

TOWN OF KENNEBUNKPORT, MAINE

**Board of Selectmen Agenda
March 14, 2024 @ 6:00 PM
VILLAGE FIRE STATION
32 North Street**

This is an in-person meeting, but the public may join in the Zoom webinar format.

Join by **computer or mobile device** and click on:

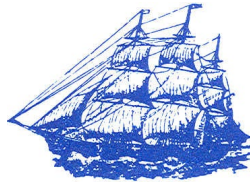
<https://us06web.zoom.us/j/81020127621>

or go to **ZOOM** and enter the **webinar ID: 810 2012 7621**

By **phone 1(929) 205 6099 US**

1. Call to Order – Selectboard and Budget Board
2. *Joint meeting with the Budget Board for the fiscal year 2025 municipal budget presentations.*
3. Approve the February 20, 2024, LD 2003 Joint Workshop minutes and February 22, 2024, selectmen meeting minutes.
4. Public Forum (This is an opportunity for anyone who wants to address the Board of Selectmen with any issue that is not on the agenda.)
5. Consider the following renewal liquor licenses submitted by:
 - a) JPPE LLC d/b/a Roma Pizza, located at 5 Union St.
 - b) Olivos LLC d/b/a Ultramar Restaurant, located at 77 Pier Rd.
6. Presentation of proposed June 2024 ordinance changes with the legal review:
 - a) LD 2003 Land Use Ordinance Amendments
 - b) Floodplain Ordinance Amendment
7. Authorize acceptance of a wastewater plant backup generator bid.
8. Authorize acceptance of a Dock Square sidewalk bid.
9. Authorize the annual Animal Welfare Society shelter agreement to be in effect from July 1, 2024, through June 30, 2025.

10. Accept an anonymous donation of \$80,000 to purchase a trash pump and message board to aid in storm response.
11. Other Business.
12. Approve the March 14, 2024, Treasurer's Warrant.
13. Adjournment.



BOARD OF SELECTMEN and BUDGET BOARD

**Budget Review Agenda
March 14, 2024, @ 6:00 PM
VILLAGE FIRE STATION
32 North Street**

PROPOSED ORDER OF REVIEW

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***Capital budgets will be reviewed at the March 21st meeting along with outside agencies and town committees' budgets.**

****Regular Board of Selectmen meeting to follow budget presentations.***

AGENDA ITEM DIVIDER

Town of Kennebunkport
LD 2003 Joint Workshop
February 20, 2024
6:00 PM
Village Fire Station (32 North Street)

MINUTES

Selectmen attending: Mike Weston, Sheila Matthews-Bull, Allan Daggett, Jon Dykstra, Marybeth Gilbert.

Planning Board members attending: Tom Boak, Nina Pearlmutter, Ed Francis, Larry Simmons, George Lichte.

Growth Planning Committee (GPC) members attending: Dan Saunders, Paul Hogan, Liz Johnson, Jane Evelyn.

1. Call To Order.

Chairman Weston called the meeting to order at 6:00 PM. Tom Boak called the Planning Board to order with five members present, and Dan Saunders called the Growth Planning Committee to order with four members present.

2. LD 2003 Land Use Ordinance amendments presentation.

Galen Weibley, Director of Planning and Code Enforcement, introduced Hilary Gove from the Maine Department of Economic and Community Development (DECD), one of the state's housing coordinators helping with the implementation of LD 2003.

Hilary described the three “buckets” (statutes) that the State is requiring of municipalities:

Accessory Dwelling Units (ADUs) – the law requires municipalities to allow at least one ADU on a lot with an existing single-family home. The ADU can be within, attached to, or detached from the home. The law specifies a minimum ADU size of 190 sq ft., but not a maximum size. The municipality can establish a maximum size if it wishes. ADUs are exempt from density or lot area per dwelling unit requirements. Additional parking for the ADU cannot be mandated.

Up to Four Dwelling Units – the law allows 2-4 dwelling units on residential lots. Up to two units are allowed on lots without an existing unit. Lot area, setback, and road requirements are still in effect if they have already been established. If the undeveloped residential lot is in a designated growth area, up to four units could be built, though still subject to the existing requirements. If one existing dwelling unit exists, up to two additional units can be built (within, detached, or detached). Shoreland zoning requirements are still in effect.

The difference between an Accessory Unit and a Dwelling unit can be challenging to determine, particularly if there is no ADU maximum size. Kennebunkport has set a maximum size.

Discussion ensued regarding the required lot size per dwelling unit as it applies to single-family, two-family, and multiplex homes. Galen noted that the Growth Planning Committee has not yet taken up the “Up to Four Dwelling Units” bucket. Therefore there will be no Land Use Ordinance (LUO) changes regarding this provision put before the voters in June.

Affordable Housing Density Bonus – applies to municipalities (like Kennebunkport) that have zoning and density requirements and allow multiplexes. This only applies to developments that meet the criteria for being affordable as defined by Federal Law. 51% or more of the units must be affordable, the development must be in an area with zoning and multi-family housing and must be in a growth area **or** served by municipal water & sewer.

Where Kennebunkport is regarding these statutes:

- Accessory Apartments – the provision was voted on in 2023. The GPC had questions relating to stormwater and nonconformance, addressed with LD 1706, stating that a nonconforming lot can have an internal ADU but cannot if it makes the lot more nonconforming. We also established a one-per-lot rule for accessory apartments.
- Affordable Housing Bonus – we added a definition for affordable housing based on household and average median income and the language regarding the 2.5x housing density bonus. The current LUO specifies a minimum of two parking places per dwelling, and we are changing that to a less stringent .66 parking spaces per unit (or 2 parking spaces for three dwellings) to bring it into compliance with LD 2003.

Discussion ensued regarding the statute's laxer minimum number of parking spaces. Hilary indicated that while the State would not come after municipalities whose local ordinances do not align with LD 2003, it would potentially expose the Town to litigation if an individual or developer brought a civil action against the Town.

Considerable discussion followed regarding the requirement that 51% or more of the units being developed be affordable and the sequence and timing of that. A developer would need to meet this requirement as dwellings are being constructed. For example, they would not be permitted to build market-rate housing first, leaving affordable housing for a later time. A developer would need to include details of how they are meeting the affordable housing requirements in the proposal to the Planning Board, and it would be up to the Code Enforcement Office to ensure that the developer is complying with them.

Galen explained that if HUD or Maine Housing funds are involved, the affordable units must be built to the same standards as the market-rate units in the development. It was agreed that there are few developments that are exclusively privately funded and do not take advantage of these financing incentives.

- 2-4 Units – the GPC touched on this briefly, but there were many questions, and we will not be covering it until November.

Galen then opened the workshop to questions.

Ed Francis asked about the funding and marketing of market-rate units vs. the affordable units of an affordable housing project. Laurie Smith, the Town Manager, responded that the HUD regulations overlay the entire project.

Jane Evelyn recommended that the growth areas of town be re-examined, and Selectman Gilbert agreed, saying that a description of the growth area being within 1,000 ft of sewer seemed inadequate to her. Galen recommended against it, stating that the Town had just recently completed a lengthy process to have the LUO approved by the voters, and changing the growth areas would require Select Board approval and a public vote to make such changes to the LUO. He added that Kennebunkport has a high cost of land in addition to the construction (labor & material) costs seen across the state. Therefore, he does not foresee a large amount of affordable housing coming to town in any event.

Chairman Weston asked if Hilary knew of any large-scale affordable housing developments currently being constructed in Maine. She did not, but stated she would try to find some examples. Discussion followed about the difficulty in building affordable housing because of the current economic conditions.

Galen answered other questions regarding connection to Town sewer or installation of septic systems, and the growth permitting process.

Traci Gere, State Representative, via Zoom suggested that we have someone inform Town staff about how affordable housing works, pointing out that there is a difference in the process and requirements for housing purchase vs. rental.

Galen and Laurie answered questions from Zoom participants about building permit limits as they apply to affordable housing (they still apply), and about who is responsible for the process of applying for such housing (the developer, the State and HUD, not the Town).

Paul Hogan asked if someone with an existing home who sells that home would be able to qualify for affordable housing. Larissa Crockett, Executive Director of the Kennebunkport Heritage Housing Trust (KHHT), responded that there is a process for applications. Avesta Housing takes assets as well as income into consideration when determining if a candidate qualifies for affordable housing.

No motion was necessary. No motion was taken.

3. Adjournment.

Motion by George Lichte, seconded by Nina Pearlmutter, to adjourn the Planning Board. **Voted:** 4-0. **Motion passed.**

Motion by Paul Hogan, seconded by Dan Saunders, to adjourn the Growth Planning Committee. **Voted:** 5-0. **Motion passed.**

Motion by Selectman Dykstra, seconded by Selectman Matthews-Bull, to adjourn the Board of Selectmen. **Voted:** 5-0. **Motion passed.**

The joint workshop adjourned at 7:34 PM.

Submitted by,
Dave Powell,
Technology Specialist

Town of Kennebunkport
Board of Selectmen Meeting
February 22, 2024
6:00 PM
Village Fire Station (32 North Street)

MINUTES

Selectmen attending: Mike Weston, Allen Daggett, Sheila Matthews-Bull, Jon Dykstra, Marybeth Gilbert.

1. Call To Order.

Chairman Weston called the meeting to order at 6:00 PM.

2. Approve the February 8, 2024, selectboard meeting minutes.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to approve the February 8, 2024, meeting minutes. **Voted:** 5-0. **Motion passed.**

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

Bo Balcavage, via Zoom, asked if there were any plans to incentivize cleanup of roads and common areas for Earth Day, as was done in 2021. Laurie Smith, Town Manager, added that she had spoken with Bo previously and responded that because Kennebunkport does not have its own transfer station, the debris collected from a cleanup effort would need to go to the Sea Road facility in Kennebunk. This facility is privately owned, however, so there would be a fee to get rid of the debris there. She added that there have been challenges in the past with people putting household trash (e.g. oil, tires) in the dumpsters that were meant for road debris. The Board questioned who would pay for such an effort and noted the expense that the Town and individuals have sustained for cleanup after the flooding in the two recent storms. Selectman Dykstra suggested that Bo contact him as a member of the Solid Waste Committee, and contact the Conservation Commission as well, to see if a cleanup effort could be planned for Earth Day in 2025.

Robin Phillips, via Zoom, suggested that individuals could clean up near their house and put items with their household trash or recycling, perhaps with the Town taking woody plant materials with a dump truck as has been done in past years with beach bittersweet cleanup.

4. Presentation of proposed June 2024 ordinance changes:

a. LD 2003 Land Use Ordinance Amendments

Chairman Weston informed everyone that the land use ordinance amendments are going to the attorney to evaluate the proposed language. He proposed that the appropriate time for the Select Board to approve change changes would be after the legal review is complete.

Selectman Gilbert suggested three things relating to LD 2003 from the recent workshop:

- Have the Growth Planning Committee (GPC) & Planning Board (PB) re-examine the growth areas map to determine if there are areas that are hazardous due to being prone to flooding and making necessary changes.
- See if there is a way for the GPC & PB to deal with the State's less stringent minimum two parking places for three housing units requirement in the subdivision language.
- Meet with developers who have experience with affordable housing projects to get their input on the proposed ordinance amendments.

The Selectmen discussed these suggestions and agreed that they should review them once they get the proposed ordinance change language back from legal.

b. Floodplain Ordinance Amendment

Galen Weibley, Director of Planning and Code Enforcement, via Zoom, informed the Board that Aga Dixon's updated language had been accepted by the State and would be put before the Board for approval in a future meeting.

No motion was necessary. No motion was taken.

5. Approve restrictions on vehicle weight limits on certain roads in accordance with 29-A M.R.S.A. Section 2395 and the Kennebunkport Traffic and Parking Control Ordinance.

Chris Simeoni, Director of Public Works, informed the Board that these road weight limits are the annual ones added in the springtime to address damage that can be caused to the roads by heavy vehicles during the spring road freeze/thaw. In consultation with neighboring towns, the signs will be posted on affected roads on February 29th. No additional roads were added to last year's restriction list.

Motion by Selectman Daggett, seconded by Selectman Dykstra, to Approve restrictions on vehicle weight limits on certain roads in accordance with 29-A M.R.S.A. Section 2395 and the Kennebunkport Traffic and Parking Control Ordinance. **Voted: 5-0. Motion passed.**

6. Accept the proposal from George Burr & Sons to complete the repairs on the masonry seawall, sidewalk, and travel lane on Ocean Avenue.

