or leave it at the licensed premises at least three (3) days before the time set for hearing. At the hearing, the licensee must be given an opportunity to hear the evidence in support of the charge against the licensee, to be heard in the licensee’s own defense and to cross-examine, alone or through counsel, any witnesses.

4. **Revocation** - A victualer’s license may be revoked by the Licensing Board after investigation, notice and hearing if the Licensing Board determines that the licensee is unfit to hold a license. The Licensing Board shall serve written notice of a hearing on revocation on the licensee or leave it at the licensed premises at least three (3) days before the time set for hearing. At the hearing, the licensee must be given an opportunity to hear the evidence in support of the charge against the licensee, to be heard in the licensee’s own defense and to cross-examine, alone or through counsel, any witnesses.

**Section 4  Term of License**

The term of a victualer’s license shall run from June 1 to May 31 of the following year.
Section 5 Fees

The Licensing Board shall set fees by order for the following categories of victualer’s licenses:

A. Victualer without on-site consumption of liquor.

B. Victualer with on-site consumption of liquor.

C. Nonprofit Organization.

D. Failure to obtain a license, either renewal or a new license, may subject the licensee to additional late filing fees, publication of notice expenses, and/or penalties pursuant to Section 6, below, as may be determined by the Licensing Board.

Section 6 Violations

Any violation of this Ordinance, including but not limited to failure to submit an annual renewal application by the deadline provided, shall be punishable by a fine of not less than $100 for the first offense and not less than $200 for the second and subsequent offense. Each day that such unlawful act or violation continues shall be considered a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

Section 7 Appeals

An appeal from any final decision of the Licensing Board may be taken by any aggrieved party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

WASTEWATER USE ORDINANCE
TOWN OF KENNEBUNKPORT
KENNEBUNKPORT, MAINE

Adopted March, 1985
Amended 09/12/85
08/14/86
05/28/87
06/11/91
01/26/95
03/09/95
09/01/98
10/09/03
08/13/09
02/22/18
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ARTICLE I - PURPOSE, AUTHORITY, SCOPE AND INTENT

Sec. 1. This Ordinance shall be known and may be cited as the "Town of Kennebunkport Wastewater 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.
ARTICLE II - DEFINITIONS

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.

**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.

**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.

Deputy Director of Public Works: Shall have all the duties and powers of the Director of Public Works when he or she is unavailable.

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.

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.

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.

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 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.

**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.

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

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 Director of Public Works, 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 Director of Public Works 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.

ARTICLE IV - PRIVATE WASTEWATER DISPOSAL

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 Director of Public Works, 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.

ARTICLE V - BUILDING SEWERS AND CONNECTIONS

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 Director of Public Works. 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 Director of Public Works 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 Director of Public Works. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director of Public Works. A
permit and inspection fee of one dollar ($2.00) 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 Director of Public Works, 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 building and plumbing code or other applicable rules and regulations of the Town.

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 Director of Public Works 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 of other applicable rules and regulations of the Town. 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 Director of Public Works, 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 Director of Public Works 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 Director of Public Works 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 Director of Public Works, so that no water or wastes not otherwise permitted to enter the public sewer or drain shall be so discharged therein. The Director of Public Works 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 Director of Public Works, 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 imposed under Article XIII shall be $3,500. For those uses to be assigned a special charge under that Article, the connection fee shall be established by the Selectmen. Any person seeking to make connection shall fill out an appropriate form provided by the Director of Public Works. When the form has been approved and the fee paid, the Director of Public
Works shall notify the Building Inspector. No building permit or occupancy permit may be issued until the fee has been paid.

b. 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 fee is due for each additional sewer unit change.

c. All 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 the public sewer the owner of the building sewer shall maintain the building sewer from the building to the public sewer.

ARTICLE VI - SEWER EXTENSIONS

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 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 Wastewater Department to the Director of Public Works 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). 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 Director of Public Works 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 Director of Public Works.

