

TOWN OF KENNEBUNKPORT, MAINE

— INCORPORATED 1653 —

**Board of Selectmen Agenda
Village Fire Station- 32 North Street
September 13, 2018 – 6:00 PM**

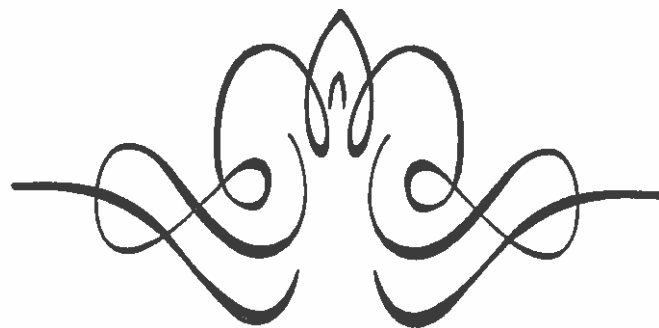
1. Call to Order.
2. Approve the August 23, 2018, selectmen meeting minutes.
3. Consider amending the August 9, 2018, selectmen meeting minutes
4. Public Forum (This is an opportunity for anyone who wants to address the Board of Selectmen with any issue that is not on the agenda.).
5. Sign the November 2018 Special Town Meeting Warrant.
6. Approve Certification of Proposed Ordinances.
7. Status report from the Housing Committee.
8. Consider the sewer abatement request for Sara Young.
9. Consider appointment to the ZBA.
10. Discuss E-911 addressing.
11. Consider replacement of the 2014 Dodge Charger police travel car with a 2015 Ford Escape.
12. Sign the municipal valuation return.
13. Accept the 2019 salt bid from Morton Salt for \$54.85 per ton delivered.
14. Consider sewer extension at Binnacle Hill.
15. Accept street opening permit for JTJ Development, 3 Pier Rd., to install drain line for basement drainage.
16. Accept street opening permit for TH Enterprises, L.L.C., 51 Langsford Rd., to install underground power to residence.

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

17. Consider joining Raising the Floor Coalition for minimum/low receivership school districts.
18. Accept the \$1,000 donation from the Steele Irrevocable Trust to the nurses general account.
19. Accept \$50.00 donation in memory of Agnes Steele from the Goose Rocks Beach Fire Company to the nurses general account.
20. Authorize the School Resource Officer Agreement with the Town of Arundel.
21. Other business.
22. Approve the September 13, 2018, Treasurer's Warrant.
23. Executive Session pursuant to 1 M.R.S.A. Section 405 (6)(c) regarding discussion or consideration of the acquisition of real property.
24. Executive session pursuant to MRSA 1, §405-6D to discuss union negotiations.
25. Adjournment.



Agenda Item Divider



**Board of Selectmen Meeting
Village Fire Station – 32 North Street
August 23, 2018 – 9:00 AM**

Minutes of the Selectmen's Meeting of August 23, 2018

Selectmen Attending: Stuart Barwise, Patrick A. Briggs, Allen Daggett, and Sheila Matthews-Bull

Selectmen Absent: Edward Hutchins

Others: David James, Paul Jessel, Arlene McMurray, Craig Sanford, Chris Simeoni, Laurie Smith

1. Call to Order.

Vice-Chair Daggett called the meeting to order at 9:00 AM.

2. Approve the August 9, 2018, selectmen meeting minutes.

Motion by Selectman Barwise, seconded by Selectman Briggs, to approve the August 9, 2018, Selectmen meeting minutes. **Vote:** 4-0.

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

There were no comments.

4. Award the bid for three effluent pumps for the Wastewater Department.

Paul Jessel, wastewater chief operator, said he received three bids:

Williamson Pump and Motor	\$75,250 includes freight
TDM	\$72,264 does not include freight
Hayes Pump Inc.	\$74,100 includes freight

He recommends awarding the bid to low bidder Hayes Pump, Inc.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to award the bid for three effluent pumps for the Wastewater Department to Hayes Pump, Inc. at a cost of \$74,100. **Vote:** 4-0.

5. Award the bid for a police cruiser.

Police Chief Craig Sanford said he solicited bids from eight dealerships and received three bids back:

Arundel Ford	\$29,599
Key Ford of York	\$30,280
Rowe Ford Lincoln	\$31,157

He recommends awarding the bid for a police cruiser to Arundel Ford.

Motion by Selectman Barwise, seconded by Selectman Briggs, to award the police cruiser bid to Arundel Ford at a cost of \$29,500. **Vote:** 4-0.

6. Award the bid for boiler replacements for the police department and public health buildings.

Chief Sanford explained that the boilers in both the police department and public health department buildings have run their course. He thinks it would be more efficient to have one boiler in the police department basement that would support both buildings. He received three bids:

<u>Vendor</u>	<u>Base Price</u>
Jim Godbout	\$14,900
Superior Energy Solutions	\$13,648.54
Garrett Pillsbury	\$11,914 + 2,100 to replace circulator pumps and associated equipment.

He recommends awarding the bid to Garrett Pillsbury because they were the most responsive and the only vendor to notice that the circulator pumps needed to be replaced.

Motion by Selectmen Barwise, seconded by Selectman Matthews-Bull, to award the bid to Garrett Pillsbury for a boiler replacement which supports both the police department and the public health department buildings and to include replacement of circulator pumps and associated equipment at a total cost of \$14,014. **Vote:** 4-0.

7. Accept the bids for kitchen cabinets and countertops for the parks and recreation building.

Town Manager Laurie Smith said she is currently waiting to get a report from the Fire Marshalls office on ADA compliant cabinets. She found out that quartz counter tops are supposed to be easier to maintain than granite and believes they can negotiate a better price on cabinets from Risbara Construction. The cost of granite countertops and hardware is \$15,420. The added cost to supply granite tops to the serving counter is \$2,650.

Motion by Selectman Barwise, seconded by Selectman Briggs, to purchase kitchen cabinets and quartz countertops from Risbara Brothers at a cost not to exceed \$19,000. **Vote:** 4-0.

8. Award the sale for the 2009 John Deere 310J Backhoe with attachments.

Chris Simeoni, deputy director of public works, reported he received three bids

Labbe Excavating, Inc.	\$22,551
Whitmore Contracting	\$27,850
Town of Lyman	\$34,600

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to award the sale of the 2009 John Deere backhoe to highest bidder Town of Lyman for a cost of \$34,600. **Vote:** 4-0.

9. Authorize the Town Treasurer to carry forward \$45,000 of FY 2018 contingency funds for professional planning services.

Ms. Smith said the town may be involved in a master planning process in the near future and may need these contingency funds. If not, they could go to the fund balance.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull to authorize the Town Treasurer to carry forward \$45,000 of fiscal year 2018 contingency funds for professional planning services. **Vote:** 4-0.

10. Review Waterfront Ordinance amendments for the November ballot.

Ms. Smith said after the last Selectmen's Meeting she heard from residents who consider themselves to be part of Cape Porpoise, but they only have "mud moorings" in Turbats Creek, Paddy Creek, Langsford Road and Lands End. This new version of the Waterfront Ordinance amendment clarifies this. She said that Selectman Hutchins wanted to add Goose Rocks to the mud moorings.

The Board agreed to keep these mud moorings separate from Cape Porpoise and accept the newer version of the Waterfront Ordinance. See Exhibit A.

11. Other business.

a. Sledding hill project update.

Ms. Smith said staff thought the sledding hill project could be done internally at a cost of approximately \$10,000 to \$15,000. She found out that in order to meet safety requirements, grading, planning, and design, the projected cost could be as high as \$175,000+. Risbara construction gave an estimate of \$170,000.

While the Board does not wish to expend \$170,000+, it would like the school to know it is still interested in having a sledding hill and would like public discussion on this subject.

12. Approve the August 23, 2018, Treasurer's Warrant.

Motion by Selectman Barwise, seconded by Selectman Briggs, to approve the

August 23, 2018, Treasurer's Warrant. **Vote:** 4-0.