Chris informed the board that he had met with George Burr, who for \$15,700 would repair the masonry wall, pin concrete, and provide sub-base gravel for the road and sidewalk. The proposal does not include asphalt – that would be done under the existing contract with Dayton Sand & Gravel in the spring. Mr. Burr is ready to mobilize as soon as the weather is warm enough for the masonry work. As the need for this storm damage repair was not anticipated, Chris recommended re-appropriating funds that had been designated for repair of the sidewalk on School Street for this project. If FEMA eventually provides funds for this storm damage repair, money can be moved back for its original intended purpose.

Motion by Selectman Matthews-Bull, seconded by Selectman Gilbert, to accept the proposal from George Burr & Sons to complete the repairs on the masonry seawall, sidewalk, and travel lane on Ocean Avenue for \$15,700. **Voted: 5-0. Motion passed.**

7. Request to extend shellfish season for 2024 - 2025.

Everett Leach, Shellfish Warden, proposed that the Selectmen either: extend the end of shellfish season by four months to compensate for the four months removed from the beginning of the season by the State; or open the season to be year-round. He continued that there is not a lot of Winter clamming, and that to allow it year-round would be sustainable. He reviews the current conditions regularly and would not hesitate to come before the Board to request a shortened end to the season should he determine that the clams are being over-harvested.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to extend the shellfish season for 2024 - 2025 to a full year, with the understanding that it will be monitored and the Board will be notified in the event of over-harvesting. **Voted: 5-0. Motion passed.**

8. Consider applying for a Maine Shore and Harbor Planning Grant to study design options for the Colony Beach Parking area.

Laurie asked Chris to first provide an update on the Pier Road causeway project. Chris reported that the builder will start work on Monday, setting up the erosion control and temporary traffic lights. The public should expect alternating one-lane traffic starting next week. The northeast wall should be complete around March 18th. The southwest wall should be complete around April 15th. Work on sewer and utilities in the road will start around May 1st. The fine grade and base asphalt should be complete around May 31st. Cleanup, bollards, guardrails, and landscaping should be complete by June 28th. The final overlay will wait until Spring 2025 as they want the base first to go through a freeze/thaw cycle.

Laurie reports that she, Chris, and Eric Labelle, Town Engineer, have been meeting with consultants and engineers regarding the Colony Beach parking area to see if there are other options than simply replacing the gravel to see it taken away in the next big storm. Consultant GEI wants to do an analysis of the site and suggested that we apply for a Maine Shore and Harbor Planning Grant. The maximum award is \$50,000 with a 25% match (which we would take from Capital funds). The grant is due in June. Laurie is looking for the Board's agreement to pursue the grant.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to permit the Town Manager to apply for a Maine Shore and Harbor Planning Grant to study design options for the Colony Beach parking area. **Voted: 5-0. Motion passed.**

9. Town Hall Building Committee Update.

Chairman Weston reported that the committee met with the engineer and architect and discussed a space analysis and reducing the overall square footage to 10,000 sq ft with 40% of that being for the meeting room. They reviewed survey responses and found those to be within expectations. Experts in heating and cooling participated and discussed the importance of energy modeling for the new building. Also discussed were geothermal and commercial VRF systems, air exchangers, and energy recovered ventilators. Solar systems (both onsite and offsite) were also discussed, including fixed, tilt and tracker types, as well as costs and sizing. Backup systems (e.g. generator) were also considered.

The committee also agreed to consider two sites for the potential construction – the Fire Station lot at 32 North St, and the Village Parcel. The engineers were asked to examine what would be involved in extending the existing Fire Station building.

Melinda Anderson, via Zoom, said that she was insulted that a line item for \$9 million for a new town hall had been put in the Capital Improvement Plan when the voters had voted down the plan in November largely due to cost. Laurie and the Board explained

that the line item in the CIP has no spending authority but is only used as a placeholder for a project that needs to be addressed as part of the plan. The amount would be adjusted as the cost for a modified new town hall plan becomes clearer. The committee is dedicated to looking at ways to drive the cost down.

Susan Townsley, via Zoom, asked why the McCabe property was not being considered as a location for a new town hall. Selectman Gilbert responded that the topography of the property was not conducive to a facility of that size and would be more expensive. Susan also asked why there wasn't a leadership position that would stop the whole conversation about a new town hall and instead declare that we need to devote all our resources to addressing the challenges of climate change. Chairman Weston responded that we need to do both. Susan expressed her concern that the Town not only deal with past storm damage but plan for future climate change resiliency. Chairman Weston responded that we've been working for two years on ways to mitigate Dock Square flooding, but a solution would be extremely expensive and would require State and Federal assistance. We are in line with many other communities. Though the Town is working on the issue, results will not be seen quickly.

10. Authorize electric vehicle lease with Hyundai for the Public Health Department.

Laurie explained that we received zero-dollar, three-year leases for two electric vehicles; one for Public Health, the other for the Codes department. Those leases are up this March. Codes has another vehicle, but Public Health does not. Hyundai is offering a lease on a new electric vehicle for \$5,500/year (after a rebate from Efficiency Maine), which is less than would be expended to reimburse Town nurses for mileage using their personal vehicles. Laurie is seeking the Board's authorization to proceed.

Motion by Selectman Dykstra, seconded by Selectman Matthews-Bull, to authorize an electric vehicle lease with Hyundai for the Public Health Department. **Voted:** 5-0. **Motion passed.**

11. Accept a \$50.00 donation from an anonymous donor to the nurses' general account.

12. Accept a \$50.00 donation from an anonymous donor to the emergency fuel fund.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to accept both a \$50.00 donation from an anonymous donor to the nurses' general account, and a \$50.00 donation from an anonymous donor to the emergency fuel fund. **Voted:** 5-0. **Motion passed.**

13. Other Business.

Laurie informed the Board that the Codes and Planning Department has been updating their records of Accessory Dwelling Units (ADUs), determining which ones were recognized by the Town. ADUs should be charged annually as a separate sewer unit and should be assessed an impact fee at the time of installation. This information was passed to the Public Works Department, and Chris has been inspecting dwellings to inform the owners of past due annual sewer and impact fees. Chris said that the point of contention is the \$3,500 impact fee. In one case, the homeowner was living in the ADU as the main house was uninhabitable. In another case, the ADU has a seasonal water service. It is not used in the wintertime because the pipes would freeze and is intended for family to use when visiting in the summer. They bought the house in this condition; the ADU was installed by the previous owners.

Selectman Dykstra asked about the purpose of the impact fees. Chris replied that they are put in a fund that is used for expansion and improvement of the Town sewer system. Selectman Daggett asked if people are told there is an impact fee when they take out the building permit. Chris responded that the current procedure is for Codes to send an applicant to Wastewater to fill out an application when a sewer connection is required. But the units he is encountering now were built in the 80's or early 2000's. He cannot speak to what happened then, but he assumes there was a breakdown in communication between the Town and the applicants. Selectman Gilbert asked how many properties were on Chris' list and he responded there were approximately fifteen.

Laurie stated that she is not seeking action from the Board at this time but wanted to make them aware of the situation.

No motion was necessary. No motion was taken.

14. Approve the February 22, 2024, Treasurer's Warrant.

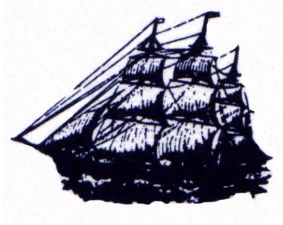
Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to approve the February 22, 2024, Treasurer's Warrant. **Voted: 5-0. Motion passed.**

15. Adjournment.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to adjourn. **Voted: 5-0. Motion passed.** Meeting adjourned at 7:22 PM.

Submitted by,
Dave Powell,
Technology Specialist

AGENDA ITEM DIVIDER



KENNEBUNKPORT TOWN CLERK

To: Laurie Smith, Town Manager
Board of Selectmen
Fr: Tracey O'Roak, Town Clerk
Re: Renewal Liquor Licenses
Dt: March 6, 2024

We have received the following renewal liquor license applications:

- **JPRE LLC d/b/a Roma Pizza, 5 Union Street**
- **Olivos LLC d/b/a Ultramar Restaurant, 77 Pier Road**

Staff have reviewed the applications and provided approval for both.



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes <input type="checkbox"/> No <input type="checkbox"/>	

**Section I: Licensee/Applicant(s) Information;
Type of License and Status**

Legal Business Entity Applicant Name (corporation, LLC): <u>JPRE LLC</u>	Business Name (D/B/A): <u>ROMA PIZZA</u>
Individual or Sole Proprietor Applicant Name(s):	Physical Location: <u>5 UNION ST KENNEBUNKPORT</u>
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: <u>ME, 04096</u>
Mailing address, if different from DBA address:	Email Address: <u>ROMAPIZZAKPT@GMAIL.COM</u>
Telephone # Fax #: <u>207-204-2014</u>	Business Telephone # Fax #: <u>207-204-2014</u>
Federal Tax Identification Number: <u>84-3952369</u>	Maine Seller Certificate # or Sales Tax #: <u>1208531</u>
Retail Beverage Alcohol Dealers Permit: <u>RES-21-13284</u>	Website address: <u>WWW.ROMAPIZZAKPT.COM</u>

1. New license or renewal of existing license? ☐ New Expected Start date: _____
 ☒ Renewal Expiration Date: 5/20/24

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

Food: \$404,330.00 Beer, Wine or Spirits: \$11,144.00 Guest Rooms: _____

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer) ☒ Wine ☐ Spirits

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|-------------------------------------------------------|
| <input checked="" type="checkbox"/> Restaurant
(Class I, II, III, IV) | <input type="checkbox"/> Class A Restaurant/Lounge
(Class XI) | <input type="checkbox"/> Class A Lounge
(Class X) |
| <input type="checkbox"/> Hotel
(Class I, II, III, IV) | <input type="checkbox"/> Hotel – Food Optional
(Class I-A) | <input type="checkbox"/> Bed & Breakfast
(Class V) |
| <input type="checkbox"/> Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | <input type="checkbox"/> Auxiliary | <input type="checkbox"/> Mobile Cart |
| <input type="checkbox"/> Tavern
(Class IV) | <input type="checkbox"/> Other: _____ | |
| <input type="checkbox"/> Qualified Caterer | <input type="checkbox"/> Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

5 UNION ST. KENNEBUNKPORT, ME. 04046

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
RICHARD ALONARDO	3-23-78	MELROSE MA.
JAMES ALONARDO	4-18-79	MELROSE MA.
PAUL CONNOLLY	11-25-84	MALDEN MA.
ERIN DOHERTY	7-27-90	WINCHESTER MA

Residence address on all the above for previous 5 years

Name	Address:
RICHARD ALONARDO	123 RIDGE RD PORTLAND ME, 04103
Name	Address:
JAMES ALONARDO	10 HILLCREST DR. #2 KENNEBUNK, ME 04043
Name	Address:
PAUL CONNOLLY	42 PUFFER LN SUDBURY MA. 01776
Name	Address:
ERIN DOHERTY	13830 CROSSPINOTE CT. WEST PALM BEACH FL, 33418

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

SMALL 3 SEAT BAR, 20 SEAT OUTDOOR PATIO SECTION,
16 PERSON SEATING AREA INDOOR DINING ROOM.