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, Director of Public Works, 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 Director of Public Works 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 Director of Public Works may direct.

Within forty-five (45) days of the close of the Planning Board’s public hearing or receipt of the results of the Director of Public Works study, whichever is later, the Director of Public Works 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 Director of Public Works 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 eighty percent (80%) 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 Director of Public Works 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 Director of Public Works 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 Director of Public Works must approve said plans and specifications before any work is commenced and before an article can be placed in the warrant.
Following the Director of Public Works 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 roadway. 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 Director of Public Works 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 Director of Public Works 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 Director of Public Works 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 Director of Public Works or his authorized representatives, who shall include a full-time inspector if the Director of Public Works 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 Director of Public Works 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 Director of Public Works shall have discretion to release to the owner up to ninety percent (90%) of the guarantee amount upon the Director of Public Works 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 Director of Public Works, 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 Director of Public Works 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 Director of Public Works 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). 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.

ARTICLE VII - USE OF PUBLIC SEWERS

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 Director of Public Works. Industrial cooling water or unpolluted process water may be discharged, on approval of the Maine DEP and the Director of Public Works, 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 6.5, 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 Director of Public Works 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 Director of Public Works 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 Director of Public Works 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 Director of Public Works 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 Director of Public Works in compliance with applicable State or Federal regulations.

i. Any water or waste having a pH in excess of 8.0.

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 Director of Public Works 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 Director of Public Works 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 Director of Public Works shall give consideration to the economic impact of each alternative on the discharger. If the Director of Public Works 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 Director of Public Works, 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 Director of Public Works, 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 Director of Public Works, 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 Plumbing 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 Director of Public Works, 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 an 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 Director of Public Works. 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 Director of Public Works, 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 Director of Public Works. 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 Director of Public Works 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 Director of Public Works 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 Director of Public Works. Such records shall be made available upon request by the Director of Public Works to other agencies having jurisdiction over discharges.

Sec. 11. The municipality shall develop, and the Director of Public Works 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.

ARTICLE VIII - SEWER CAPACITY ALLOCATIONS

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 Director of Public Works 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 Director of Public Works 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.

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

A sewer permit issued under the terms of this Ordinance, or a letter from the Director of Public Works 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.
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.

ARTICLE X - PROTECTION FROM DAMAGE

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.

ARTICLE XI - POWER AND AUTHORITY OF INSPECTORS

Sec. 1. The Director of Public Works, 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 Director of Public Works 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 Director of Public Works, that the revelation to the public of the information in question might result in an advantage to competitors.

Sec. 2. The Director of Public Works 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 Director of Public Works 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.

ARTICLE XII - PENALTIES

Sec. 1. Any person found to be violating any provision of this Ordinance, except Article X, shall be served by the Director of Public Works 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 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.
ARTICLE XIII - SEWER SERVICE CHARGE

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 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 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:

<table>
<thead>
<tr>
<th>Description</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum charge</td>
<td>1 Sewer Unit</td>
</tr>
<tr>
<td>Single Family Dwelling Unit</td>
<td>1 Sewer Unit</td>
</tr>
<tr>
<td>Multi-family Dwelling Unit or Condominium Dwelling Unit</td>
<td>1 Sewer Unit per DU*</td>
</tr>
<tr>
<td>School students every 20</td>
<td>1 Sewer Unit</td>
</tr>
<tr>
<td>Motel/Hotel/Inn/Bed and Breakfast Units (every two rooms with double occupancy)</td>
<td>1 Sewer Unit</td>
</tr>
<tr>
<td>Motel/Hotel/Inn/Bed and Breakfast Units (every four rooms with single occupancy)</td>
<td>1 Sewer Unit</td>
</tr>
<tr>
<td>Restaurant Seats (every ten seats)</td>
<td>1 Sewer Unit</td>
</tr>
<tr>
<td>Tourist-House Rooms (every two double occupancy rooms)</td>
<td>1 Sewer Unit</td>
</tr>
</tbody>
</table>