13. Executive Session pursuant to 1 M.R.S.A. Section 405 (6)(c) regarding discussion or consideration of the acquisition of real property.

Motion by Selectman Barwise, seconded by Selectman Briggs, to go into executive session pursuant to 1 M.R.S.A. Section 405 (6)(c) regarding discussion or consideration of the acquisition of real property. **Vote:** 4-0.

The Board went into executive session at 9:40 AM and came out at 9:50 AM.

No action was taken.

14. Adjournment.

Motion by Selectman Barwise, seconded by Selectman Briggs, to adjourn.

The meeting adjourned at 9:50 AM.

Submitted by Arlene McMurray
Administrative Assistant

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EXHIBIT A

MEMORANDUM

To: Board of Selectmen

Fr: Laurie Smith, Town Manager

Re: waterfront ordinance amendments

Dt: August 20, 2018

We have one more change to the Waterfront ordinance amendments. As you know, the current amendment would require a Cape Porpoise mooring holder to be a member of the pier in good standing or a shorefront owner. It was brought to our attention from residents that they consider themselves part of "Cape Porpoise"; however, they only have "mud moorings" in Turbat's Creek, Paddy Creek, Langsford Road, and Land's End. They wanted to know whether the new amendment would impact them as well. The intent by staff was not to include those sections of Cape Porpoise, hence we have attempted to clarify that with the newest version.

WATERFRONT ORDINANCE

1. GENERAL PROVISIONS

1.1 TITLE

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

1.2 AUTHORITY

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

1.3 PURPOSE

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

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

1.4 APPLICABILITY

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

1.5 SEVERABILITY

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

1.6 CONFLICT

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

1.7 EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption.

2. DEFINITIONS

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

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

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

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

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

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

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

KENNEBUNKPORT WATERS: Has the meaning defined by Section 1.4.

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

Commercial: A Mooring issued to and utilized by a Commercial Fisheries Business for the purpose of mooring a Commercial Fishing Vessel. In Cape Porpoise, the mooring permit holder must either be a Cape Porpoise Pier member in good standing or a shorefront owner. This excludes moorings in Paddy Creek, Turbats Creek, Land's End and Langsford Road, as noted by their mooring designation.

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Recreational: A Mooring other than a commercial mooring that is permitted for the purpose of mooring a specific Vessel. In Cape Porpoise, the mooring permit holder must either be a Cape Porpoise Pier member in good standing or a shorefront owner. This excludes moorings in Paddy Creek, Turbats Creek, Land's End and Langsford Road, as noted by their mooring designation.

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

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

MOORING PERMITTEE: A person granted a Mooring Permit.

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

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

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

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

SHIP CHANNELS: Ship channels as described herein and depicted on the NOAA nautical chart and other such channels designated by the Harbor Master which shall be

kept open for the passage of watercraft. These channels are maintained by the US Army Corps of Engineers and are depicted on the Corps Condition Survey for Cape Porpoise and the Kennebunk River.

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

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

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

3. HARBOR MASTER

3.1 APPOINTMENT AND COMPENSATION

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

3.2 POWERS AND DUTIES

3.2.1 Removal of Vessels

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

Once a Vessel has been removed by the Harbor Master the owner of record shall

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

3.2.2 Mooring Removal or Replacement

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

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

3.2.3 Training

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

4. MOORINGS

4.1 ANCHORAGES

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

4.2 DESIGNATION OF MOORING SITES

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

the written approval of the Harbor Master.

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

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

4.3 MOORING PERMIT

4.3.1 Application

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

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

4.3.2 Waiting List

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

All persons desiring mooring space in Kennebunkport Waters shall place their name and the type of mooring desired on the Mooring Permit Waiting

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

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

4.3.3 To Whom Issued

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

4.3.4 Conversion

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

4.4 MOORING IDENTIFICATION

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

4.5 PLACEMENT OF MOORINGS

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

4.6 SIZE AND CONSTRUCTION

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

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

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

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

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

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

4.7 INSPECTION OF MOORINGS

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

4.8 DENIAL

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

- 4.8.1 Structurally unsafe;
- 4.8.2 Emitting obnoxious fumes, oils, or any other substance detrimental to the safety or comfort of others, including any pollution of its waters, shores and flats;
- 4.8.3 Of inappropriate size for the Mooring; or
- 4.8.4 Causing damage to Town owned waterfront facilities.

4.9 NON-USE OF MOORINGS

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

4.10 MOORING ASSIGNMENTS

- 4.10.1 There shall be no transfer of a Mooring Permit or an assigned Mooring Site and no renting of a Recreational or Commercial Mooring, except for good cause with the prior written approval of the Harbor Master and, if otherwise required by law, the Army Corps of Engineers, or as otherwise noted in this ordinance. Municipal and Commercial Transient moorings are permitted to be rented.
- 4.10.2 A Mooring Permittee shall promptly notify the Harbor Master of a proposed change of Vessel on a Recreational or Commercial Mooring. Such change of Vessel shall be permitted only with the prior written approval of the Harbor Master.

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

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

5. FEES AND FINES

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

6. ABANDONMENT

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

7. POLLUTION

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

8. RULES AND REGULATIONS

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

9. ENFORCEMENT

9.1 ENFORCEMENT BY THE HARBOR MASTER

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

9.2 ENFORCEMENT BY LAW ENFORCEMENT OFFICERS

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

9.3 MISDEMEANOR FINES; SEPARATE VIOLATIONS

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

9.4. LEGAL ACTION

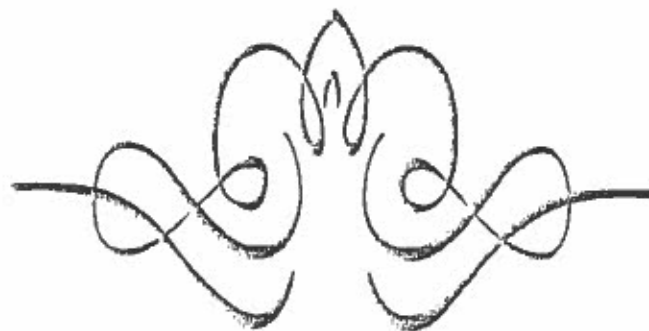
The Harbor Master may impose Fines as approved by the Board of Selectmen as may be appropriate to enforce any provision of this Ordinance. The Board of Selectmen, upon notice from the Harbor Master, are hereby authorized and directed to institute any and all action and proceedings, either legal and/or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

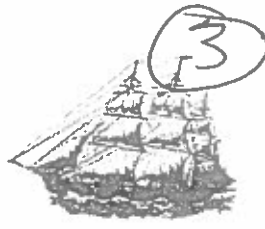
10. APPEALS

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



Agenda Item Divider





TOWN OF KENNEBUNKPORT, MAINE

INCORPORATED 1653

To: Board of Selectmen

From: Arlene McMurray

Re: August 9, 2018 Minutes

Date: September 7, 2018

It was brought to my attention that the August 9, 2018, meeting minutes are misleading (see attached highlighted section). Apparently, the Conservation Commission did not work on the study of Pesticide Ordinances with the intern and was not pursuing a Pesticide Ordinance which the minutes might lead one to believe. It worked with her researching the successes, failures, and enforcement issues of towns that have a Pesticide Ordinance.

Also, the Commission was not aware of the septic systems inspections she mentioned. It was actually the Maine Healthy Beaches that worked with her on that.

Do you wish to amend the minutes to clarify the inaccuracies?

c. Medical Marijuana storefront moratorium

Mr. Gilliam reiterated what he spoke about at the previous meetings about patient recycling. He said a moratorium would give the town 180 days to prepare for any ordinance changes.

See Exhibit C

d. Waterfront Ordinance amendments

See Exhibit D

Police Chief Craig Sanford said the amendments clear up definitions.

5. Consideration of Special Town Meeting regarding a conditional gift to the Town of Kennebunkport for the benefit of American Legion Post 159.