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: CONSOLIDATED SCHOOL

Distance: 0.3 MILES

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 2.22.24

R. Alonardo
Signature of Duly Authorized Person

RICHARD ALONARDO
Printed Name Duly Authorized Person

Signature of Duly Authorized Person

JAMES ALONARDO
Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

**This Application will Expire 60 Days from the date of
Municipal or County Approval unless submitted to the Bureau**

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§653. Hearings; bureau review; appeal

1. Hearings. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms.

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: JPRE LLC
2. Doing Business As, if any: ROMA PIZZA
3. Date of filing with Secretary of State: 2.22.24 State in which you are formed: MAINE
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

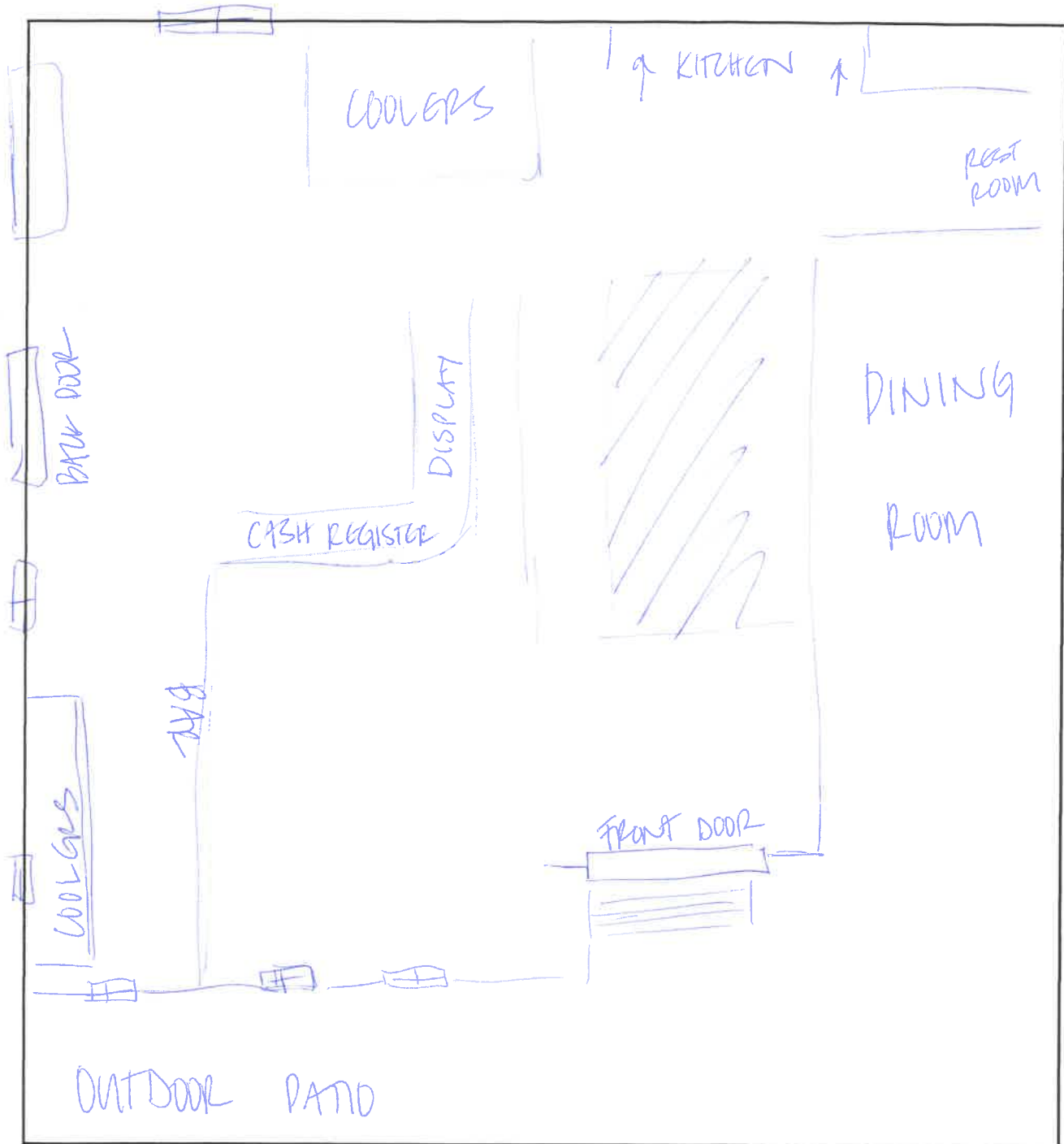
Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
RICHARD ALONARDO	123 RIDGE RD PORTLAND ME 04103	3.23.78	OWNER	50%
JAMES ALONARDO	10 HILLCREST DR #2 KENNEBUNK ME 04043	4.18.79	OWNER	16.3%
PAUL CONNOLLY	42 DOFFER LN. SUDBURY MA 01776	11.25.84	OWNER	16.3%
ERIN DOHERTY	13830 CROSSPOINTE CT. W. PALM BEACH FL. 33418	7.27.90	OWNER	16.3%

(Ownership in non-publicly traded companies must add up to 100%.)

Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



AGENDA ITEM DIVIDER



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes <input type="checkbox"/> No <input type="checkbox"/>	

Section I: Licensee/Applicant(s) Information; Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): Olivos LLC	Business Name (D/B/A): Ultramar Restaurant
Individual or Sole Proprietor Applicant Name(s): German Lucarelli	Physical Location: 77 Pier Rd., Kennebunkport, ME 04046
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different:
Mailing address, if different from DBA address: 62 Mills Rd., Kennebunkport, ME 04046	Email Address: German@lucarellihospitality.com
Telephone # Fax #: 646-241-7600	Business Telephone # Fax #: 207-987-2001
Federal Tax Identification Number: 92-0758798	Maine Seller Certificate # or Sales Tax #: 7006468
Retail Beverage Alcohol Dealers Permit:	Website address: https://ultramar.restaurant/

1. New license or renewal of existing license? ☐ New Expected Start date: 05/05/2023

☒ Renewal Expiration Date: 05/04/2024

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

Food: \$ 986,187.00 Beer, Wine or Spirits: \$ 167,897.00 Guest Rooms: _____

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer) ☒ Wine ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

- | | | |
|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|-------------------------------------------------------|
| <input checked="" type="checkbox"/> Restaurant
(Class I, II, III, IV) | <input type="checkbox"/> Class A Restaurant/Lounge
(Class XI) | <input type="checkbox"/> Class A Lounge
(Class X) |
| <input type="checkbox"/> Hotel
(Class I, II, III, IV) | <input type="checkbox"/> Hotel – Food Optional
(Class I-A) | <input type="checkbox"/> Bed & Breakfast
(Class V) |
| <input type="checkbox"/> Golf Course (included optional licenses, please check if apply)
(Class I, II, III, IV) | <input type="checkbox"/> Auxiliary | <input type="checkbox"/> Mobile Cart |
| <input type="checkbox"/> Tavern
(Class IV) | <input type="checkbox"/> Other: _____ | |
| <input type="checkbox"/> Qualified Caterer | <input type="checkbox"/> Self-Sponsored Events (Qualified Caterers Only) | |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

62 Mills Rd., Kennebunkport, ME 04046

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: _____

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☐ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address
The Lost Fire Restaurant	CAR201811253	62 Mills Rd., Kennebunkport, ME 04046

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
German Lucarelli	03/24/1972	Buenos Aires, Argentina

Residence address on all the above for previous 5 years

Name	Address:
German Lucarelli	62 Mills Rd., Kennebunkport, ME 04046
Name	Address:
Name	Address:
Name	Address:

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☒ Yes ☐ No

If No, please provide the name and address of the owner:

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: _____

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Casual fine dining, bar, upstairs casual dining, downstairs casual dining and bar

20. What is the distance from the premises to the **nearest** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: Church on the Cape

Distance: 0.50

Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

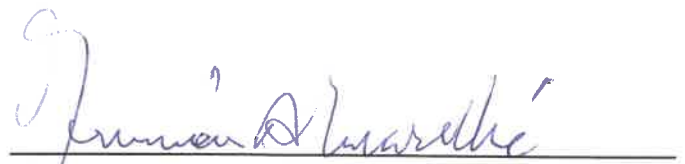
Dated: 02/27/2024



Signature of Duly Authorized Person

German Lucarelli

Printed Name Duly Authorized Person



Signature of Duly Authorized Person

German Lucarelli

Printed Name of Duly Authorized Person

Section III: For use by Municipal Officers and County Commissioners only

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: _____

Who is approving this application? ☐ Municipal Officers of _____

☐ County Commissioners of _____ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

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See Attached

Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

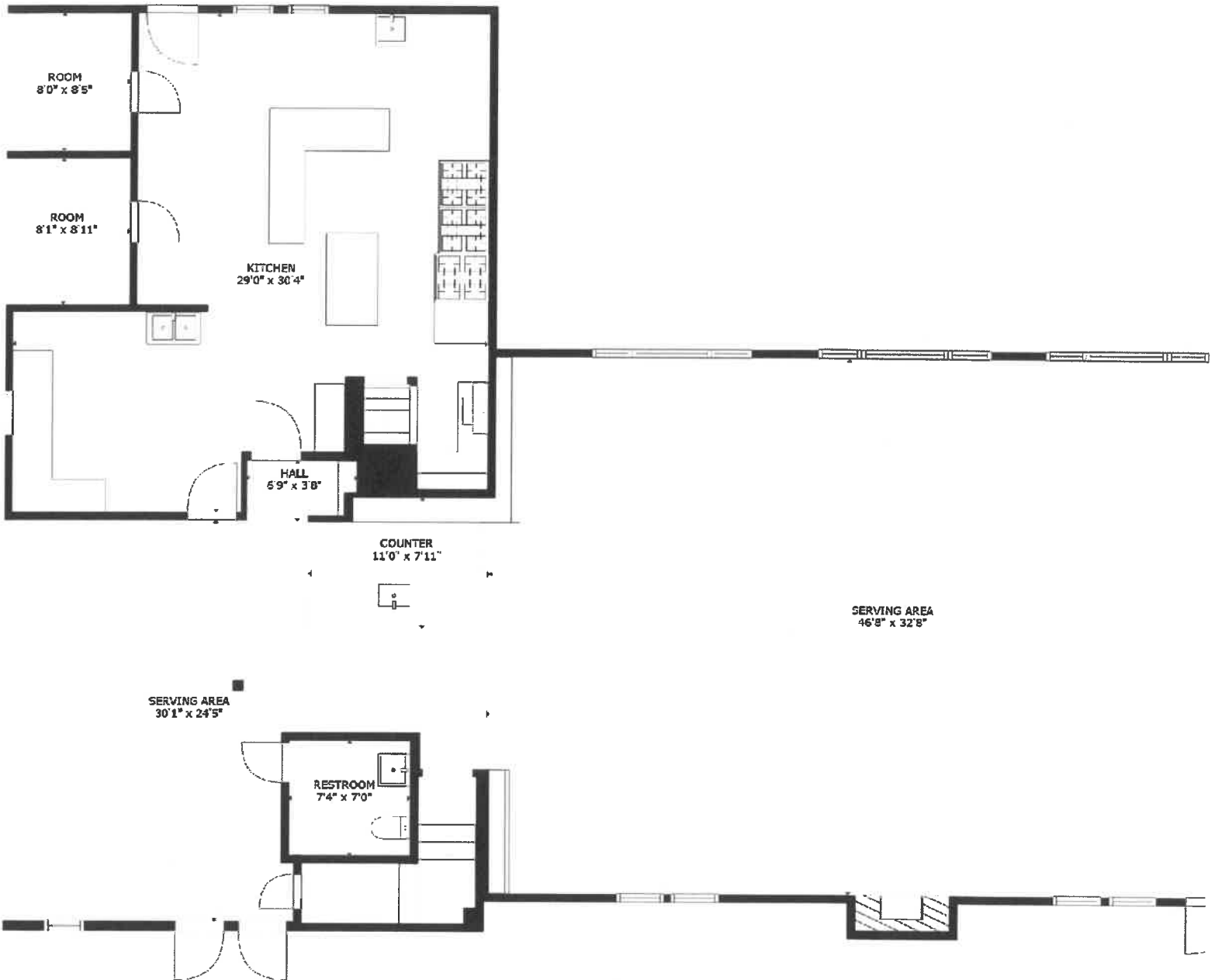
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All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Olivos LLC
2. Doing Business As, if any: Ultramar Restaurant
3. Date of filing with Secretary of State: 05/14/2023 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
German Lucarelli	62 Mills Rd., Kennebunkport, ME	03/24/1972	President	100.0000

(Ownership in non-publicly traded companies must add up to 100%.)