*Dwelling Unit
Tourist-House Rooms
(every four single occupancy rooms) 1 Sewer Unit

Yacht or Country Club Members
(every fifty members) 1 Sewer Unit

Church or Club Members (every 100 members) 1 Sewer Unit

Commercial Employees
(every zero to five employees) 1 Sewer Unit

Commercial Employees
(every five to ten employees) 1.5 Sewer Unit

Industry Employees (every zero to ten employees) 1.5 Sewer Unit

Gas Station 3 Sewer Units

Laundromat Machines (every two machines) 1 Sewer Unit

Campground (sewer hookups) 1 Sewer 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 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 Selectmen, after appropriate study, and advice from the Director of Public Works, 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 Director of Public Works 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 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.

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

Sec. 1. Plumbers and drain layers of established reputation and experience, as determined by the Director of Public Works, 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 Director of Public Works, shall file with the Director of Public Works 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 Director of Public Works 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 Director of Public Works 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 Director of Public Works within twenty-four (24) hours after the completion of the work authorized by each permit.

**ARTICLE XV - SEPTIC WASTE**

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 Director of Public Works or the Director of Public Works' 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 Director of Public Works or any agent of the Director of Public Works 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 Director of Public Works.
ARTICLE XVI - VALIDITY

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.

ARTICLE XVII - APPEALS

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 Director of Public Works, 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 percent (15%) 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 Director of Public Works, 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 Director of Public Works, 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

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 22nd day of February, 2018, by the following votes:

Ayes 5

Nays 0

Signed:

Patrick Briggs

Allen Daggett

Stuart Barwise

Edward Hutchins

Sheila Matthews-Bull

Tracey O’Roak, Clerk
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. In Cape Porpoise, the mooring permit holder must either be a Cape Porpoise Pier member in good standing or a shorefront owner. This excludes moorings in Paddy Creek, Turbats Creek, Land’s End and Langsford Road, as noted by their mooring designation.

Recreational: A Mooring other than a commercial mooring that is permitted for the purpose of mooring a specific Vessel. In Cape Porpoise, the mooring permit holder must either be a Cape Porpoise Pier member in good standing or a shorefront owner. This excludes moorings in Paddy Creek, Turbats Creek, Land’s End and Langsford Road, as noted by their mooring designation.

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.

<table>
<thead>
<tr>
<th>Length of Boat (Feet)</th>
<th>Weight of Mooring Anchor (Pounds)</th>
<th>Chain Size (Minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20' Or Less</td>
<td>500</td>
<td>1/2&quot;</td>
</tr>
<tr>
<td>20' To 30'</td>
<td>1000</td>
<td>1&quot;</td>
</tr>
<tr>
<td>30' To 40'</td>
<td>1500</td>
<td>1 1/4&quot;</td>
</tr>
<tr>
<td>40' To 60'</td>
<td>2000</td>
<td>1 1/2&quot;</td>
</tr>
</tbody>
</table>

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 x 10 x1.5 = 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.
Wireless Telecommunications Ordinance

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Section 1. Title

This Ordinance shall be known and cited as the “Wireless Telecommunications Facilities Siting Ordinance” of Kennebunkport, Maine (hereinafter referred to as the “ordinance”).

Section 2. Authority

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A., Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A., Section 4312 et seq.

Section 3. Purpose

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to:

- Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;
- Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities;
- Allow competition in telecommunications service;
- Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions and residents of Kennebunkport;
- Permit and manage reasonable access to the public rights of way of Kennebunkport for telecommunications purposes on a competitively neutral basis;
- Ensure that all telecommunications carriers providing facilities or services within Kennebunkport comply with the ordinances of Kennebunkport;
- Ensure that Kennebunkport can continue to fairly and responsibly protect the public health, safety and welfare;
- Encourage the colocation of wireless telecommunications facilities and alternative technologies, thus helping to minimize adverse visual impacts on the community;
- Enable Kennebunkport to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development;
- Further the goals and policies of the comprehensive plan, while promoting orderly development of the town with minimal impacts on existing uses;
- Protect the scenic and visual character of the community; and
- Comply with the 2012 Spectrum Act and the Telecommunications Act of 1996 as each is amended.
Section 4. Applicability

This local land use ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in section 4.1.