Town Manager Laurie Smith explained that the WJJ Gordon Trust would like to donate \$4,000 to the American Legion, but the Legion does not have 501(c)03 status. The trust would like to donate the funds to the town with the understanding that the town would then give the funds to the American Legion. The town would have to accept a conditional gift at town meeting.

The Board decided to wait until November, unless the American Legion needs the money sooner, in which case there would be a special town meeting.

6. Presentation by town interns Lydia Elwell and Kendra O'Roak.

Lydia spoke about her experiences working with the Cemetery Committee.

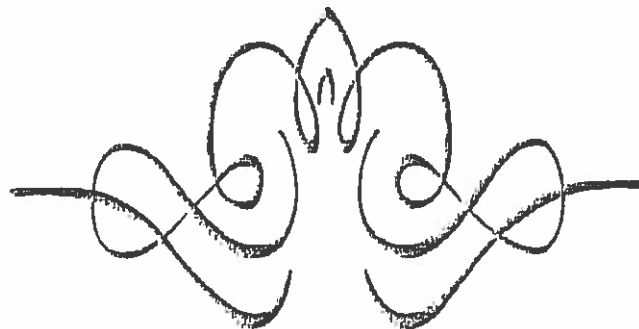
Ann Sanders from the Cemetery Committee commented that Lydia was very helpful, and her work brought them into the 21st century. She also researched veterans. She thanked the Board and Budget Board for expending the funds to hire her.

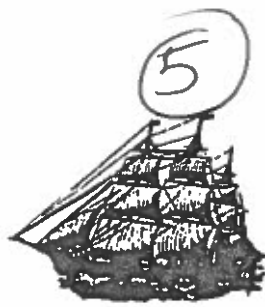
Kendra O'Roak talked about the Healthy Maine Beaches water quality testing and working with the Conservation Commission with the study of pesticide ordinances. She said they will be inspecting septic systems within a 500-foot radius of the shoreland.

Public Health Nurse Alisson Kenneway added that she could not have done all the water testing without Kendra's help. She said Kendra was very busy.



Agenda Item Divider





KENNEBUNKPORT TOWN CLERK

To: Laurie Smith, Town Manager
Board of Selectmen

From: Tracey O'Roak

Date: September 6, 2018

Re: Warrant and Certification of Ordinances

The Warrant for the November 6th Special Town Meeting contains five questions as follows:

1. Enactment of Proposed Moratorium Ordinance regarding Retail Medical Marijuana Caregiver Storefronts
2. Amendment to the Waterfront Ordinance
3. Amendment to the Victualer's Licensing Ordinance
4. Amendment to the Wireless Telecommunications Ordinance and Land Use Ordinance
5. Accept of a Gift of \$4,000 from The William JJ Gordon Trust on behalf of the American Legion Post 159.

In addition to signing the Warrant, the Board of Selectmen will be certifying the proposed ordinance revisions.

**TOWN OF KENNEBUNKPORT
TOWN WARRANT
SPECIAL TOWN MEETING
November 6, 2018**

State of Maine

County of York, SS

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

GREETINGS:

You are hereby required in the name of the State of Maine to notify and warn the voters of the Town of Kennebunkport in said County of the Town Meeting described in this warrant.

To the voters of Kennebunkport: You are hereby notified that a Special Town Meeting of this municipality will be held at the Village Fire Station, 32 North Street, in said Town on Tuesday, the 6th day of November A.D. 2018, at 8:00 o'clock in the forenoon for the purpose of acting on Articles numbered one (1) and one a (1a) and Questions 1 through 5 as set out below. The polls for voting on Question 1 through 5 shall be opened immediately after election of the Moderator at 8:00 a.m. on November 6, 2018, and shall close at 8:00 p.m. While the polls are open, the Registrar of Voters will hold office hours to accept the registration of any person eligible to vote, to accept new enrollments, and to make any necessary correction or change to any name or address on the voting list.

ARTICLE 1. To choose a Moderator to preside at said meeting.

ARTICLE 1a. To vote on the following referendum questions:

**QUESTION 1
ENACTMENT OF MORATORIUM ORDINANCE REGARDING RETAIL MEDICAL
MARIJUANA CAREGIVER STOREFRONTS**

Shall an ordinance entitled “Moratorium Ordinance Regarding Retail Marijuana Caregiver Storefronts” be enacted? (A true copy of which is on file in the Town Clerk’s Office and is incorporated by reference.)

[Note of Explanation: This ordinance puts into place a temporary moratorium on retail medical marijuana retail stores in the Town of Kennebunkport]

QUESTION 2
AMENDMENT TO THE WATERFRONT ORDINANCE

Shall an ordinance entitled “November 2018 Amendment to the Waterfront Ordinance” be enacted? (A true copy of which is on file in the Town Clerk’s Office and is incorporated by reference.)

[Note of Explanation: This amendment would add the requirement that commercial and recreational mooring holders in Cape Porpoise be a Cape Porpoise Pier member in good standing or a shorefront owner (excluding moorings in Paddy Creek, Turbats Creek, Land’s End and Langsford Road, as noted by their mooring designation.)]

QUESTION 3
AMENDMENT TO THE VICTUALER’S LICENSING ORDINANCE

Shall an ordinance entitled “November 2018 Amendment to the Victualer’s Licensing Ordinance be enacted? (A true copy of which is on file in the Town Clerk’s Office and is incorporated by reference.)

[Note of Explanation: This amendment adds a “Section 6” which addresses violations of the ordinance. Other amendments are included for clarification and to bring the ordinance in line with State law.]

QUESTION 4
**AMENDMENT TO THE WIRELESS TELECOMMUNICATIONS ORDINANCE AND
LAND USE ORDINANCE**

Shall an ordinance entitled, “Amendments to the Wireless Telecommunications Facilities Ordinance and The Land Use Ordinance (Article 2 – Definitions) be enacted? (A true copy of which is on file in the Town Clerk’s Office and is incorporated by reference.)

[Note of Explanation: This amendment updates the Town’s Wireless Telecommunications Ordinance to bring it into compliance with federal legal requirements set forth in the Spectrum Act. It also allows for the installation of small scale cellular nodes which would be colocated on existing utility poles.]

QUESTION 5
ACCEPTANCE OF GIFT

Shall the Town vote to authorize the acceptance of a conditional gift of \$4,000 from The William JJ Gordon Trust, which the Town intends to donate to the American Legion Post 159?

[Note of Explanation: The William JJ Gordon Trust is offering a \$4,000 donation through the Town to the American Legion Post 159.]

HEREOF FAIL NOT TO MAKE DUE SERVICE of this Warrant and a return of your doing thereon, at a time and place of said meeting.

GIVEN UNDER OUR HANDS this 13th day of September 2018, Kennebunkport, Maine.

Stuart E. Barwise

Sheila A. Matthews-Bull

Edward W. Hutchins

Allen A. Daggett

Patrick A. Briggs

A majority of the Selectmen of the Town of Kennebunkport, Maine

A true copy of the warrant attest: _____

Tracey O'Roak, Town Clerk

ORDER

VOTED: That it be and is hereby Ordered that the Questions set forth below be placed on the ballot of the Special Town Meeting of the Town of Kennebunkport to be held on November 16, 2018, and that an attested copy of this Order be placed on file with the Town Clerk of the Town of Kennebunkport.

QUESTION 1

ENACTMENT OF MORATORIUM ORDINANCE REGARDING RETAIL MEDICAL MARIJUANA CAREGIVER STOREFRONTS

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[Note of Explanation: The William JJ Gordon Trust is offering a \$4,000 donation through the Town to the American Legion Post 159.]

GIVEN UNDER OUR HANDS this 13th day of September 2018, Kennebunkport, Maine.