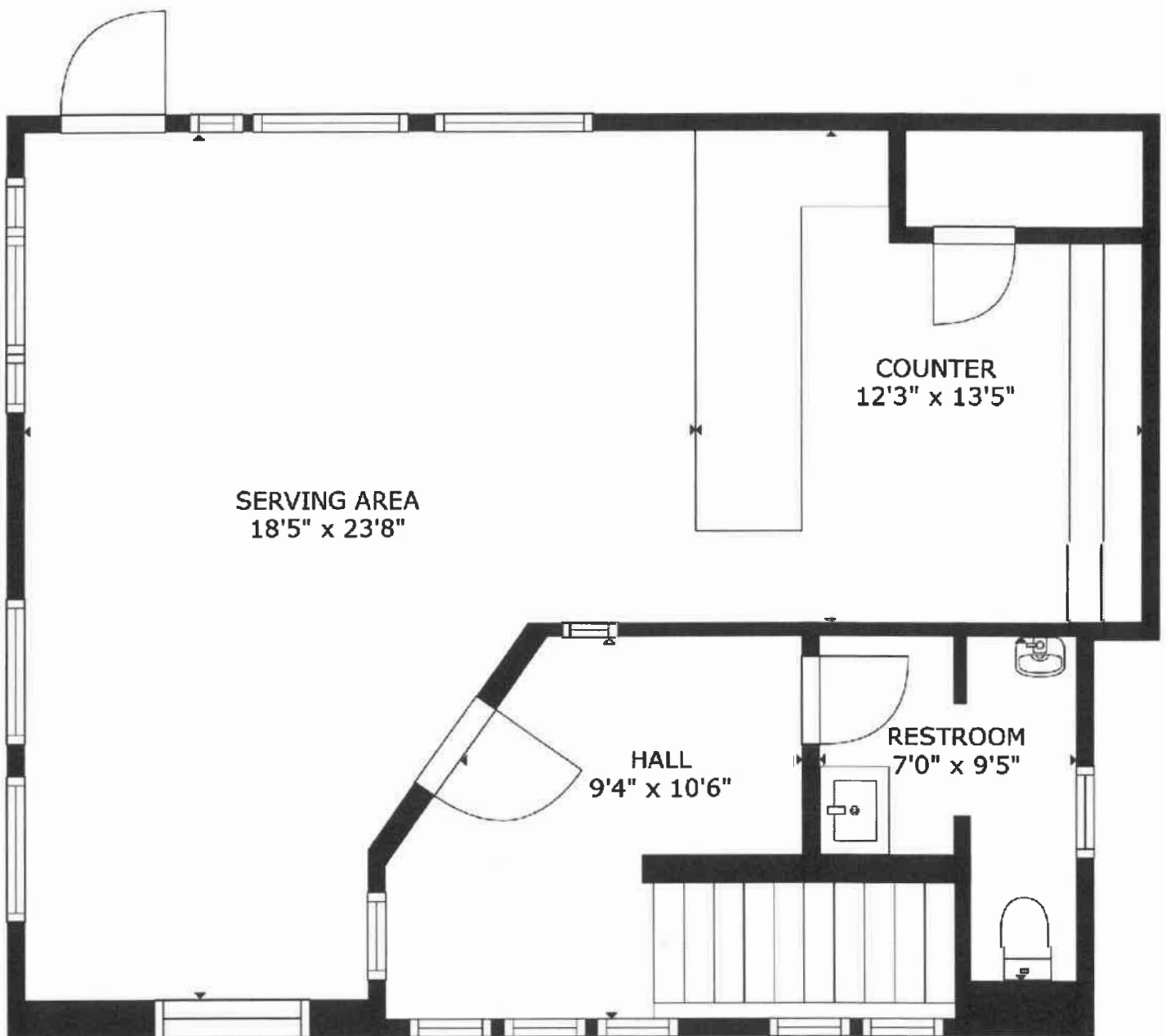
GROSS INTERNAL AREA
 FLOOR 1: 1373 sq. ft, FLOOR 2: 3204 sq. ft
 FLOOR 3: 719 sq. ft
 TOTAL: 5296 sq. ft

SIZE AND DIMENSION IS APPROXIMATE. ACTUAL MAY VARY.





TOTAL: 5296 sq. ft



GROSS INTERNAL AREA
 FLOOR 1: 1373 sq. ft, FLOOR 2: 3204 sq. ft
 FLOOR 3: 719 sq. ft
 TOTAL: 5296 sq. ft

ALL DIMENSIONS ARE APPROXIMATE. ACTUAL MEASUREMENTS MAY VARY.



AGENDA ITEM DIVIDER



TOWN OF KENNEBUNKPORT, MAINE
~ INCORPORATED 1653 ~

MEMORANDUM

To: Laurie Smith, Town Manager & Kennebunkport Selectboard
Fr: Galen Weibley, Director of Planning & Development
Re: LD 2003 Land Use Ordinance Amendments Legal Review
Dt: March 8, 2024

Enclosed are proposed changes for consideration by the Selectboard to update Kennebunkport's Land Use Chapter 240 to comply with LD 2003. The passage of this legislation requires towns in Maine to update their land use codes to address identified barriers to new housing opportunities as a policy solution to housing affordability within the state.

The Selectboard held a joint informational workshop with the Growth Planning Committee and Planning Board members on February 20, 2024, to understand the provisions of LD 2003 and to ask questions from the state's housing coordinator within the Maine Department of Economic & Community Development.

Since the workshop, the town solicitor has reviewed the proposed amendment language changes and is offering the following recommendations:

1. Chapter 129 Short-Term Rentals (STR)

- a. Updates applicability section to prohibit all units that are part of affordable housing from qualifying for the STR program.

2. 240-1.2 Purposes

- a. The attorney is recommending adding state statutory language to help shield the town from future legal challenges in enforcement.

3. 240-1.9 Effective Date

- a. Added the provision to for when provisions become effective (day after town vote)

4. 240-2.2 Definitions

- a. Revised Accessory Apartment & Affordable Housing
- b. Added definitions for Base Density, Centrally-Managed Water System, Comparable Sewer System, Designated Growth Area, and Potable

5. 240-4 Zoning Regulations

- a. Added affordable housing development as a conditional use to the Planning Board for Village Residential, Village Residential East, Dock Square, Riverfront & Cape Porpoise (these are areas zoned for multi-family)

6. 240-6.10 Parking Standards for Affordable Housing

- a. Clarified round-up for off-street parking when a fraction exists for affordable housing development parking standards.
- b. Town solicitor also shared that the Planning Board may be allowed to require additional on-street parking on a case-by-case basis, depending on site plan review.

7. 240-6.11 Sanitary and potability provisions

- a. Attorney added potability standard provisions to this section to comply with Maine DECD rulemaking to comply with state law.

8. 240-7.1 Accessory Apartments

- a. Section was revised by attorney to address missing provisions of areas where ADU are exempt from certain performance standards of the LUO. Makes the document easier to understand which standards do not apply to accessory apartments.

9. 240-7-14 Residential Rental Accommodations

- a. The town solicitor added clarifying language that accessory apartments do not qualify for a roomer license.

10. 240-7.15 Affordable Housing Density Bonus & performance standards

- a. Adds parking requirements of 2 spaces per 3 units fractional are rounded up.
- b. Added provisions for the town to follow to protect affordability.
- c. Removed developer prerogative to determine which units are affordable.

- d. Added section clarifying affordable housing developments shall comply with the growth permit program with the town.

11.240-8 Non-conformance & Vested Rights

- a. Attorney moved non-conformance language into this article instead of performance standards.

12.415 Subdivision Regulations

- a. Attorney added minor revisions to affordable housing within the chapter and clarified calculation of net residential area does not include accessory apartments for subdivision review.

Actions Requested:

It is recommended that after discussion, the Select Board approves signing the order to place the proposed language revised by the town solicitor for a public vote in June.

Enclosures

Legal Updates to Town Ordinances for LD 2003

TOWN OF KENNEBUNKPORT
PROPOSED CODE AMENDMENTS
TO COMPLY WITH NEW STATE HOUSING LAW

The Code of the Town of Kennebunkport is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, as follows:

...

Chapter 129 Short-Term Rentals

...

§ 129-2 Applicability.

...

- B.** Prohibited short-term rentals. No person may offer for rent, operate, or otherwise use any dwelling unit in the Town of Kennebunkport for short-term rentals if:
- (1) Such person has not secured or maintained a valid short-term rental license for the premises; ~~or~~
 - (2) The accommodations are an accessory apartment constructed or permitted after November 3, 2009, or a recreational vehicle, trailer or tent; ~~or~~ or
 - (3) The units (whether designated as affordable or not) are within an affordable housing development constructed or permitted after July 1, 2024. This prohibition applies during the duration of the long-term affordability restriction applicable to the affordable housing development set forth in § 240-7.15.

...

Chapter 240 Land Use

Article 1 General

...

§ 240-1.2 Purposes.

This chapter 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 chapter has been amended to comply with the Mandatory Shoreland Zoning Act^[1] 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. This chapter has been further amended, consistent with the State Housing Law^[2], to affirmatively further the purposes of the Federal Fair Housing Act, 42 U.S.C. ch. 45, as amended, and the Maine Human Rights Act, 5 M.R.S.A. ch. 337, to achieve the applicable statewide or

regional housing production goal established by the Maine Department of Economic and Community Development.

[1] *Editor's Note: See 38 M.R.S.A. § 435 et seq.*

[2] *Editor's Note: See 30-A M.R.S.A. § 4364 et seq.*

...

§ 240-1.9 When effective.

This chapter shall become effective as soon as it receives a favorable vote of the voters of the Town.

...

Article 2 Terminology

...

§ 240-2.2 Definitions.

...

ACCESSORY DWELLING UNIT

See "apartment, accessory."

...

APARTMENT, ACCESSORY

A ~~separate self-contained dwelling unit which may be located within a single family dwelling, attached to or sharing a wall with~~ detached from a single-family dwelling unit that is located on the same parcel of land, ~~or a detached accessory structure as permitted under § 240-7.1 of this chapter. An accessory apartment is an extension of use and may not be independently conveyed except to the extent permitted by law. An accessory apartment may be considered an accessory dwelling unit under 30-A M.R.S.A. § 4364-B or an additional dwelling unit under 30-A M.R.S.A. § 4364-A, as determined by the municipal reviewing authority.~~

...

AFFORDABLE HOUSING or AFFORDABLE HOUSING DEVELOPMENT

A development composed of single-family dwellings, two-family dwellings, or multiplex dwellings, or any combination thereof, in which a household whose income does not exceed 80% (for rental housing) or 120% (for owned housing) of the area median income can afford a majority (51%) or more of the units in the development without spending more than 30% of the household's monthly income on housing costs. For purposes of this definition, "housing costs" means: (a) for a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and (b) for an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

...

AREA MEDIAN INCOME

The Area Median Income (AMI) describes the midpoint of an area's income distribution, where 50 percent of households earn above the median figure while 50 percent earn less than the median. As required by the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as

Commented [GW1]: This is a requirement of the housing law and legal recommends provision to be added to the purpose statement.

Commented [AD2]: I recommend using the ADU definition in the DECD rule. The standards in the strikeout have been moved to Section 240-7.1

Commented [GW3R2]: Reason rulemaking was not complete for Maine DECD when the town adopted in 2023.

Commented [AD4]: This and the subsequent definitions derive from the amended state law and DECD rule definitions. I've added the first clause to make clear that AHDs can come in many forms.

Commented [AD5]: I advise against defining "household," as its only purpose is with reference to area median income, which HUD establishes. Also, your definition of "family" covers this ground adequately.

amended, the Department of Housing and Urban Development (HUD) calculates AMI for U.S. metropolitan areas on an annual basis.

...
BASE DENSITY

See “net residential density.”

...
CENTRALLY MANAGED WATER SYSTEM

A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This water system may be privately owned.

Commented [GW6]: Missing definition defined by state law

...
COMPARABLE SEWER SYSTEM

Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.

Commented [GW7]: Missing definition to comply with state law

...
DESIGNATED GROWTH AREA

Any land identified as the “growth area” on the Town of Kennebunkport Growth Areas map (revised March 2021).

Commented [GW8]: Missing definition noticed by the town attorney

...
MULTI-FAMILY DWELLING

See “multiplex” or “dwelling,” Subsection C.

...
POTABLE

“Potable” as that term is defined the Maine Department of Economic and Community Development (DECD) Municipal Land Use and Zoning Ordinance Rule, codified at 19-100 C.M.R. ch. 5, § 1(B), as amended.

Commented [GW9]: Attorney noticed definition is missing for compliance with the state law

Article 4 **Zone Regulations**

...
§ 240-4.3 **Village Residential Zone**

Commented [AD10]: Because AHDs can take the form of single-family dwellings, duplexes, multiplexes, or any combination of these, I recommend including them in the tables of permitted uses as a separate land use.

...

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
	Affordable housing development	

...

§ 240-4.4 Village Residential East Zone.

...

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
----------------	----------------------------------------------	------------------------------------------------------------

...

	<u>Affordable housing development</u>	
--	---------------------------------------	--

...

§ 240-4.5 Dock Square Zone.

...

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
----------------	----------------------------------------------	------------------------------------------------------------

...

	<u>Affordable housing development</u>	
--	---------------------------------------	--

...

§ 240-4.6 Riverfront Zone.

...

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
----------------	----------------------------------------------	------------------------------------------------------------

...