4.1 Exemptions: The following are exempt from the provisions of this ordinance:

A. **Emergency Wireless Telecommunications Facility.** Wireless communication facilities for emergency communications by public officials or any municipal or quasi-municipal organization currently served by the Town of Kennebunkport's Communications Department including, without limitation, the KK&W Water District and colocation by any person or firm, public or private, on any tower owned or operated by the KK&W Water District provided colocation by any private person or firm shall be subject to site plan approval by the Planning Board in addition to other applicable provisions of this ordinance.

B. **Amateur (ham) radio stations.** Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).

C. **Parabolic antenna.** Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.

D. **Maintenance or repair.** Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

E. **Temporary wireless telecommunications facility.** Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.

Section 5. Review and Approval Authority

5.1 Approval Required: No person shall construct or expand a wireless telecommunication facility without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

A. **Expansion of an Existing Facility and Colocation.** Approval by the CEO and issuance of a building permit is required for (1) any expansion of an existing wireless telecommunications facility that increases the height of the facility by no more than 20 feet; (2) accessory use of an existing wireless telecommunications facility; (3) collocation on an existing wireless telecommunications facility or alternative tower structure; or (4) installation of small cell facilities on existing utility poles.
B. **New Construction.** Approval of the Planning Board and issuance of a building permit is required for construction of all new wireless telecommunications facilities; and any expansions or substantial modifications of existing wireless telecommunications facilities such as, but not limited to, increases in the height of the facility by more than 20 feet or new disturbed area or equipment cabinets outside the area occupied by the existing facility.

5.2 Approval Authority

In accordance with Section 5.1 above, the CEO or Planning Board shall review applications for wireless telecommunications facilities and make written findings on whether the proposed facility complies with this Ordinance.

Section 6. Approval Process

6.1 Pre-Application Conference: All persons seeking approval of the CEO or the Planning Board under this ordinance shall meet with the CEO no less than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

6.2 Application: All persons seeking approval of the CEO or the Planning Board under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.

A. **Application for CEO Approval.** Applications for permit approval by the CEO must include the following materials and information:

1. Documentation of the applicants right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant.
2. A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
3. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
4. Location map and elevation drawings of the proposed facility and any other proposed structures, showing color, and identifying structural materials.
5. For a proposed small cell facility: (a) name and address of the owner(s) of the utility pole; (b) utility pole number; (c) address of nearest property; and (d) structural analysis, signed by a Maine registered professional engineer, attesting to the ability of the utility pole to support the small cell facility without any impact to the structural integrity of the utility pole or network of poles.

6. For proposed expansion of an existing facility, a signed statement that commits the owner of the facility, and his or her successors in interest, to:

   i. respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
   ii. negotiate in good faith for shared use by third parties;
   iii. allow shared use if an applicant agrees in writing to pay reasonable charges for colocation;
   iv. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

B. Application for Planning Board Approval. An application for approval by the Planning Board must be submitted to the Code Enforcement Officer. The application must include the following information:

1. Documentation of the applicants right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.

2. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.

3. A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously
made available to the Town. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.

4. A site plan:

i. prepared and certified by a Maine registered professional engineer indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;

ii. certification by the applicant that the proposed facility complies with all FCC standards for radio frequency emissions is required; and

iii. a boundary survey for the project performed by a land surveyor licensed by the State of Maine.

5. A scenic assessment, consisting of the following:

i. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;

ii. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

iii. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

iv. A narrative discussing:

a. the extent to which the proposed facility would be visible from or within a designated scenic resource,

b. the tree line elevation of vegetation within 100 feet of the facility, and
c. the distance to the proposed facility from the designated scenic resources noted viewpoints.