Stuart E. Barwise

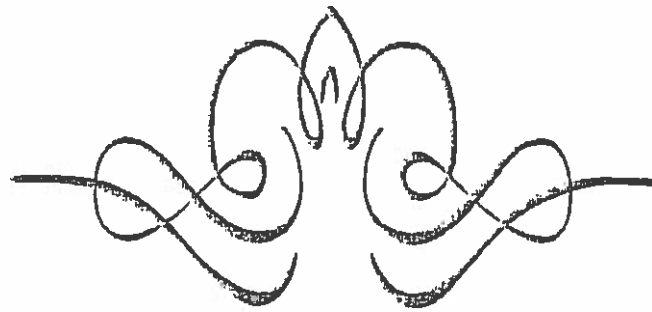
Sheila W. Matthews-Bull

Patrick A. Briggs

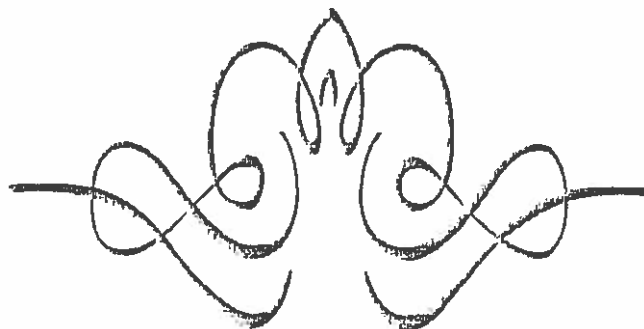
Allen A. Daggett

Edward W. Hutchins, II

A majority of the Selectmen of the Town of Kennebunkport, Maine



Agenda Item Divider



6

**CERTIFICATION OF PROPOSED
MORATORIUM ORDINANCE REGARDING
RETAIL MEDICAL MARIJUANA CAREGIVER STOREFRONTS AND ORDER**

The municipal officers of the Town of Kennebunkport hereby certify to the municipal clerk of the Town of Kennebunkport pursuant to 30-A M.R.S. § 3002 that attached hereto is a true copy of the proposed ordinance entitled "Moratorium Ordinance Regarding Retail Medical Marijuana Caregiver Storefronts" (the "Proposed Ordinance"), to be voted on at a town meeting of the Town of Kennebunkport on November 6, 2018 under the article, "Shall an ordinance entitled 'Moratorium Ordinance Regarding Retail Medical Marijuana Caregiver Storefronts' be enacted?"

It is further Ordered, pursuant to 30-A M.R.S. § 3002(1) that the municipal clerk shall keep this certified copy as a public record and shall make copies of the Proposed Ordinance available for distribution to the voters of the Town of Kennebunkport from the time of this certification. Copies of the Proposed Ordinance shall also be attested by the Town Clerk and posted in the same manner as the warrant calling said town meeting and shall be made available to the voters at said town meeting.

Dated: September 13, 2018

A majority of the municipal officers of the
Town of Kennebunkport

A true copy of the Proposed Ordinance entitled, "Moratorium Ordinance Regarding Retail Medical Marijuana Caregiver Storefronts," is attached hereto.

Attest: _____
Tracey O'Roak, Town Clerk
Town of Kennebunkport

**MORATORIUM ORDINANCE
REGARDING RETAIL MEDICAL MARIJUANA CAREGIVER STOREFRONTS**

TOWN OF KENNEBUNKPORT, MAINE

The Town of Kennebunkport, Maine, hereby adopts a Moratorium Ordinance as follows:

WHEREAS, the legislative body of the Town of Kennebunkport, Maine (the “Town”) makes the following findings:

- (1) The Maine Medical Use of Marijuana Act, codified at 22 M.R.S. §§ 2421 to 2430-B, (the “Medical Act”) authorizes the possession, cultivation, and furnishing of medical marijuana to qualifying patients by caregivers, as those terms are defined in 22 M.R.S. § 2422; and
- (2) Section 2423-A(14) of the Medical Act authorizes municipalities pursuant to home rule authority to regulate, among other uses, registered primary caregivers; and
- (3) Section 401 of the Marijuana Legalization Act, codified at 28-B M.R.S. ch. 1 (the “Adult Use Act”) authorizes municipalities pursuant to home rule authority to regulate adult use marijuana establishments, including cultivation facilities, products manufacturing facilities, testing facilities, and marijuana stores, as those terms are defined in 28-B M.R.S. § 102; and
- (4) Neither the Medical Act nor the Adult Use Act nor any state agency rules promulgated thereunder expressly authorize the operation of retail stores by registered caregivers for the purpose of selling medical marijuana to qualifying patients; and
- (5) In July of 2018, the Maine Legislature enacted LD 1539, “An Act to Amend Maine’s Medical Marijuana Law,” which, upon its effective date, will amend the Medical Act to expressly authorize the operation of such retail stores so long as the legislative body of the municipality votes to adopt a new ordinance, amend an existing ordinance, or approve a warrant article allowing this type of marijuana establishment; and
- (6) No specific regulations governing such retail stores currently exist under the Town’s Ordinances; and
- (7) The Town’s Ordinances are insufficient to prevent serious public harm that could result from the unregulated siting and operation of such retail stores within the Town; and
- (8) The unregulated siting and operation of such retail stores within the Town raises legitimate and substantial questions about the impact of such retail stores and related uses and activities on the Town, including questions as to compatibility of such retail stores with existing and permitted land uses in the Town; potential adverse health and safety effects on the community; the adequacy of the Town’s infrastructure to accommodate such retail stores; and the possibility of unlawful sale of medical marijuana and medical marijuana products; and

- (9) As a result of the foregoing issues, the siting and operation of such retail stores and related uses and activities within the Town has potentially serious implications for the health, safety, and welfare of the Town and its residents and visitors; and
- (10) An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of such retail stores and related uses and activities located and operated in the Town; and
- (11) The Town needs time to understand the disposition of LD 1539 and any State department rules promulgated pursuant to the Medical Act or the Adult Use Act in relation to its own Ordinances and to evaluate the effects of such retail stores and related uses and activities in order to prepare reasonable ordinance provisions governing the siting and operation of such retail stores and related uses and activities; and
- (12) The Town, with professional assistance from the Planning Board, Code Enforcement Officer, and other departments, intends to study the Town's Ordinances to determine the land use and other regulatory implications of such retail stores and related uses and activities, and to consider what locations, approvals, and performance standards, if any, might be appropriate to avoid or minimize impacts on the health, safety, and welfare of the Town and its residents and visitors; and
- (13) It is anticipated that such a study, review, and development of recommended ordinance amendments will take at least 180 days from the date the Town enacts this Moratorium Ordinance; and
- (14) In the judgment of the legislative body of the Town, the foregoing findings constitute a necessity within the meaning of 30-A M.R.S. § 4356.

NOW, THEREFORE, pursuant to 30-A M.R.S. § 4356, be it ordained by the voters of the Town of Kennebunkport as follows:

1. Moratorium. The Town does hereby declare a moratorium on the siting, operation, or licensing of any Retail Medical Marijuana Caregiver Storefront within the Town.

For purposes of this Ordinance, "Retail Medical Marijuana Caregiver Storefront" is defined as a retail store, a retail business, or an establishment that resembles a retail storefront in terms of signage, hours of operation, and accessibility to patrons (including without limitation a commercial use or retail business, as those terms are defined in the Town's Land Use Ordinance) that furnishes or sells marijuana or marijuana products by licensed caregivers to qualifying patients, as those terms are defined in 22 M.R.S. § 2422.

No person or organization shall locate or operate a Retail Medical Marijuana Caregiver Storefront within the Town on or after the Date of Applicability of this Ordinance. During the time this Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, conditional use permit, any other type of land use approval or permit, or any other permit or license related to a Retail Medical Marijuana Caregiver Storefront.

2. Date of Applicability. Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Ordinance shall govern and apply to all proceedings and applications for a Retail Medical Marijuana Caregiver Storefront that were or are pending before the Code Enforcement Officer or the Planning Board on or any time after September 7, 2018 and, to the extent allowed by 30-A M.R.S. § 3007(6), shall nullify the issuance of any final approval of the Code Enforcement Officer or the Planning Board made on or at any time after September 7, 2018 that authorizes the operation of a Retail Medical Marijuana Caregiver Storefront (the "Date of Applicability").
3. Effective Date. This Ordinance shall become effective immediately upon its adoption (the "Effective Date") and shall remain in full force and effect for a period of 180 days, unless extended, repealed, or modified in accordance with applicable law.
4. Conflicts; Savings Clause. Any provisions of the Town's ordinances that are inconsistent with or conflict with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.
5. Violations. If any Retail Medical Marijuana Caregiver Storefront is located or operated in the Town, in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Town shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

Given under our hands this 13th day of September 2018.