	<u>Affordable housing development</u>	
--	---------------------------------------	--

...

§ 240-4.10 Cape Porpoise Square Zone.

...

Permitted Uses	Conditional Uses Subject to Site Plan Review	Conditional Uses Subject to Zoning Board of Appeals Review
----------------	----------------------------------------------	------------------------------------------------------------

...

	<u>Affordable housing development</u>	
--	---------------------------------------	--

...

Article 6 Town-Wide Regulations

...

§ 240-6.10 Residential parking standards.

...

G. An affordable housing development must provide a minimum of 2 off-street parking spaces per 3 dwelling units. If fractional results occur, the minimum number of off-street parking spaces are rounded up to the nearest whole number.

Commented [GW11]: Town attorney verified with the state that the town can allow for a round up of number of spaces required when fractional.

H. As part of a site plan or subdivision review, the Planning Board may require additional on-street parking spaces on private ways if it determines it is in the best interest of the health, safety, and welfare of the Town.

Commented [GW12]: Draft language for discretion by the PB to require on-street parking in addition to off street parking requirements.

...

§ 240-6.11 Sanitary and potability 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. No plumbing permit shall be issued for a subsurface disposal system unless:
- (1) The system meets the requirements of the State of Maine Subsurface Wastewater Disposal Rules, 10-144 CMR 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
 - (2) Any other optional provisions adopted by the Town have been complied with.

C. State housing law wastewater disposal and potable water requirements. Prior to issuing a certificate of occupancy pursuant to § 240-11.8 of this chapter, the owner of a dwelling unit, accessory apartment, or unit within an affordable housing development must provide written verification to the Code Enforcement Officer that the unit is connected to adequate water and wastewater services, as required by the Maine Department of Economic and Community Development (DECD) Municipal Land Use and Zoning Ordinance Rule, codified at 19-100 C.M.R. ch. 5, as amended. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use. The written verification required by this subsection C shall apply only to the extent such written verification is required by 30-A M.R.S.A. §§ 4364(5), 4364 A(4), or 4364-B(7). The Code Enforcement Officer and Planning Board may condition any permits or approvals on such written verification.

Commented [AD13]: These requirements are from the DECD rule.

...

Article 7 Performance Standards for Specific Activities, Land Uses and Zones

...

§ 240-7.1 Accessory apartments.

An accessory apartment that complies with the following standards is exempt from the minimum lot area, minimum lot width, and minimum net residential area per dwelling unit requirements applicable to the zone in which the accessory apartment is constructed. An accessory apartment is not considered a two-family dwelling or a multiplex, and is not considered a dwelling unit for purposes of (1) applying the residential parking standards in § 240-6.10, (2) applying the road construction, filling and grading standards in § 240-6.14, (3) applying the growth management permit requirements in § 240-11.12, (4) counting the number of dwelling units when applying the subdivision definition in 30-A M.R.S.A. § 4401, as amended, and (5) calculating the net residential area pursuant to § 415-11.17. An accessory apartment that does not comply with the following standards is considered a dwelling unit and must comply with all applicable standards for a dwelling unit. An accessory apartment may only be located on a lot containing one or more

Commented [AD14]: The code includes numerous references to single-family dwelling units. The DECD definition of an AA deems it a dwelling unit. This list excludes AAs from common situations where AAs should not be considered a dwelling unit.

Note that the sections that are not affected include:

- 183-64 (sewer charges -- i.e., an AA would be a single-family dwelling unit for purposes of calculating sewer unit charges).
- 240-7.6 (home occupations - AA's are already addressed here)
- 240-9.2 (setback variances -- i.e., an AA could obtain a setback variance)
- 240-7.14 (residential rental accommodations -- i.e., an AA could be used to accommodate roomers) -- note the suggested edit to 7.14 to prohibit this.

Commented [GW15]: Town Attorney reformatted Accessory Apartment language to exempt from parking, road construction, filling/grading, growth permits and subdivision trigger.

in, attached to, or detached from a single-family dwellings, 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 Subsection D, 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/exits.
- C. For an accessory apartment located within or attached to a single-family dwelling, the dwelling shall have only one front entrance and all other entrances shall be either on the side or in the rear of the dwelling or accessory apartment. An entrance leading to a foyer with interior entrances leading from the foyer to the two accessory apartment and the single-family dwelling units is permitted.
- D. The living area of an accessory apartment shall be a minimum of 190 square feet, and a maximum of 800 square feet. 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.
- ~~ED. An accessory apartment is not permitted in the Shoreland Zone unless the lot on which it will be located has at least double the required minimum lot size and shore frontage for that zone, double the minimum lot size, and double the shore frontage for that zone.~~
- ~~FE. Only No more than one accessory apartment shall be permitted on a lot containing one or more per single-family dwellings.~~
- GF. An accessory apartment shall be occupied as a primary residence. ("Primary residence" shall be defined as more than six months per year.) An accessory apartment is not eligible to operate as a short-term rental.
- HG. An accessory apartment 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 Wastewater Disposal Rules. In addition:
 - ~~(1) Existing septic systems must be evaluated for condition and capacity by a licensed site evaluator. A reserve is required for existing and new systems in the event that replacement is necessary. Biannual 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.~~
- I. For an accessory apartment that is a separate structure or attached to a single-family dwelling, the proposal must comply with best management practices in managing stormwater for low-impact development, in accordance with the [LID Guidance Manual for Maine Communities](#) (Maine Department of Environmental Protection, Sep. 21, 2007).
- J. An accessory apartment is an extension of a residential use and may not be independently conveyed except to the extent permitted by law.
- K. Except as expressly provided in this section, an accessory apartment must comply with all other requirements of this Code, including but not limited to Article 6 and any shoreland zoning requirements.

...

Commented [GW16]: This language clarifies only Accessory Apartments moving forward can only be located on a lot with only single family dwellings. Any lot that contains a mixture of residential building types would not be allowed to have an accessory apartment.

Commented [GW17]: Clarifies intent of Accessory Apartments for one Accessory Apartment per lot. This addresses GPC concerns of work around provision for condo conversion.

Commented [GW18]: Attorney recommended strikethrough as this language is addressed in 6.11 above.

§ 240-7.14 Residential rental accommodations.

...

B. Performance standards. Residential rental accommodations are prohibited in accessory apartments. No more than two rooms in a residential rental accommodation may be let out to roomers, provided that:

...

§ 240-7.15 Affordable housing.

An affordable housing development that complies with the requirements of this section is eligible for a dwelling unit density bonus of 2 ½ times the base density that is otherwise allowed on the lot proposed for affordable housing development. If fractional results occur when calculating the density bonus, the maximum number of allowed units shall be rounded down to the nearest whole number.

A. Location. The affordable housing development must be either (1) located in a designated growth area or (2) served by a public, special district, or other centrally managed water system and a public, special district, or other comparable sewer system.

B. Long-term affordability.

- (1) More than half (51%) of the total dwelling units in the affordable housing development must be designated as affordable rental units or affordable homeownership units.
- (2) Prior to the issuance of a certificate of occupancy for a structure to be used for an affordable housing development, the owner of the affordable housing development must execute a restrictive covenant recorded in the York County Registry of Deeds and enforceable by a third party acceptable to the Planning Board, to ensure that for at least thirty (30) years after completion of construction occupancy of all units designated affordable in the development will remain limited to households at or below 80% (for rental housing) or 120% (for owned housing) of the local area median income at the time of initial occupancy. The restrictive covenant must run with the land and encumber the affordable housing development, be binding upon the developer (for rental housing) or the unit owners (for owned housing) and their successors and assigns, and inure to the benefit of and be enforceable by the Town a third party acceptable to the Planning Board.

C. Water and wastewater.

- (1) The sanitary and potability standards in § 240-6.11 shall apply to each unit within the affordable housing development.
- (2) The developer of the affordable housing development must make adequate provision for the long-term maintenance, repair, and improvement of any (i) individual private septic system, (ii) comparable sewer systems, (iii) individual private wells, and (iv) public water systems proposed to serve the units within the affordable housing development, including a process of collection and enforcement to obtain capital improvement funds from the developer (for rental housing) or the unit owners (for owned housing).

D. Multiplex development. The provisions of § 240-7.11 shall apply to any affordable housing development that includes a multiplex building.

E. Short-term rental prohibition. No unit (whether designated as affordable or not) within an affordable housing development may be used for short-term rental pursuant to Chapter 129 of this Code during the duration of the long-term affordability restriction in subsection B(2), above.

Commented [GW19]: Town Attorney recommends adding language to clarify accessory apartments which are to be primary residences do not qualify for the Residential rental accommodation (Roomer License). This keeps with the town policy of preserving housing for full time residents.

Commented [AD20]: This is not a statutory requirement, but a recommended legal best practice.

Commented [AD21]: This is not a statutory requirement, but a recommended legal best practice.

Commented [AD22]: I recommend that you apply the STR prohibition to all units within an AHD, not just the ones designated as affordable.

F. Nothing in this Section exempts an affordable housing development from any other requirements of this Code, including but not limited to the growth management permit requirements in § 240-11.12, the subdivision regulations in Chapter 415 of this code, or any shoreland zoning requirements.

...

Article 8 Nonconformance and Vested Rights

...

§ 240-8.5 Nonconforming due to lack of required parking or loading space.

A building or structure, other than a single-family dwelling or an accessory apartment, which is nonconforming 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 chapter for both the addition or alteration and for the original building or structure.

...

§ 240-8.7 Nonconforming lots.

A. A nonconforming 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, an accessory apartment constructed in accordance with § 240-7.1, and permitted accessory uses, and without the need for a variance, subject to all the requirements of this chapter 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.

...

§ 240-8.8 Nonconforming uses.

A. Expansions. Expansions of nonconforming uses are prohibited, except that nonconforming 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 § 240-8.3B(1) above. For purposes of this section, an accessory apartment constructed in accordance with § 240-7.1 is not an expansion of a nonconforming use.

...

Chapter 415 Subdivision Regulations

...

Article 3 Terminology

...

AFFORDABLE HOUSING

See "affordable housing," in § 240-2.2. (As defined by M.R.S.A.) 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.

...

§ 415-5.1 Filing procedure.

...

Commented [AD23]: These do not need to be included in the warrant. But I recommend that the Planning Board hold a public hearing and adopt the following amendments (effective July 1, 2024, and subject to voter approval of the above Code amendments).

- (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.~~

...

§ 415-11.17 **Calculation of net residential area.**

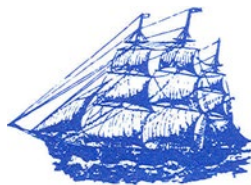
- A. The area or lot site available for development shall be determined by the Code Enforcement Officer by subtracting from the gross acreage of the lot the exclusions listed in the Kennebunkport Land Use Ordinance (LUO)^[1] definition of "net residential area" in addition to open land as required by § 415-11.8 that is not already included within the exclusions required by the LUO definition of "net residential area."

[1] *Editor's Note: See Ch. 240, Land Use.*

- B. The maximum number of dwelling units, not including accessory apartments, permissible (maximum density) in any subdivision will be determined by dividing the net residential area as determined by § 415-11.17A above by the minimum lot size required by Chapter 240, Land Use.

...

AGENDA ITEM DIVIDER



TOWN OF KENNEBUNKPORT, MAINE
~ INCORPORATED 1653 ~

MEMORANDUM

To: Laurie Smith, Town Manager & Kennebunkport Selectboard
Fr: Galen Weibley, Director of Planning & Development
Re: Floodplain Ordinance Amendment Revisions
Dt: March 8, 2024

Enclosed are proposed changes for consideration by the Selectboard to update Kennebunkport's Floodplain Ordinance (Chapter 219) to comply with the Federal Emergency Management Agency's (FEMA) updated Flood Insurance Rate maps (FIRM) and state model ordinance (enclosed). FEMA FIRM update has been an ongoing and contentious issue regarding the inaccuracy of the proposed FEMA map and its impact on residents' properties and insurance premiums.

The Town has received word that the final letter of determination (FLD) has been issued by FEMA, requiring municipalities to begin the adoption process of updating their floodplain ordinances with the revised map. The town is required to adopt these changes while FEMA processes the town's Letter of Map Revision (LOMR) application, which will be pending until the final adoption of FEMA's proposed map. Failure of the town to make necessary updates will disqualify residents and mortgagors from obtaining insurance policies under the National Flood Insurance Program for properties within the town.