6. A written description of how the proposed facility fits into the applicants telecommunications network. This submission requirement does not require disclosure of confidential business information.

7. Evidence demonstrating that no existing building, site, or structure can accommodate the applicants proposed facility, the evidence for which may consist of any one or more of the following:

   i. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicants engineering requirements,
   
   ii. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicants engineering requirements,
   
   iii. Evidence that existing facilities do not have sufficient structural strength to support applicants proposed antenna and related equipment. Specifically:

      a. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
      
      b. The applicants proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicants proposed antenna.
      
      c. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.

   iv. For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall
also be satisfactory for a tower built after the passage of this ordinance;

v. Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing facility, building, or structure, and has been denied access.

8. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

9. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:

   i. respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
   
   ii. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
   
   iii. allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;
   
   iv. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

10. A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

11. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.
6.3 Submission Waiver: The CEO or Planning Board, as appropriate, may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the CEO or Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

6.4 Fees:

A. **CEO Application Fee.** An application for CEO approval shall include payment of an application fee as determined annually by the Board of Selectmen. The application shall not be considered complete until this fee is paid.

B. **Planning Board Application Fee.** An application for Planning Board approval shall include payment of an application fee as determined annually by the Board of Selectmen. The application shall not be considered complete until this fee is paid.

C. **Planning Board Review Fee.** An applicant for approval by the Planning Board shall pay all reasonable and customary fees incurred by the Town that are necessary to review the application, including, without limitation, independent engineering, planning, legal or similar professional consulting services. Such review fee shall be assessed for the privilege of review and shall be payable without regard to consultation results or the outcome of the application. The review fee shall be paid in full prior to the start of construction. No building permit may be issued until all review fees have been paid in full.

That portion of the review fee not used shall be returned to the applicant within a reasonable period time after the Planning Board’s decision, once it has been determined that all associated costs have been paid.

6.5 Notice of Complete Application: Upon receipt of an application, the CEO shall provide the applicant with a dated receipt. Within five (5) working days of receipt of an application the CEO shall review the application and determine if the application meets the submission requirements. The CEO or Planning Board, as appropriate, shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application.

If the application is complete, the CEO shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application to the Planning Board, Code Enforcement Office, Police Department and Fire Department.
If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application.

If the application is deemed to be complete, and requires Planning Board review, the CEO shall notify all abutters to the site as shown on the Assessors records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

6.6 Public Hearing: For applications for Planning Board approval under Section 5.1(B), a public hearing shall be held within 30 days of the notice of the complete application.

6.7 Approval:

A. **CEO Approval.** Within thirty (30) days of receiving a complete application for approval under section 5.1(A), the CEO shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. With the exception of applications for installation of a small cell facility, the CEO shall approve the application if the CEO finds that the application complies with the provisions in Section 7.1 of this ordinance.

For a small cell facility, the CEO shall approve the application if the CEO finds the following:

1. the small cell facility does not interfere with the safety and convenience of travel over the public right of way; other existing uses of the utility right of way, and shall not interfere with municipal emergency service communication equipment;
2. the small cell facility is not located within fifty (50) feet of a residence or sensitive population (including but not limited to schools, hospitals, nursing facilities etc.) If a small cell facility is proposed to be located within fifty (50) feet of a residence or sensitive population then the approval process outlined in 6.7D Planning Board Approval shall be followed.
3. The small cell facility is camouflaged such that it is visually unobtrusive as compared to the preexisting condition of the utility pole or nearby utility poles, including color and scale;
4. The dimensions of the antenna does not exceed three (3) feet in height or two (2) feet in width and associated equipment has a maximum square footage of ten (10) square feet and height of two (2) feet;

5. No part of the small cell facility projects from the utility pole further than four (4) feet from its existing height and two (2) feet from its existing width

B. The small cell facility is proposed by a licensed provider who agrees to comply with all local ordinance, state and federal laws;

The entity seeking approval for the small cell facility submits a written commitment to notify the Town within thirty days of cessation of use of the facility and to remove that facility within ninety (90) days of termination of use.