A Majority of the Board of Selectmen of the Town of Kennebunkport.

Attest: A true copy of an ordinance entitled, "Town of Kennebunkport, Maine, Moratorium Ordinance Regarding Retail Medical Marijuana Caregiver Storefronts," as certified to me by the municipal officers of the Town of Kennebunkport, Maine, on the 13th day of September 2018.

Tracey O'Roak, Town Clerk
Town of Kennebunkport, Maine



Agenda Item Divider



6

**CERTIFICATION OF PROPOSED REVISIONS TO
WATERFRONT ORDINANCE AND ORDER**

The municipal officers of the Town of Kennebunkport hereby certify to the municipal clerk of the Town of Kennebunkport pursuant to 30-A M.R.S. § 3002 that attached hereto is a true copy of the proposed revisions to the ordinance entitled "Waterfront Ordinance" (the "Revised Ordinance"), to be voted on at a town meeting of the Town of Kennebunkport on November 6, 2018 under the article, "Shall an ordinance entitled 'Waterfront Ordinance' be revised?"

It is further Ordered, pursuant to 30-A M.R.S. § 3002(1) that the municipal clerk shall keep this certified copy as a public record and shall make copies of the Revised Ordinance available for distribution to the voters of the Town of Kennebunkport from the time of this certification. Copies of the Revised Ordinance shall also be attested by the Town Clerk and posted in the same manner as the warrant calling said town meeting and shall be made available to the voters at said town meeting.

Dated: September 13, 2018

A majority of the municipal officers of the
Town of Kennebunkport

A true copy of the proposed revisions to the Ordinance entitled, "Waterfront Ordinance" is attached hereto.

Attest: _____
Tracey O'Roak, Town Clerk
Town of Kennebunkport

WATERFRONT ORDINANCE

1. GENERAL PROVISIONS

1.1 TITLE

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

1.2 AUTHORITY

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

1.3 PURPOSE

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

1.3.1 Ensure that there will always be adequate and usable mooring space for the Kennebunkport Commercial Fishing Fleet.

1.3.2 Preserve the working waterfront, which includes commercial fishing, marine related businesses and recreational boating.

1.3.3 Provide Ordinance guidelines and authority for the Harbormaster to administer mooring space and to resolve any conflicts.

1.3.4 Address dangerous and unsuitable mooring placements.

1.3.5 Ensure consistency with the policies set by the state of Maine and the US Army Corps of Engineers.

1.3.6 Plan, establish and maintain the arrangement and utilization of Mooring areas, public landings, boat ramps, harbor channels and other related properties in Kennebunkport Waters.

1.4 APPLICABILITY

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

1.5 SEVERABILITY

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

1.6 CONFLICT

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

1.7 EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption.

2. DEFINITIONS

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

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

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

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

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

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

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

KENNEBUNKPORT WATERS: Has the meaning defined by Section 1.4.

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

Commercial: A Mooring issued to and utilized by a Commercial Fisheries Business for the purpose of mooring a Commercial Fishing Vessel. In Cape Porpoise, the mooring permit holder must either be a Cape Porpoise Pier member in good standing or a shorefront owner. This excludes moorings in Paddy Creek, Turbats Creek, Land's End and Langsford Road, as noted by their mooring designation.

Recreational: A Mooring other than a commercial mooring that is permitted for the purpose of mooring a specific Vessel. In Cape Porpoise, the mooring permit holder must either be a Cape Porpoise Pier member in good standing or a shorefront owner. This excludes moorings in Paddy Creek, Turbats Creek, Land's End and Langsford Road, as noted by their mooring designation.

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

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

MOORING PERMITTEE: A person granted a Mooring Permit.

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

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

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

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

SHIP CHANNELS: Ship channels as described herein and depicted on the NOAA nautical chart and other such channels designated by the Harbor Master which shall be

kept open for the passage of watercraft. These channels are maintained by the US Army Corps of Engineers and are depicted on the Corps Condition Survey for Cape Porpoise and the Kennebunk River.

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

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

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

3. HARBOR MASTER

3.1 APPOINTMENT AND COMPENSATION

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

3.2 POWERS AND DUTIES

3.2.1 Removal of Vessels

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

Once a Vessel has been removed by the Harbor Master the owner of record shall

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

3.2.2 Mooring Removal or Replacement

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

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

3.2.3 Training

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

4. MOORINGS

4.1 ANCHORAGES

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

4.2 DESIGNATION OF MOORING SITES

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

the written approval of the Harbor Master.

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

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

4.3 MOORING PERMIT

4.3.1 Application

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

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

4.3.2 Waiting List

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

All persons desiring mooring space in Kennebunkport Waters shall place their name and the type of mooring desired on the Mooring Permit Waiting

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

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

4.3.3 To Whom Issued

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

4.3.4 Conversion

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

4.4 MOORING IDENTIFICATION

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

4.5 PLACEMENT OF MOORINGS

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

4.6 SIZE AND CONSTRUCTION

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

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

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

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

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

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

4.7 INSPECTION OF MOORINGS

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

4.8 DENIAL

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

- 4.8.1** Structurally unsafe;
- 4.8.2** Emitting obnoxious fumes, oils, or any other substance detrimental to the safety or comfort of others, including any pollution of its waters, shores and flats;
- 4.8.3** Of inappropriate size for the Mooring; or
- 4.8.4** Causing damage to Town owned waterfront facilities.

4.9 NON-USE OF MOORINGS

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

4.10 MOORING ASSIGNMENTS

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

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

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

5. FEES AND FINES

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

6. ABANDONMENT

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

7. POLLUTION

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

8. RULES AND REGULATIONS

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

9. ENFORCEMENT

9.1 ENFORCEMENT BY THE HARBOR MASTER

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

9.2 ENFORCEMENT BY LAW ENFORCEMENT OFFICERS

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

9.3 MISDEMEANOR FINES; SEPARATE VIOLATIONS

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

9.4. LEGAL ACTION

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

10. APPEALS

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



Agenda Item Divider





**CERTIFICATION OF PROPOSED REVISIONS TO
VICTUALER'S LICENSING ORDINANCE AND ORDER**

The municipal officers of the Town of Kennebunkport hereby certify to the municipal clerk of the Town of Kennebunkport pursuant to 30-A M.R.S. § 3002 that attached hereto is a true copy of the proposed revisions to the ordinance entitled "Victualer's Licensing Ordinance" (the "Revised Ordinance"), to be voted on at a town meeting of the Town of Kennebunkport on November 6, 2018 under the article, "Shall an ordinance entitled 'Victualer's Licensing Ordinance' be revised?"

It is further Ordered, pursuant to 30-A M.R.S. § 3002(1) that the municipal clerk shall keep this certified copy as a public record and shall make copies of the Revised Ordinance available for distribution to the voters of the Town of Kennebunkport from the time of this certification. Copies of the Revised Ordinance shall also be attested by the Town Clerk and posted in the same manner as the warrant calling said town meeting and shall be made available to the voters at said town meeting.

Dated: September 13, 2018

A majority of the municipal officers of the
Town of Kennebunkport

A true copy of the proposed revisions to the Ordinance entitled, "Victualer's Licensing Ordinance" is attached hereto.

Attest: _____
Tracey O'Roak, Town Clerk
Town of Kennebunkport

TOWN OF KENNEBUNKPORT

VICTUALER'S LICENSING ORDINANCE

Section 1 Purpose, Authority, License Required, Word Usage and Definitions

A. Purpose; Authority – The purpose of this Ordinance is to ensure that establishments serving food or drink within the Town of Kennebunkport (hereafter, the “Town”) and intended for consumption by the public prepare their food and drink in a safe and sanitary environment. This Ordinance is adopted pursuant to the authority granted by 30-A M.R.S.A. § 3812 *et seq.*, 30-A M.R.S.A. § 3001, and the Home Rule provisions of the Constitution of the State of Maine.