Moving forward, the strategy is to adopt an amended model ordinance to repeal the town's existing Floodplain Ordinance, which includes a disclaimer pending the consideration of the Town's LOMR application. This will do two things:

1. Not jeopardize the current property owner's flood insurance eligibility in the National Flood Insurance Program.
2. Allow for an automatic update of the floodplain maps without a future amendment requiring a future town vote, which will lapse coverage or require coverage for currently exempt properties.

With the town's adoption, the FEMA FIRM will go into effect July 1, 2024, with the town's LOMA map taking effect the day after.

The proposed amendment drafted by the town solicitor was added to the document (Highlighted in yellow)

Actions Requested:

After discussion, it is recommended that the Select Board approve the order to place the warrants for a town vote in June.

Enclosures

Maine DEP Floodplain Model Ordinance with Revisions from the Town Solicitor

Map differences between current, proposed, and LOMR maps

Memo from Town Attorney with Frequently Asked Questions to Floodplain updates

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF KENNEBUNKPORT, MAINE

ENACTED: _____
Date

EFFECTIVE: _____
Date

CERTIFIED BY: _____
Signature

CERTIFIED BY: _____
Print Name

Title

Affix Seal

FLOODPLAIN MANAGEMENT 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, 4401-4407, and Title 38 MRSA, Section 440.

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.

The areas of special flood hazard, Zones A, AE, and VE for the Town of Kennebunkport, York County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – York County, Maine" dated July 17, 2024, with accompanying "Flood Insurance Rate Map" dated July 17, 2024, and any subsequent amendments thereto (including, without limitation, a Letter of Map Revision No. ***, dated ***) are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

The Code Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

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, 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 locations of existing and/or proposed development, including but not limited to structures, sewage disposal 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), North American Vertical Datum (NAVD), 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 AE, and VE from data contained in the "Flood Insurance Study - York County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.M. and IX.D.; or,
 - (2) in the absence of all data described in Article III.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Article VI.H.2.b., Article VI.I.2.b., or Article VI.J.2.b.
 - 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;
 - 4. lowest machinery and equipment servicing the building; and,
 - 5. 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 developments for which elevation standards apply as required in Article VI;
- J. A written certification by:
 - 1. a Professional Land Surveyor that the grade elevations shown on the application are accurate; and,
 - 2. a Professional Land Surveyor, registered professional engineer or architect that the base flood elevation shown on the application is accurate.
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form FF-206-FY-22-153, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article VI.I., and other applicable standards in Article VI;
 - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE and Coastal AE Zone, will meet the criteria of Article VI.R.; and other applicable standards in Article VI;
 - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.N.2.a.;
 - 4. a certified statement that bridges will meet the standards of Article VI.O.;
 - 5. a certified statement that containment walls will meet the standards of Article VI.P.
- 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

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

An additional fee may be charged if the Code Enforcement Officer, Planning Board, 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 to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR 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 been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study - York County, Maine," as described in Article I;
 - 2. in special flood hazard areas where base flood elevation and floodway 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 technical sources, including information obtained pursuant to Article III.H.1.b.(1); Article VI.M.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.
- 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. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
 - 1. 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 an "under construction" Elevation Certificate completed by a Professional Land Surveyor based on the Part

I permit construction for verifying compliance with the elevation requirements of Article VI, paragraphs H., I., J., or R. 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. 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.I.1. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. 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 than 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.L., 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 Articles 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 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. **Utilities** - New construction or substantial improvement of any structure (including manufactured homes) located within:
1. Zones A and AE shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least two feet above the base flood elevation.
 2. Zone VE shall meet the requirements of Article VI.R.2.
- G. **Physical Changes to the Natural Landscape** - Certain development projects, including but not limited to, retaining walls, sea walls, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.
1. All development projects in Zones AE and VE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.
 - a. If the Professional Engineer determines, through the use of engineering judgement, that the project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.
 - b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.
 2. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance

that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.

3. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

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

1. Zones AE shall have the lowest floor (including basement) elevated to at least two feet above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated:
 - a. to at least two feet above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D., or;
 - b. in the absence of all data described in Article VI.H.2.a., to at least two feet above the highest adjacent grade to the structure.
3. Zone VE and Coastal AE Zone (as defined) shall meet the requirements of Article VI.R.

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

1. Zones AE 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 elevation so that below that elevation the structure is watertight with walls substantially impermeable to the 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. Zone A shall have the lowest floor (including basement) elevated:

- a. to at least two feet above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article IX.D., or;
- b. in the absence of all data described in Article VI.I.2.a., to at least two feet above the highest adjacent grade to the structure; or,
- c. together with attendant utility and sanitary facilities, be floodproofed to two feet above the elevation established in Article VI.I.2.a. or b. and meet the floodproofing standards of Article VI.I.1.a., b., and c.

3. Zone VE and Coastal AE Zone (as defined) shall meet the requirements of Article VI.R.

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

1. Zones AE 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:
 - (1) 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,
 - (2) 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).
 - (3) All components of the anchoring system described in Article VI.J.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.J.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.(1); Article V.B.; or Article IX.D.; or,
- b. in the absence of all data described in Article VI.J.2.a., to at least two feet above the highest adjacent grade to the structure; and,

c. meet the anchoring requirements of VI.J.1.c.

3. Zone VE and Coastal AE Zone (as defined) shall meet the requirements of Article VI.R.

K. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days; and,
- 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.J.1.

2. Zone VE and Coastal AE Zone (as defined) shall meet the requirements of either Article VI.K.1.a. and b., or Article VI.R.

L. Accessory Structures - New construction or substantial improvement of Accessory Structures, as defined in Article XIV, shall be exempt from the elevation criteria required in Article VI.H. & I. above, if all other requirements of Article VI and all the following requirements are met.

1. Accessory Structures located in Zone A and AE shall:

- a. meet the requirements of Article VI.A.1. through 4., as applicable;
- b. be limited in size to a one-story two car garage;
- c. have unfinished interiors and not be used for human habitation;
- d. 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;
- e. be located outside the floodway;
- f. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure;
- g. have hydraulic openings, as specified in Article VI.N.2., in at least two different walls of the accessory structure; and

- h. be located outside the Coastal AE Zone.
- 2. Accessory Structures in Zone VE and Coastal A Zones shall meet the requirements of Article VI.R.

M. Floodways -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate 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 A and AE 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.M.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 FEMA's guidelines and standards for flood risk analysis and mapping.
- 3. In Zones A and AE 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.

N. Hydraulic Openings/Flood Vents - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs H., I., or J. and is elevated on posts, columns, piers, piles, 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:

- (1) 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;
- (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
- (3) 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 storage.

O. **Bridges** - New construction or substantial improvement of any bridge in Zones A, AE, and VE 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.M.; 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.

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

1. Zones A, AE, and VE 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.

Q. Wharves, Piers, and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in and over water and seaward of the mean high tide if the following requirements are met:

1. in Zones A and AE, wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; or,
2. in Zone VE, wharves, piers, and docks shall have a registered professional engineer develop or review the structural design, specifications, and plans for the construction.

R. Coastal Floodplains -

1. New construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.R.7.
2. New construction or substantial improvement of any structure located within Zone VE or Coastal AE Zone shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least two feet above the base flood elevation. Systems, fixtures, equipment, and components shall not be mounted on or penetrate through walls intended to break away under flood loads.
3. New construction or substantial improvement of any structure located within Zone VE and Coastal AE Zones (as defined) shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to at least two feet above the base flood elevation;
 - (2) 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,
 - (3) 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:
 - (1) free of obstructions; or,

- (2) 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,
 - (3) constructed with non-supporting breakaway walls that 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:
 - (1) 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); and,
 - (2) 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.R.3.
- 4. The use of fill for structural support in Zone VE and Coastal AE Zones is prohibited.
- 5. Human alteration of sand dunes within Zone VE and Coastal AE Zones is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
- 6. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.
- 7. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.I. only if permitted as a Conditional Use following 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.M., and VI.N. 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 at least two feet 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.

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

1. The Flood 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.
2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
3. If the Planning Board finds that the application satisfies 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.
4. 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.
5. 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.

B. Expansion of Conditional Uses

1. 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 elevated structure the applicant shall submit to the Code Enforcement Officer:
 - 1. an Elevation Certificate completed by a Professional Land Surveyor for compliance with Article VI, paragraphs H., I., J., or R.; and,
 - 2. for structures in Zone VE and Coastal AE Zone (as defined), certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.R.3.
- 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 required certificate(s) and the applicant's written notification; and,
 - 2. upon determination that the development conforms to 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, local ordinances or regulations, and all projects on 5 or more disturbed 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 where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement 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 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 of 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, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. the criteria of Article X.A. through C. and Article VI.M. 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 Historic Structures upon the determination that:
1. the development meets the criteria of Article X.A. through C.; 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. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:
1. the development meets the criteria of Article X.A. through C.; and,
 2. the development meets the criteria of Article VI.M. and Article VI.N.
- G. Any applicant who meets the criteria of Article X.A. through C. and Article X.D., E., or F. 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; and,
 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.
- H. Appeal Procedure for Administrative and Variance Appeals
1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
 2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
6. 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.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

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 § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer, upon identifying a violation, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. 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 - a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

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

Agricultural Structure - structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

Area of Special Flood Hazard - 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 - a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - any area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - 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.

Coastal AE Zone - The portion of the Coastal High Hazard Area with wave heights between 1.5 feet and

3.0 feet and bounded by a line labeled the “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM). VE Zone floodplain construction standards are applied to development, new construction, and substantial improvements in the Coastal AE Zone.

Coastal High Hazard Area - An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are designated as Zone VE and Zone AE bounded by a line labeled “Limit of Moderate Wave Action” (LiMWA) on a Flood Insurance Rate Map (FIRM).

Code Enforcement Officer - a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use - 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.

Containment Wall - a wall surrounding all sides of an above ground tank to contain any spills or leaks.

Development - any manmade change to improved or unimproved real estate. This includes, but is not limited 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.

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones A or AE, so that the top of the elevated floor, or in the case of a building in Zone VE or Coastal AE Zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, posts, or piers; and,
- b. adequately anchored to not 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 A or AE, **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, as required in Article VI.N. In the case of Zone VE and Coastal AE Zone, **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.R.3.b.(3).

Elevation Certificate - an official form (FEMA Form FF-206-FY-22-152, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program.

Existing Manufactured Home Park or Subdivision - a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community’s first floodplain management regulations.

Flood or Flooding -

- 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 - an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which 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 Floodprone Area - any land area susceptible to being inundated by water from any source (see **Flood or Flooding**).

Floodplain Management - 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 - 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 - any combination of structural and non-structural 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 - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - 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, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - 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 - 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.

Limit of Moderate Wave Action (LiMWA) - The landward limit of the 1.5 foot breaking wave within a Coastal AE Zone. These areas are bounded by a line labeled "Limit of Moderate Wave Action" (LiMWA) on a Flood Insurance Rate Map (FIRM). The LiMWA line delineates that portion of the Special Flood Hazard Area (SFHA) landward of a VE zone in which the principal sources of flooding are astronomical high tides, storm surges, or tsunamis, not riverine sources. These areas may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces. The floodplain development and construction standards for VE Zones will be applied in the Coastal AE Zone.

Locally Established Datum - 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), North American Vertical Datum (NAVD), 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 - 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.N. of this Ordinance.

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

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

Minor Development - 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.L., 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.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and has been called "1929 Mean Sea Level" (MSL).

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

North American Vertical Datum (NAVD) - the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical data used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle that 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. 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 a designated height, and,
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be 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 - 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 - 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, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - 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 - 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 - 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 structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance - a grant of relief by a community from the terms of a floodplain management regulation.

Violation - 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).

ARTICLE XVI - DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

MEMORANDUM

TO:	Laurie Smith, Town Manager Galen Weibley, Director of Planning & Development Town of Kennebunkport
FROM:	Aga Dixon Drummond Woodsum
DATE:	February 12, 2024
RE:	Floodplain Management Program Updates—Frequently Asked Questions

Please find enclosed a fact sheet summarizing the floodplain management program and the related community adoption and Letter of Map Revision (LOMR) processes. Feel free to use this information as part of your community outreach. If you decide to publish the fact sheet, I'd very much appreciate it if you could leave intact the Drummond Woodsum attribution at the bottom of the sheet.

If you need anything else, please don't hesitate to contact me.