The CEO shall notify all abutters of the decision to issue a permit under this section. The time period may be extended upon agreement between the applicant and the CEO.

C. **Planning Board Approval.** Within ninety (90) days of receiving a complete application for approval under section 5.1(A) or one hundred fifty (150) days of receiving a complete application for approval under section 5.1(B), the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. However, if the Planning Board has a waiting list of applications that would prevent the Planning Board from making a decision within the required period, then a decision on the application shall be issued within sixty (60) days of the public hearing, if necessary, or within 60 days of the completed Planning Board review. This time period may be extended upon agreement between the applicant and the Planning Board.

6.8 **Building Permit Required:** No wireless telecommunications facility shall be constructed or expanded without a building permit therefore issued by the CEO.

6.9 **Zoning:** Notwithstanding any provision in any municipal ordinance to the contrary, small cell facilities and colocated wireless telecommunications facilities or antennas installed on alternative tower structures shall be a permitted use in all zoning districts.
Section 7. Standards of Review

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

7.1 CEO Approval Standards: An application for approval by the CEO under Section 5.1(A) must meet the following standards.

A. The proposed facility is an expansion, accessory use, or colocation to a conforming structure legally existing at the time the application is submitted.

B. The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.

C. The proposed facility increases the height of the existing structure by no more than twenty (20) feet.

D. The proposed facility will be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable.

E. The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

7.2 Planning Board Approval Standards: An application for approval by the Planning Board under Section 5.1(B) must meet the following standards.

A. Location. New wireless telecommunications facilities installed on new towers may be permitted only in the following district as designated in the Kennebunkport Zoning Ordinance: Free Enterprise Zone.

B. Siting on Municipal Property. If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on Town property, the applicant must show the following:
   1. The proposed location complies with applicable municipal policies and ordinances.
   2. The proposed facility will not interfere with the intended purpose of the property.
   3. The applicant has adequate liability insurance and a lease agreement with the Town that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.
C. **Design for Colocation.** A new wireless telecommunications facility and related equipment must be designated and constructed to accommodate expansion for future colocation of at least three additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the district height limitation effectively prevents future colocation.

D. **Height.** A new wireless telecommunications facility must be no more than 200 feet in height.

E. **Setbacks.** A new or expanded wireless telecommunications facility must comply with the setback requirements for the zoning district in which it is located, or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The following exemptions apply:

1. The setback may be reduced by the Planning Board upon a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.
2. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.
3. This setback does not apply to the installation of colocated wireless telecommunications facilities or small cell facilities on alternative tower structures.

F. **Landscaping.** A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

G. **Fencing.** A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

H. **Lighting.** A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.

I. **Color and Materials.** A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
**J. Structural Standards.** A new wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.”

**K. Visual Impact.** The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the Towns Comprehensive Plan, or by a State or federal agency.

1. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

   a. The extent to which the proposed wireless telecommunications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource;
   
   b. The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
   
   c. The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);
   
   d. The amount of vegetative screening;
   
   e. The distance of the proposed facility from the viewpoint and the facility’s location within the designated scenic resource; and
   
   f. The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

**L. Noise.** During construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. is exempt from existing municipal noise standards.

**M. Historic & Archaeological Properties.** The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.
7.3 **Standard Conditions of Approval:** The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

A. The owner of the wireless telecommunications facility and his or her successors and assigns agree to:

1. respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
2. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
3. allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;
4. require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

B. Upon request by the Town, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

**Section 8. Amendment to an Approved Application**

Any changes to an approved application must be approved by the CEO or the Planning Board, in accordance with Section 5.