A-B. License Required – Any establishment that serves food or drink prepared for consumption by the public within the Town shall be required to annually apply for and be granted a victualer's license. A license shall be specific to the premises and entity which is requesting the license. Unless otherwise defined herein or in the text, all words used in this Ordinance shall have their common meanings.

B. Definitions – Unless otherwise defined herein or in the text, all words used in this Ordinance shall have their common meanings. As used in this Ordinance, the following terms shall have the meanings indicated:

PERSON – Any individual, person, firm, corporation, association, partnership, ~~or~~ organization, or legal entity.

VICTUALER – Any person who serves food or drink prepared for consumption on the premises by the public.

TOWN – The ~~term Town shall mean the~~ Town of Kennebunkport.

Section 2 **Licensing Board and Meetings**

A. **Licensing Board** – The Licensing Board shall be the Town of Kennebunkport Board of Selectmen.

B. **Meetings** – The Licensing Board shall meet as provided in this subsection:

(1) It shall meet annually during the month of May on a date, time and place ~~in the Town that it determines~~ determined by the Board of Selectmen.

(2) At least seven (7) days before the meeting, ~~it the Licensing Board~~ must post notices stating the purpose of the meeting in at least two (2) public places in the Town.

- (3) The Licensing Board may meet at any other time at a meeting specially called and with public notice as provided in paragraph (1) Section 2.B.(2) above.

Section 3 License Issuance, Renewal, Suspension and Revocation

- A. Issuance, Renewal, Suspension and Revocation of Licenses - At any meeting held under subSection 2.B. above, the Licensing Board may do the following:

- (1) **License** - The Licensing Board may license as many persons of good moral character to be innkeepers, victualers and tavern keepers in the Town as it considers necessary, in accordance with the requirements set forth herein.
- (a) In determining whether to issue or deny an application, the Licensing Board shall consider (i) whether the applicant has failed any part of a state inspection or local health inspection; (ii) whether the applicant has failed to provide sufficient evidence of compliance with applicable local, state or federal laws and regulations; (iii) whether the applicant is of good moral character, considering the applicant's criminal record, if any, and all evidence presented; (iv) the applicant's failure to pay an outstanding fine, penalty or tax owed to the Town; and (v) the Town's need for additional innkeepers, victualer's and tavern keepers. The License must specify the building in which the business will be conducted.
- (b) The Licensing Board may issue the license under any conditions or restrictions and regulations that it deems necessary and reasonably designed to promote the health, safety or welfare of the public.
- (c) The premises must be inspected by the Code Enforcement Officer and Fire Inspector for compliance with local ordinances and state statutes, prior to the issuance of the license. Such inspections shall be noticed to the Licensing Board.
- (d) The license must specify the building in which the business will be conducted.
- (e) The license must specify an issue date and an expiration date.
- (2) **Renewal** – Renewal applications from persons having obtained a victualer's license under Section 3.A.(1) above, along with applicable fees, must be submitted to the Town Clerk on or before April 30th of each year. The Licensing Board shall annually review all renewal applications for the purpose of determining the status of the victualer's prior conformance and likelihood of continued conformance with the requirements of this

Ordinance, including the requirements of Section 3.A.(1)(a) above and any conditions or restrictions of the license, and at such time shall make a decision to either approve or deny the renewal application.

- (23) **Suspension** – A victualer's license may be suspended by the Licensing Board for any period of time that it considers proper after investigation, notice and hearing if the Licensing Board determines that the licensee has violated any codes, ordinances, conditions or restrictions imposed by the Licensing Board. The Licensing Board shall serve written notice of ~~the~~a hearing on suspension on the licensee or leave it at the licensed premises at least three (3) days before the time set for hearing. At the hearing, the licensee must be given an opportunity to hear the evidence in support of the charge against the licensee, to be heard in the licensee's own defense and to cross-examine, alone or through counsel, ~~the~~any witnesses. ~~If the Licensing Board is satisfied that the licensee has violated any codes, ordinances or restrictions imposed by the Licensing Board, the Licensing Board may suspend a license for any period of time that it considers proper.~~
- (34) **Revocation** - A victualer's license may be revoked by the Licensing Board after investigation, notice and hearing if the Licensing Board determines that the licensee is unfit to hold a license. The Licensing Board, ~~after serving shall serve~~ written notice of ~~the~~a hearing on revocation on the licensee or ~~leaving~~ it at the licensed premises at least three (3) days before the time set for hearing. At the hearing, the licensee must be given an opportunity to hear the evidence in support of the charge against the licensee, to be heard in the licensee's own defense and to cross-examine, alone or through counsel, ~~the~~any witnesses. ~~The Licensing Board may revoke a license upon conducting a hearing at any regularly scheduled meeting of the Licensing Board as conducted in accordance with Section 2 B. (3) referenced above.~~

Section 4 Term of License

The term of a victualer's license shall run from ~~May~~ June 1 to May 31 of the following year.

Section 5 Fees

The Licensing Board shall set fees by order for the following categories of victualer's licenses:

- A. Victualer without on-site consumption of liquor.
- B. Victualer with on-site consumption of liquor.
- C. Nonprofit Organization.

- D. Failure to obtain a license, either renewal or a new license, may subject the licensee to additional late filing fees, ~~and~~ publication of notice expenses, ~~and/or penalties pursuant to Section 6, below~~, as may be determined by the Licensing Board.

Section 6 Violations

Any violation of this Ordinance, including but not limited to failure to submit an annual renewal application by the deadline provided, shall be punishable by a fine of not less than \$100 for the first offense and not less than \$200 for the second and subsequent offense. Each day that such unlawful act or violation continues shall be considered a separate offense. In addition, the Town may seek recovery of costs and any other legal and equitable remedies as may be available to the Town.

Section 67 Appeals

An appeal from any final decision of the Licensing Board ~~shall~~ may be taken by any aggrieved party to the Superior Court ~~within thirty (30) days from the date of the decision~~ in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

Adopted March 24, 1998. Amended March 21, 2000. Amended _____, 2018.



Agenda Item Divider



6

**CERTIFICATION OF PROPOSED REVISIONS TO
WIRELESS TELECOMMUNICATIONS ORDINANCE AND ORDER**

The municipal officers of the Town of Kennebunkport hereby certify to the municipal clerk of the Town of Kennebunkport pursuant to 30-A M.R.S. § 3002 that attached hereto is a true copy of the proposed revisions to the ordinance entitled "Wireless Telecommunications Ordinance" (the "Revised Ordinance"), to be voted on at a town meeting of the Town of Kennebunkport on November 6, 2018 under the article, "Shall an ordinance entitled 'Wireless Telecommunications Ordinance' be revised?"

It is further Ordered, pursuant to 30-A M.R.S. § 3002(1) that the municipal clerk shall keep this certified copy as a public record and shall make copies of the Revised Ordinance available for distribution to the voters of the Town of Kennebunkport from the time of this certification. Copies of the Revised Ordinance shall also be attested by the Town Clerk and posted in the same manner as the warrant calling said town meeting and shall be made available to the voters at said town meeting.

Dated: September 13, 2018

A majority of the municipal officers of the
Town of Kennebunkport

A true copy of the proposed revisions to the Ordinance entitled, "Wireless Telecommunications Ordinance" is attached hereto.

Attest: _____
Tracey O'Roak, Town Clerk
Town of Kennebunkport

Wireless Telecommunications Ordinance PROPOSED AMENDMENT

Contents

- Section 1: Title
- Section 2: Authority
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- Section 7: Standards of Review
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- Section 15: Effective Date

Section 1. Title

This Ordinance shall be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance" of Kennebunkport, Maine (hereinafter referred to as the "ordinance").

Section 2. Authority

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A., Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A., Section 4312 et seq.