/AAD

Frequently Asked Questions

1. What is a floodplain management program?

Floods can happen everywhere, but most insurance policies do not cover flood damage. Since 1968, the **National Flood Insurance Program (NFIP)** has made subsidized flood insurance available to property owners, renters, and businesses in flood-prone areas—but only in communities that have adopted land use ordinances and flood maps that identify and regulate development in flood-prone areas. The Town of Kennebunkport floodplain management ordinance and flood map form its **floodplain management program**.

2. What is a flood map?

Flood maps—known as **Flood Insurance Rate Maps (FIRMs)**—show how likely it is that an area will flood. These maps are a tool that communities use to identify which areas have the highest risk of flooding and are an integral part of the Town's floodplain management program. Flood maps are also used by mortgage lenders to determine flood insurance rates and requirements.

3. Who updates flood maps?

The **Federal Emergency Management Agency (FEMA)** is responsible for maintaining and updating flood maps for the 20,000 communities nationwide that participate in the National Flood Insurance Program. Each year, FEMA conducts studies of flood hazards and selects certain communities for FEMA-initiated mapping updates.

4. How are flood maps updated?

Typically, flood maps are updated through a FEMA-initiated mapping update. After conducting flood hazard studies, FEMA issues proposed new flood maps—known as **Preliminary Maps**. Two key steps must happen for FEMA's Preliminary Maps to become final:

- **Letter of Final Determination:** After FEMA issues its Preliminary Maps, a 90-day appeal period starts. During this appeal period, a community may file a written objection to FEMA and propose an alternative engineering analysis of flood hazards and alternative flood maps. The community must prove to FEMA that its alternative analysis and maps are scientifically and technically more accurate than the Preliminary Maps. If no appeals are filed, or once all appeals are resolved, FEMA issues a **Letter of Final Determination (LFD)** that establishes an effective date for the updated flood maps. The effective date is typically six months after the LFD date.
- **Community Adoption:** Once FEMA issues the LFD, affected communities have six months to adopt or amend their floodplain management program, including the updated flood maps, through their usual ordinance adoption process. This is known as **community adoption**.

The Preliminary Maps become effective on the date listed in the LFD. After the effective date, the flood maps are referred to as Flood Insurance Rate Maps or FIRMs.

Community Adoption -

The process by which a municipality adopts or amends its floodplain management program.

FEMA - The Federal Emergency Management Agency.

FIRM - The official Flood Insurance Rate Map, or flood map, for a community.

Floodplain Management Program - A municipality's floodplain management rules and flood map that allows property owners, renters, and businesses to buy subsidized flood insurance through the NFIP.

LFD - Letter of Final Determination, which is issued by FEMA after all appeals of its Preliminary Maps are resolved.

LOMR - Letter of Map Revision, generally initiated by a landowner by which FEMA can officially revise specific portions of a flood map.

NFIP - The National Flood Insurance Program managed by FEMA and delivered to the public by private insurance companies and the federal government.

Preliminary Map - A flood map proposed by FEMA as part of a FEMA-initiated mapping update.

5. Is FEMA proposing flood map updates for the Town of Kennebunkport?

Yes. The flood maps for the Town have not been updated by FEMA since 1988. FEMA initiated map updates for the communities in York County many times over the past fifteen years, starting in 2009 and continuing through 2023.

6. Why have the Preliminary Maps for York County not been finalized yet?

FEMA's Preliminary Maps for York County exaggerate the flood risks in certain coastal areas and, if adopted without revision, would cause some property owners to need to purchase costly flood insurance even though flood risks on their properties may be low. For this reason, in October 2018, a handful of municipalities, including the Town of Kennebunkport, appealed FEMA's Preliminary Maps. The municipalities hired an environmental engineering firm to develop an alternative hydrogeological model and analysis that identifies, with greater scientific accuracy than FEMA's Preliminary Maps, the likely flood hazard areas along the coast. In August 2019, FEMA determined that the alternative model contained a unit conversion error—specifically, a part of the model was left in meters and not converted to feet. Despite requests to allow the engineering firm to correct this minor error, FEMA denied all of the municipal appeals.

Two municipalities challenged the denial, which delayed FEMA's issuance of the Letter of Final Determination (LFD) for several years. The appeals have now been resolved and FEMA issued its LFD for York County on January 17, 2024. Affected municipalities now have six months from the LFD issue date—until July 17, 2024—to incorporate FEMA's updated flood maps into their floodplain management program.

7. What is a LOMR and how will it affect community adoption of FEMA's Preliminary Maps?

Town officials considered challenging FEMA's denial, but ultimately concluded that a legal challenge would be costly and risky. Instead, the Town pursued a community-initiated flood map revision process—known as the **Letter of Map Revision (LOMR)**—to surgically correct the exaggerated flood risks on FEMA's Preliminary Maps.

A LOMR does not replace a flood map or the process by which FEMA updates its flood maps. Rather, the LOMR process allows a community to petition FEMA to revise flood hazard information on a specific part of a flood map, known as a panel. A revised panel, once approved by FEMA, is automatically incorporated into the flood map. No community adoption process is required.

Using the LOMR process, the Town is working with FEMA to ensure that appropriate adjustments to the exaggerated flood risks on FEMA's Preliminary Maps are incorporated into the updated flood maps on or shortly after July 17, 2024—the FIRM effective date.

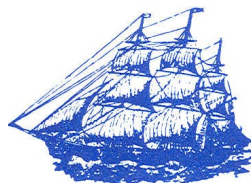
8. What happens if the Town does not timely update floodplain management program?

A community that fails to adopt the updated flood maps within the six-month community adoption period will be suspended from the National Flood Insurance Program (NFIP). Suspension from the NFIP will have immediate adverse effects: flood insurance policies cannot be renewed and new policies cannot be written. In addition, mortgage loans and disaster assistance are severely limited in communities that are suspended from the NFIP.

9. How do I determine how the updated floodplain management program will affect my property and development plans?

FEMA's Preliminary Maps, as well as the Town-initiated LOMRs, can be reviewed at the Kennebunkport Town Office at 6 Elm Street, Kennebunkport, Maine 04046. If you have any questions about the floodplain management program update or its effect on your property, please contact Galen L. Weibley, Director of Planning & Development, at (207) 967-1604 or gweibley@kennebunkportme.gov.

AGENDA ITEM DIVIDER



KENNEBUNKPORT WASTEWATER DEPARTMENT

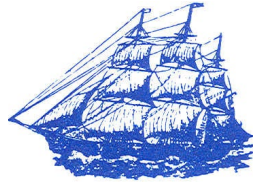
MEMORANDUM

To: Laurie Smith
Fr: Chris Simeoni, Director of Public Works
Re: Authorize acceptance of bid for retired wastewater plant backup generator.
Dt: March 6th, 2024

In 2021, the Wastewater department completed the wastewater plant emergency generator upgrade. On February 9th, we put the retired 1979 CAT 3412 Generator Set 300/450KW, S/N 81Z01598, out to bid. Bids were due on Wednesday, March 6th, by 2:00 pm. We received a total of two bids:

Bidder Name	Bid Amount
Doug Burdick 30 Daroska Road Pittsfield, NH 03263	\$4,000.00
Abbot Equipment Sales PO Box 309 Lebanon, ME 04027	\$8,799.99

Based on the bid amount, I recommend accepting the bid from Abbot Equipment Sales.



TOWN OF KENNEBUNKPORT, MAINE

INVITATION TO BID

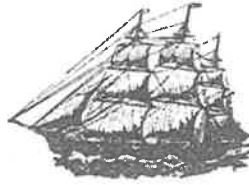
1979 CAT 3412 Generator Set 300/450KW, S/N 81Z01598

The **Town of Kennebunkport, Maine** will accept sealed bids until **2:00 p.m., Wednesday, March 6th** at the **Town Manager's Office, 6 Elm Street, Kennebunkport, Maine** for a 1979 CAT 3412 Generator Set 300/450KW, S/N 81Z01598. Unit has approximately 1066 hours. (See attached specifications.) Bids shall be submitted in sealed envelopes with the name and address of the Bidder and marked "1979 CAT 3412 Generator Set " on the face of the envelope. The bids will be opened and publicly read aloud at 2:00 p.m. on the same date.

The generator set will come with the parts, operation and maintenance manuals. The generator may be inspected in person at the Kennebunkport Wastewater Treatment Plant Monday through Friday from 7:00 am to 3:00 pm. The unit may also be test run. The winning bidder will be responsible for arranging for the removal of the unit as it will likely require rigging services. The winning bidder and rigging company will need to provide evidence of liability insurance prior to the commencement of the removal process. The Owner reserves the right to waive any informalities in or to reject any and all bids.

Christopher Simeoni, Director
Public Works Department
Town of Kennebunkport
207-967-2245

25 R School Street, P.O. Box 1038, Kennebunkport, Maine 04046
Tel: (207) 967-2245 Fax: (207) 967-5372



TOWN OF KENNEBUNKPORT, MAINE

~ INCORPORATED 1653 ~

PROPOSAL SUMMARY FORM

CAT Generator

In accordance with the Request for Proposals, Instructions, and Specifications; the following Proposals were received and opened:

Date: 03/06/2024

Time: 2:00 p.m.


Bidder Name	Contact Information	Proposal Amount
Doug Burdick	Denmarkstonewell2012@ yodoo.com	\$4,000.00
Abbott Equipment Sales	207-252-1191	\$8,799.99

Opened By: Patricia Saunders

Signature: Patricia Saunders

Witness: David Roberge

Signature: [Signature]



Abbott Equipment Sales, Inc.
P.O. Box 309 Lebanon, Maine 04027
207-252-1191

March 1, 2024

To Town of Kennebunkport, Maine,

We are submitting a bid on the Cat 3412 Generator Set Ser. # 81Z01598 of \$8799.99.

Thank you,



Karen Abbott
Abbott Equipment Sales, Inc.

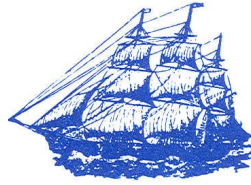
David Roberge

From: Doug Burdick <denmarkstonewall2012@yahoo.com>
Sent: Wednesday, February 21, 2024 12:25 PM
To: David Roberge
Subject: Genset

Sent from my iPhone Douglas Burdick 30 Daroska road Pittsfield New Hampshire 03263 bid price on 3412 caterpillar generator for 4000.00. Email address. Denmarkstonewall2012@yahoo.com. Thanks

Doug 1-603-496-4916

AGENDA ITEM DIVIDER



KENNEBUNKPORT WASTEWATER DEPARTMENT

MEMORANDUM

To: Laurie Smith
Fr: Chris Simeoni, Director of Public Works
Re: Authorize bid for Dock Square sidewalk work
Dt: March 6th, 2024

For the Fiscal year 2024, the Public Works Department budgeted \$25,000 to replace the aging brick sidewalk adjacent to the Compliments store to the Dock Square Coffee Shop in Dock Square. The current sidewalk pavers are spalling and uneven, presenting possible trip hazards. Bids were solicited from the following construction/landscaping contractors.

Contractor	Bid Amount
George Burr & Sons	\$27,750.00
Terrapin Landscaping	\$31,844.96
Dan Viehmann Landscaping	No bid

George Burr & Sons advised they are able to mobilize and complete the sidewalk work prior to Memorial Day weekend. Terrapin Landscaping advised me they would not be available until this coming fall to complete the work. Based on the price and the availability to complete the work prior to Memorial Day, I recommend awarding the bid to George Burr & Sons in the amount of \$27,750.00. The un-budgeted amount of \$2,750.00 can still be funded through the capital sidewalk account as we came in under budget on the Pearl Street sidewalk replacement.