**Section 9. Abandonment**

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from
the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the Town may remove the facility at the owner’s expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the Town for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

Section 10. Appeals

Any person aggrieved by a decision of the CEO or the Planning Board under this ordinance may appeal the decision to the Board of Appeals as an administrative appeal under the Zoning Ordinance. Written notice of an appeal must be filed with the Board of Appeals within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

Section 11. Administration and Enforcement

The CEO, as appointed through either the Zoning Ordinance or by the Board of Selectmen or Town or City Council, shall enforce this ordinance. If the CEO finds that any provision of this ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance.

The Board of Selectmen, or its authorized agent, is authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow a violation of this ordinance to continue unless: (a) there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment; (b) there is no evidence that the owner acted in bad faith; and (c) the removal of the violation will result in a threat to public health and safety or substantial environmental damage.
Section 12. Penalties

Any person who owns or controls any building or property that violates this ordinance shall be fined in accordance with Title 30-A M.R.S.A. Section 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

Section 13. Conflict and Severability

13.1 Conflicts with other Ordinances

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

13.2 Severability

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

Section 14. Definitions

The terms used in this ordinance shall have the following meanings:

“Alternative Tower Structure” Clock towers, bell steeples, light poles, water towers, electrical transmission line towers, smokestacks, existing buildings, and similar mounting structures that camouflage, or conceal or support the presence of an Antenna(s).

“Antenna/Antenna Array” A system of one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals. These include, but are not limited to, omnidirectional antennas (whips or rods), directional antennas (panels) and parabolic antennas (dish or disc).

“Antenna Height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
“Colocation” means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

“Expansion” means the addition of antennas, towers, or other devices to an existing structure.

“FAA” means the Federal Aviation Administration, or its lawful successor.

“FCC” means the Federal Communications Commission, or its lawful successor.

“Height” means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

“Historic or Archaeological Resources” means resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or

5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the Town’s Comprehensive Plan, which have been listed or are eligible to be listed on the National Register of Historic Places.
“Historic District” means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the Town’s Comprehensive Plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

“Historic Landmark” means any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the Town’s Comprehensive Plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

“Line of Sight” means the direct view of the object from the designated scenic resource.

“Parabolic Antenna” (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

“Principal Use” means the use other than one which is wholly incidental or accessory to another use on the same premises.

“Public Recreational Facility” means a regionally or locally significant facility, as defined and identified either by State statute or in the Town’s Comprehensive Plan, designed to serve the recreational needs of Kennebunkport property owners.

“Designated Scenic Resource” means that specific location, view, or corridor, as identified as a scenic resource in the Town’s Comprehensive Plan or by a State or federal agency, that consists of:

1. a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skyline or mountain range, resulting in a panoramic view corridor; or

2. lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.
“Small Cell Facility” An antenna, radio, power source and meter, disconnect switch, fiber optic cable, and supporting equipment, if any, installed on a utility pole owned by a regulated public utility and installed within the public right of way.

“Targeted Market Coverage Area” means the area which is targeted to be served by this proposed telecommunications facility.

“Unreasonable Adverse Impact” means that the proposed project would produce an end result which is:

1. excessively out-of-character with the designated scenic resources affected, including existing buildings, structures and features within the designated scenic resource, and

2. would significantly diminish the scenic value of the designated scenic resource.

“Viewpoint” means that location which is identified either in the Town’s Comprehensive Plan or by a federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

“Wireless Telecommunications Facility” A facility that transmits, receives, distributes, provides or offers telecommunications services, radio or television signals, or any other spectrum-based transmissions/receptions, together, with the facility’s associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals; wireless communication towers, antenna support structures, and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment buildings, generators, parking areas, utility services, driveways and roads and other accessory features.


Section 15. Effective Date

Notwithstanding any other provision of law to the contrary, this ordinance shall become effective immediately upon passage but shall be retroactive to any application not pending within the meaning of 1 M.R.S.A. Section 302 as of August 26, 1999.

Amended 11/6/2018