Section 3. Purpose

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to:

- Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;
- Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities;
- Allow competition in telecommunications service;
- Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions and residents of Kennebunkport;
- Permit and manage reasonable access to the public rights of way of Kennebunkport for telecommunications purposes on a competitively neutral basis;
- Ensure that all telecommunications carriers providing facilities or services within Kennebunkport comply with the ordinances of Kennebunkport;
- Ensure that Kennebunkport can continue to fairly and responsibly protect the public health, safety and welfare;
- Encourage the colocation of wireless telecommunications facilities and alternative technologies, thus helping to minimize adverse visual impacts on the community;
- Enable Kennebunkport to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development;
- Further the goals and policies of the comprehensive plan, while promoting orderly development of the town with minimal impacts on existing uses; and
- Protect the scenic and visual character of the community; and
- Comply with the 2012 Spectrum Act and the Telecommunications Act of 1996 as each is amended.-

Section 4. Applicability

This local land use ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in section 4.1.

4.1 Exemptions: The following are exempt from the provisions of this ordinance:

- A. ***Emergency Wireless Telecommunications Facility.*** Wireless communication facilities for emergency communications by public officials or any municipal or quasi-municipal organization currently served by the Town of

Kennebunkports Communications Department including, without limitation, the KK&W Water District and colocation by any person or firm, public or private, on any tower owned or operated by the KK&W Water District provided colocation by any private person or firm shall be subject to site plan approval by the Planning Board in addition to other applicable provisions of this ordinance.

- B. ***Amateur (ham) radio stations.*** Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- C. ***Parabolic antenna.*** Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
- D. ***Maintenance or repair.*** Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
- E. ***Temporary wireless telecommunications facility.*** Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.

~~F. ***Antennas as Accessory Uses.*** An antenna that is an accessory use to a residential dwelling unit.~~

Section 5. Review and Approval Authority

5.1 Approval Required: No person shall construct or expand a wireless telecommunication facility without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

- A. ***Expansion of an Existing Facility and Colocation.*** Approval by the CEO and issuance of a building permit is required for (1) any expansion of an existing wireless telecommunications facility that increases the height of the facility by no more than 20 feet; (2) accessory use of an existing wireless telecommunications facility; or (3) collocation on an existing wireless telecommunications facility or alternative tower structure; or (4) installation of small cell facilities on existing utility poles.
- B. ***New Construction.*** Approval of the Planning Board and issuance of a building permit is required for construction of all new wireless telecommunications facilities; and any expansions or substantial modifications of ~~an~~ existing wireless telecommunications facilities such as, but not limited to, that increases in the height of the facility by more than 20 feet or new disturbed area or equipment cabinets outside the area occupied by the existing facility.

5.2 Approval Authority

In accordance with Section 5.1 above, the CEO or Planning Board shall review applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with this Ordinance.

Section 6. Approval Process

6.1 Pre-Application Conference: All persons seeking approval of the CEO or the Planning Board under this ordinance shall meet with the CEO no less than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

6.2 Application: All persons seeking approval of the CEO or the Planning Board under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.

A. Application for CEO Approval. Applications for permit approval by the CEO must include the following materials and information:

1. Documentation of the applicants right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant.
2. A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
3. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
4. Location map and elevation drawings of the proposed facility and any other proposed structures, showing color, and identifying structural materials.
- 4.5. For a proposed small cell facility: (a) name and address of the owner(s) of the utility pole; (b) utility pole number; (c) address of nearest property; and (d) structural analysis, signed by a Maine registered professional engineer, attesting to the ability/integrity of the utility pole to support the small cell facility without any impact to the structural integrity of the utility pole or network of poles.
- 5.6. For proposed expansion of an existing facility, a signed statement that commits the owner of the facility, and his or her successors in interest, to:
 1. respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 2. negotiate in good faith for shared use by third parties;
 3. allow shared use if an applicant agrees in writing to pay reasonable charges for colocation;
 4. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration,

land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

B. *Application for Planning Board Approval.* An application for approval by the Planning Board must be submitted to the Code Enforcement Officer. The application must include the following information:

1. Documentation of the applicants right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
2. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
3. A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the Town. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.
4. A site plan:
 1. prepared and certified by a Maine registered professional engineer ~~registered in Maine~~ indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
 2. certification by the applicant that the proposed facility complies with all FCC standards for radio frequency emissions is required; and
 3. a boundary survey for the project performed by a land surveyor licensed by the State of Maine.
5. A scenic assessment, consisting of the following:
 1. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
 2. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
 3. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date

taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

4. A narrative discussing:
 - i. the extent to which the proposed facility would be visible from or within a designated scenic resource,
 - ii. the tree line elevation of vegetation within 100 feet of the facility, and
 - iii. the distance to the proposed facility from the designated scenic resources noted viewpoints.
6. A written description of how the proposed facility fits into the applicants telecommunications network. This submission requirement does not require disclosure of confidential business information.
7. Evidence demonstrating that no existing building, site, or structure can accommodate the applicants proposed facility, the evidence for which may consist of any one or more of the following:
 1. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicants engineering requirements,
 2. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicants engineering requirements,
 3. Evidence that existing facilities do not have sufficient structural strength to support applicants proposed antenna and related equipment. Specifically:
 - i. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - ii. The applicants proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicants proposed antenna.
 - iii. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 4. For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance;

5. Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing facility, building, or structure, and has been denied access.
8. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
9. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to :
 1. respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 2. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 3. allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;
 4. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
10. A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.
11. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

6.3 Submission Waiver: The CEO or Planning Board, as appropriate, may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the CEO or Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

6.4 Fees:

- A. CEO Application Fee.** An application for CEO approval shall include payment of an application fee as determined annually by the Board of Selectmen. ~~of \$250.~~ The application shall not be considered complete until this fee is paid.



Under Construction

**Proposed
Underground
Power**

**Pave sidewalk cut and pave sidewalk
from cut to end of sidewalk 3/4 " overlay
By Home Owner.**





Agenda Item Divider



Raise the Floor Coalition

Contact: Mark Robinson, Town of Fayette

Tel: 685-4373

August 8, 2018

RE: Raising the Floor for Minimum/Low Receivership School Districts

We are writing to let you know about the Raise the Floor Coalition, which has been formed to draft and promote legislation to make school funding more equitable by ensuring more state subsidy for so-called "minimum receiver" municipalities. We are asking that your town and/or school unit join others around the state in supporting this important endeavor.

The Coalition has a collective mission to create a more equitable school funding model. Through our proposed legislation, school districts would either receive funding through the EPS formula or 15% of average per pupil costs, whichever amount is higher. This proposal will not take dollars away from any school unit or town in the state, and would represent only a 6% increase in the general fund.

The Coalition is asking those interested in participating in this effort to contribute \$5 per pupil, with a minimum contribution amount of \$1,000 and a maximum amount of \$15,000. Funds raised will go toward a legislative campaign to be directed by the Augusta firm of Preti Flaherty, as well as associated expenses. Our goal is to raise \$50,000 by October 1, 2018. Any funds that remain unspent after the effort is concluded will be returned to participants in keeping with their pro rata contributions. All contributing entities will have a seat at the table during meetings of the Coalition, and will have the ability to advocate for their municipalities and otherwise participate in and assist with the direction of this campaign.

If your municipality or school unit is interested in participating in this campaign and funding effort, please let us know at your earliest convenience and we would be happy to answer any of your questions. Checks issued toward this effort should be sent to Preti Flaherty, attn.: Daniel Walker, Esq., at 45 Memorial Circle, Augusta, ME 04330, and questions may be directed to Daniel Walker, dwalker@preti.com; Kristin Collins, kcollins@preti.com; or Mark Robinson, Fayette Town Manager, fayette@myfairpoint.net.