GEORGE
BURR & SON
69 Old FALLS RD

KENNEBUNK, MAINE 04043

Phone: 207-468-1646

georgeburranson@gmail.com

Town of Kennebunkport
6 Elm St
Kennebunkport, Me 04046

Dock Square Brick Sidewalk Replacement

Price to include

Removing and dispose of existing brick sidewalk from corner of Ocean Ave to wooden walkway
145'x 7' average

Install granite curb along edge of building as discussed to retain section of sidewalk (curb
supplied by town)

Remove existing bedding layer of sand

Install new bedding layer of 3/8" stone

Supply new Morin Artisan Flashed Brick Paver

Install new pavers based on 1015 sq/ft

Pavers to be installed to match existing sidewalks

Sweep joints with sand

Price \$ 27,750.00

If paved area under sidewalk is unusable, a separate price will be figured to repave sections as
needed

If edge along buildings needs more repair than discussed, a price will be figured as needed



TOWN OF KENNEBUNKPORT
6 ELM STREET
KENNEBUNKPORT, MAINE 04046

Sales: Mike Corsie

Dock Square Sidewalk - Clay Brick Paver Install

6 Elm Street Kennebunkport, Maine 04046

Est ID: EST4417062 -2

Date: Mar-01-2024

Mobilization	\$1,000.00
---------------------	-------------------

Project Mobilization	\$1000.00
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Brick Paver Sidewalk Renovation	\$30,844.96
----------------------------------------	--------------------

Removal of existing brick sidewalk and installation of new brick walkway with chip stone base

Equipment Operator	\$1320.00
--------------------	-----------

Mason	\$4400.00
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Mason Tender	\$5120.00
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General Labor	\$5120.00
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General Labor	\$3200.00
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Travel Time	\$1800.00
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Dump Truck	\$1050.00
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Excavator/Skid Steer	\$1380.00
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Compactor	\$100.00
-----------	----------

Pike Stone Chips - 3/8"	\$464.40
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Artisan Red Brick	\$6160.00
-------------------	-----------

Mason Sand Topping Mix	\$196.64
------------------------	----------

Concrete Mix - Quickcrete - 80 Lb. Bag	\$232.92
----------------------------------------	----------

Disposal Fee		\$176.00
Brick Delivery		\$125.00
Subtotal		\$31,844.96
Taxes		\$0.00
Estimate Total		\$31,844.96

Thank you for the opportunity to quote your project. Please note due to volatile material pricing and availability, this estimate is valid for 7 days only. Terrapin Landscapes reserves the right to requote as needed.

Contractor: _____
Mike Corsie

Client: _____

Signature Date: 03/01/2024 _____

Signature Date: _____

Email: mike@terrapinlandscapes.com

AGENDA ITEM DIVIDER



ANIMAL SHELTER AGREEMENT, KENNEBUNKPORT

This agreement (the “Agreement”) is by and between the Animal Welfare Society, Inc., a non-profit corporation organized and existing under the laws of the State of Maine (herein-after “AWS”), Old Holland Road, West Kennebunk, Maine and the Town of Kennebunkport, Maine (hereafter “Municipality”) (collectively, “Parties”). The terms of this Agreement shall take effect on July 1, 2024 and shall remain in effect through June 30, 2025.

WHEREAS, Municipality is required under the laws of the State of Maine to provide shelter at a State licensed animal control shelter (7 M.R.S. § 3949) for stray and lost domesticated companion animals (hereinafter “Animal” or “Animals”); and

WHEREAS, Municipality is required under the laws of the State of Maine to provide services relating to the humane disposition of said Animals in the event they are not claimed by their owners; and

WHEREAS, AWS operates an animal shelter as defined in 7 M.R.S. §3907, which is a suitable facility for the housing and/or disposition of said Animals (hereinafter, the “Shelter”) but is not a suitable facility for the housing and/or disposition of any living, sentient creature that is not an Animal;

NOW THEREFORE, the Parties hereby agree as follows:

1. AWS will confine such Animals as may be delivered to it by an authorized agent of the Municipality for the legal impoundment period. At the end of this period, AWS will make such a disposition as it seems fit in accordance with 7 M.R.S. §§3912, 3913, *et. seq.* AWS may refuse delivery of any living, sentient creature that, in the sole and exclusive judgment of AWS, is not an Animal.
2. Delivery of said Animals shall be accepted from the Municipality’s Animal Control Officer/Police from 7:30 a.m. to 4:30 p.m., Sunday through Saturday (“Regular Business Hours”). Police and/or Animal Control Officer will be issued a key to an after-hours holding room at the Shelter. Persons may deliver Animals found within the boundaries of the Municipality to the Shelter during Regular Business Hours. Animals delivered to AWS by Municipality’s Animal Control Officer or Police after hours shall be placed by the person delivering the Animal in pens, kennels, or crates made available in the holding room by AWS for that purpose, to the extent such materials are available to AWS. It is the responsibility of the Police and/or Animal Control Officer delivering an Animal after hours to provide bedding, food, and water for said Animal as supplied by AWS, to the extent such materials are available to AWS. Where delivery of one or more Animals by the Municipality’s Animal Control Officer or Police renders the Shelter unable to humanely confine such Animals in the holding room, the delivering Animal Control Officer or

Police shall communicate with designated AWS personnel prior to delivery to verify AWS's ability to confine such Animals. AWS alone retains sole discretion to refuse delivery of one or more Animals where such delivery renders AWS unable to provide appropriate housing and/or disposition of delivered Animals.

3. Police and Animal Control Officers shall take a stray or lost Animal to its owner, if known, or, if the owner is unknown, to the Shelter. Municipality agrees that all Animals apprehended and seized within the boundaries of the Municipality and delivered to the Shelter shall be under the exclusive control and custody of AWS. Moreover, Municipality agrees that AWS shall have the undisputed right, consistent with the laws of the State of Maine, to humanely dispose of any Animal given into its custody in accordance with State laws and the policies and procedures of AWS.

4. AWS will not accept delivery of any injured Animal that has not received proper veterinary care. Municipality agrees that it shall obtain appropriate veterinary care for injured Animals prior to delivery to AWS. In the event that Municipality delivers an injured Animal to the Shelter without first obtaining appropriate veterinary care, AWS, in its sole discretion, may elect either to refuse acceptance of such Animal or to accept delivery of such Animal and procure the veterinary care it deems necessary and appropriate. Municipality agrees to reimburse AWS for the costs of emergency and required veterinary care within ten (10) days from the receipt of an invoice. At no time will the Municipality deliver any injured Animal to the Shelter during hours other than Regular Business Hours unless Municipality has made prior arrangements with AWS.

5. The Municipality agrees to and shall indemnify and hold harmless AWS for any claims arising out of actions and/or inactions of the Municipality's Police Officers and Animal Control Officers in the capturing, detaining, processing, documenting and delivery of any Animal under this Agreement, and for any violation by the Municipality's Animal Control Officer or Police Officers of the provisions of this Agreement, and of applicable laws or regulations.

6. AWS shall assist Municipality's residents in allowing owned Animals to be claimed during Regular Business Hours. AWS will request proof of payment prior to releasing an Animal to its owner and may collect impoundment fees on behalf of the Municipality. AWS reserves the right to release an Animal without payment or proof of payment of impoundment fees. Impoundment fees collected by AWS on the Municipality's behalf will be forwarded to the Municipality monthly, along with a report of activity. An invoice for contract fee for service will be provided to the Municipality quarterly.

7. AWS may provide rabies quarantine on a space-available basis for a period of at least ten (10) days to stray dogs and cats found within the Municipality, which have bitten residents of the Municipality ("Rabies Quarantine"). Provision for rabies testing, and the costs therein, are the sole responsibility of the Municipality and/or its residents. AWS is not obligated to quarantine privately-owned Animals.

8. Municipality shall be fully responsible for carrying out all enforcement activities required under the laws of the State of Maine and the ordinances of the Municipality, as may be amended. AWS shall not be required to apprehend or seize any Animal found roaming at large.

9. AWS shall make all reasonable efforts to promote Trap, Neuter, Return (“TNR”) for feral cats, and return such feral cats that are spayed/neutered, vaccinated, ear tipped and/or micro-chipped to the originating location when possible, and promote caregiver volunteerism and guardianship. The Municipality shall work with AWS and the community to permit and encourage TNR as the preferred method of dealing with feral cats.

10. AWS shall have the sole and exclusive right to determine the responsibility of persons offering to become the owners of unclaimed Animals and the suitability of homes offered and shall have the sole and exclusive right to accept or reject such applicants’ claims to previously unclaimed Animals.

11. Municipality agrees that it shall notify AWS, in writing, of the identities of all of its duly authorized Animal Control Officers. Municipality agrees that it will provide each Animal Control Officer with a copy of the animal control laws of the State of Maine contained in the booklet published by the Maine Animal Welfare Board, the sections of the Municipality’s codes or ordinances which are pertinent to the performance of their duties, and the terms of this Agreement. Animal Control Officers must also be certified as required by 7 M.R.S. § 3947.

12. AWS, its officers, employees, agents, and volunteers shall act in an independent capacity during the term of this Agreement and shall not act or hold themselves out as officers, employees, agents or volunteers of Municipality. Municipality, its employees, agents and representatives shall act in an independent capacity during the term of this Agreement and shall not act or hold themselves out as officers, employees, agents or volunteers of AWS. Nothing in this Agreement shall be deemed by either Party or by any third party as creating a joint venture or partnership between AWS and Municipality.

13. AWS agrees to comply with applicable federal and state laws and regulations in the performance of this Agreement.

14. This Agreement shall not be assigned by either Party, without the prior written approval of the other Party.

15. AWS offers to provide the following services to Municipality at no additional cost to Municipality:

- a. Disposal Services: AWS will accept for disposal stray or lost cats or dogs, dead on arrival, from Animal Control Officers, or duly authorized Police.
- b. Telephone Services: To avoid confusion, AWS will take all telephone inquiries regarding reclaiming an Animal and adopting an Animal. Under special circumstances involving suspected abuse or neglect, the

Animal Control/Police Officer(s) may request that they be contacted prior to an Animal being reclaimed by its owner.

- c. Lost and Found Pet Services: AWS staff will take lost and found reports to facilitate the return of pets to their owners.
- d. Education Services: AWS staff and volunteers will be available for conducting education programs upon request to any interested community group or organization, including schools, grades Kindergarten through 12.

16. For services provided by AWS to Municipality under this Agreement or under applicable law, the Municipality agrees to pay AWS the total sum of \$5,295.42, which is based on \$1.46 per capita/per year, of the Municipality's population as listed here: <https://www.maine-demographics.com/limington-demographics>, payable in advance quarterly payments.

Fee Calculation: 3,629 population x \$1.46 per capita = \$5,298.34

17. This Agreement represents the entire agreement between the Parties and no oral or prior written matter shall have any force or effect. No amendment shall be effective without prior express written approval signed by both Parties. Neither Party shall be bound by any conditions not expressly stated in this Agreement.

18. This Agreement is binding upon, and shall inure to the benefit of the heirs, assigns and successors in interest of the Parties hereto.

19. If any provisions of this Agreement shall be adjudged to be invalid or unenforceable by final judgment of a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity of the Agreement and the remaining provisions of the Agreement shall be construed as if not containing such provision and, thereafter, the rights and obligation of the parties shall be construed and enforced under the remaining provisions of the Agreement.

20. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Maine.

21. The fees noted in Paragraph 16, above, shall cover all boarding for Animals delivered to AWS and held other than those pending court proceedings. In the case of seizures due to cruelty and/or neglect, costs and fees for animal care are the Municipality's responsibility. AWS fee schedules are available upon request.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on their behalf, in duplicate counterparts, as of the date first above written.

TOWN OF KENNEBUNKPORT, MAINE

By: _____ Witness: _____

Printed Name: _____ Printed Name: _____

Its: _____

THE ANIMAL WELFARE SOCIETY, INC.

By: Abigail Smith _____ Witness: Terry Olsen _____

Printed name: Abigail Smith Printed Name: Terry Olsen

Its: Executive Director

Quarterly Payment Schedule:

1st Payment due date:	July 1, 2024	Amount:	\$1,324.59
2nd Payment due date:	October 1, 2024	Amount:	\$1,324.59
3rd Payment due date:	January 1, 2025	Amount:	\$1,324.59
4th Payment due date:	April 1, 2025	Amount:	\$1,324.59

Total \$ 5,298.34

Date Contract Mailed to Municipality: _____

Date Contract Received back by AWS: _____

AGENDA ITEM DIVIDER

THE FACE OF THIS DOCUMENT HAS A GREEN BACKGROUND ON WHITE PAPER

Wells Fargo Bank
Minneapolis, MN

No. 31056415

62-22
311

DATE 02/28/24

NOT VALID AFTER SIX MONTHS

PAY Eighty Thousand And 00/100 US Dollars***

CHECK AMOUNT

\$80,000.00

Payable in U.S. Funds

PAY TO Town of Kennebunkport

6 Elm Street
Kennebunkport, ME 04046

MEMO: Donation

AUTHORIZED SIGNATURE

MP

THE BACK OF THIS CHECK CONTAINS A HEAT REACTIVE INK SPOT. HOLD OR RUB WITH THUMB & COLOR SHOULD FADE THEN REAPPEAR. VOID IF WATERMARK DOES NOT APPEAR ON BACK OF CHECK.

GO TO THE FIRST PAGE