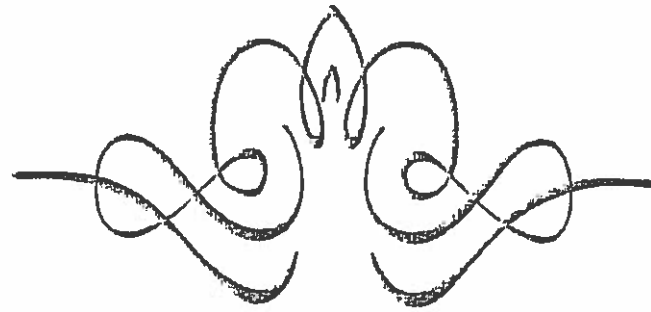
Thank you.



Daniel Walker, Esquire



Kristin Collins, Esquire



Agenda Item Divider



18

Kennebunkport Public Health

August 13, 2018

ATN: Kennebunkport Board of Selectmen, Laurie Smith-Kennebunkport Town Manager

Please accept this generous gift of \$1000.00 from the Steele Irrevocable Trust to the Nurses general (G1—320-39) account .

Thank you!

Alison Kenneway RN, BSN

Kennebunkport Public Health

STEELE IRREVOCABLE TRUST
42 WILLY RD.
KENNEBUNKPORT, ME 04046

Pay to the
Order of

Kennebunkport Health Department

8-12-18

Date

115

52-7451/2112

Norway
Savings Bank

NORWAY, MAINE 04268

For

One thousand dollars No Cents

\$ 1,000 00/100

Dollars

Security
Features
Detailed on
Back.

Helin E. Herman

⑈ 00115

INTODUCE CUSTOMER OPERATIONS



Agenda Item Divider



19

Kennebunkport Public Health

August 23, 2018

ATN: Kennebunkport Board of Selectmen, Laurie Smith-Kennebunkport Town Manager

Please accept this generous gift of \$50.00 from the Goose Rocks Fire Company to the Nurses general (G1—320-39) account in memory of Agnes Steele.

Thank you!

Alison Kenneway RN, BSN

Kennebunkport Public Health



Goose Rocks Beach Fire Company
2 Winter Harbor Road
P. O. Box 216
Kennebunkport, Maine 04046

President Noel Graydon
Vice President Freeland Smith
Engineer James Steele, Jr.
Secretary Jean Moulton
Treasurer Bill Dugan
Trustee Jamie Houtz
Trustee Mike Kelly

August 17, 2018

Dear Health Dept.

This contribution is made in memory of Agnes Steele.

Sincerely

Bill Dugan, Treasurer

1489

52-7450/2112

GOOSE ROCKS BEACH FIRE COMPANY
LEASE ACCOUNT
PO BOX 216
KENNEBUNKPORT, ME 04046

DATE

8/16/18

PAY TO
THE ORDER OF

Kennebunkport Health Dept
Fifty and 00/100 \$ 50.00

DOLLARS

Kennebunk Savings

MEMO

Money Agnes Steele

Tanker 1 + Engine 33 + Ladder 34 + Brush 35 + Marine 1 + Marine 2



Agenda Item Divider



20

AGREEMENT FOR LIMITED AID TO LAW ENFORCEMENT AGENCIES
BETWEEN THE TOWN OF KENNEBUNKPORT AND THE TOWN OF ARUNDEL
(30-A M.R.S.A. § 2674)

THIS AGREEMENT FOR LIMITED AID TO LAW ENFORCEMENT AGENCIES (the "Agreement") is made this 27th day of Aug, 2018, by and between the municipal officers of the Town of Kennebunkport ("Kennebunkport") and the Town of Arundel ("Arundel") (collectively, the "Parties").

WITNESSETH

WHEREAS, 30-A M.R.S.A. § 2674 provides that, except as otherwise provided by municipal charter or ordinance, municipal officers may authorize the chief of police or other designee to request of another municipality and/or provide to another municipality law enforcement officers to assist the requesting municipality; and

WHEREAS, said authorizations of the municipal officers must be accompanied by an agreement between the requesting municipality and the responding municipality; and

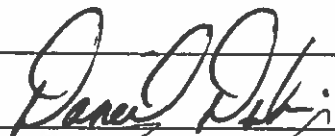
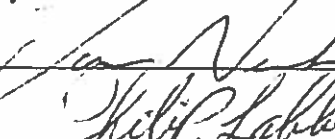
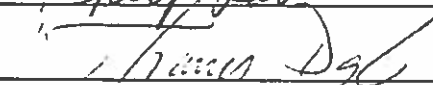
WHEREAS, the Parties desire to provide a Kennebunkport law enforcement officer to serve as a school resource officer at the Mildred Day Elementary School located in the Town of Arundel in order to create a safe school environment.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth between the Parties, the Parties do hereby agree as follows:

1. **PURPOSE.** The purpose of this agreement is to provide a Kennebunkport law enforcement officer to assist Arundel by serving as a school resource officer ("SRO") at the Mildred Day Elementary School located in the Town of Arundel, pursuant to the terms set forth in a separate agreement between Kennebunkport and Regional School Unit No. 21 of near or even date and attached hereto as Exhibit A (the "SRO Agreement"). Nothing in this Agreement is intended to be, nor shall it be construed as, authorization by the municipal officers of either Party to request or provide any other law enforcement assistance.
2. **DESIGNATED REPRESENTATIVE.** The municipal officers of each Party hereby designate the following officers for implementation of this Agreement: Kennebunkport—Chief of Police; Arundel—Chair of the Board of Selectmen.
3. **ASSIGNMENT OF SRO.** The SRO position shall be filled in accordance with the requirements of the SRO Agreement. In addition, any Kennebunkport law enforcement officer assigned to the SRO, or officer(s) assisting the assigned SRO position, must be in "good standing," must have no Giglo issues where his/her credibility is in question, and must meet the training requirements of 25 M.R.S.A. §§ 2804-C and 2004-E. Kennebunkport shall be solely responsible for the training and equipment of the SRO.
4. **EMPLOYER-EMPLOYEE RELATIONSHIP RETAINED.** Kennebunkport shall be the sole and exclusive employer of the SRO. Kennebunkport shall retain all of the legal responsibilities of the employer-employee relationship while its officer has the authority of an SRO. The Kennebunkport law enforcement officer assigned hereunder to serve as SRO shall be paid by Kennebunkport his/her wages and fringe benefits and shall accrue benefits in the customary manner. Nothing herein shall be construed to create a joint employer relationship between Arundel and Kennebunkport.

5. **RESPONSIBILITY FOR CLAIMS.** The Parties understand and agree that each is fully and solely responsible for any claims, causes of action, demands, or suits of any kind or nature which may be brought against that Party as a result of the services provided under this Agreement, including but not limited to personal injury or property damaged caused by or occurring to the SRO in the course of assisting Arundel pursuant to this Agreement. Accordingly, neither Party undertakes to indemnify the other for any claims against the other Party. Nothing herein waives or limits the sovereign or qualified immunity, defenses, or limitations of liability of the Parties under federal or state law, including but not limited to the Maine Tort Claims Act.
6. **RECORDS; CONFIDENTIALITY.** Records regarding performance of the obligations required by this Agreement will be maintained by the respective Parties. Each Party will maintain the confidentiality of records as required by state and federal law. A Party may seek access to the other Party's records on an "as-needed" basis and to the extent allowed by law.
7. **AMENDMENT.** This Agreement may be modified by mutual written agreement of the Parties.
8. **TERM; EARLY TERMINATION.** The initial term of this Agreement shall be from the date first above written to June 30, 2021, subject to extension by mutual written agreement of the Parties. Either Party may terminate this Agreement upon 30 days' written notice to the other Party or such shorter notice period as agreed to by the Parties.
9. **MISCELLANEOUS.** This Agreement shall be interpreted, governed, construed, and enforced in accordance with the laws of State of Maine. This Agreement contains the entire agreement between the Parties in relation to its subject matter, and there are no other agreements or understandings, oral or otherwise, between the Parties at the time of execution of this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the undersigned Parties have caused this Agreement to be signed as of the day and year above written by their authorized representatives.

Being a majority of the Municipal Officers of the
 Town of ~~Kennebunkport~~

ARUNDEL 8/27/18

Being a majority of the Municipal Officers of the
 Town of ~~Arundel~~ Kennebunkport

8/27/18