

**Town of Kennebunkport
Board of Selectmen Meeting VIA Zoom
August 27, 2020
5:30 PM**

Minutes of the Selectmen's Meeting of August 27, 2020

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

Others attending via Zoom: Kathy Anuszewski, Mike Davis, Werner Gilliam, James McMann, Arlene McMurray, Becky Nolette, Tracey O'Roak, Laurie Smith, Richard Smith, Keith Zakarin, and others

1. Call to Order.

Chair Daggett called the meeting to order at 5:30 PM. He took **roll call** of Selectmen present: Patrick Briggs, Allen Daggett, Sheila Matthews-Bull, Ed Hutchins, and D. Michael Weston.

2. 5:30 PM Executive session per (MRSA 1, §405-6E) for consultation with Town attorney to discuss legal rights and duties.

The Board went into executive session at 5:30 PM and came out at 6:23 PM.

No action was taken.

3. Approve the August 13, 2020, selectmen meeting minutes.

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

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.).

There were no comments.

5. Sign the November 3, 2020, Special Town Meeting Warrant.

Town Clerk Tracey O'Roak reviewed the Special Town Meeting Warrant.

Town Manager Laurie Smith added that the short-term rentals will not be on the ballot.

Motion by Selectman Matthews-Bull, seconded by Selectman Briggs, to authorize the warrant for the November election. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

6. Sign Order to approve ordinance changes on the November 3, 2020, ballot.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to sign the Order to approve ordinance changes on the November 3, 2020, ballot. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

7. Solid Waste Committee reappointments.

Ms. Smith said according to the Administrative Code, the Solid Waste Committee is a three-year appointment. Their appointments were missed in July. All members of the current Solid Waste Committee wish to be reappointed.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to reappoint Jon Dykstra, Dave Eglinton, Harvey Flashen, Paul Hogan, Thomas McClain and Kinder Wilson to a three-year term expiring in July 2023. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

8. Consider appointment to the Recreation Committee.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to appoint Nina Scott to a term expiring in July 2021 on the Recreation Committee. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed**

9. Authorize a Quit Claim Deed for map 21, block 3, lot 10.

Ms. Smith said this property is going through a sale and the taxes, fees, and interest has been paid in full. The Treasurer is requesting authority to release the property through a quit claim deed.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the quit claim deed for map 21, block 3, lot 10. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

10. Consider tax abatements and supplemental bills.

Property Owner	Location	Map	Blk	Lot(s)	Tax Abatements	Supplemental Bills
Olive C. Eldridge	6 Birch CT	11	4	19	\$2,892.65	\$3,105.27
Albert Palmer Trust	Dyke Road	34	2	26	\$86.94	
Margaret P. Mix R.E. Trust	Dyke Road	34	2	26		\$86.94
Ralph & Mary Smith	Whitten Hills Rd.	26	1	3D	\$382.73	
Leith & Scott Doherty	Roseleith Lane	21	9	6		\$635.99

Assessor’s Agent Becky Nolette summarized the tax abatements and supplemental bills.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins, to authorize the tax abatement in the amount of \$2,892.65 for Map 11, Block 4, Lot 19. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the supplemental bill in the amount of \$3,105.27 for Map 11, Block 4, Lot 19. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the tax abatement in the amount of \$86.94 for Map 34, Block 2, Lot 26. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the supplemental bill in the amount of \$86.94 for Map 34, Block 2, Lot 26. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

Motion by Selectman Weston, seconded by Selectman Matthews-Bull, to authorize the tax abatement in the amount of \$382.73 for Map 26, Block 1, Lot 3D. **Roll Call Vote:** Briggs, Daggett, Matthews-Bull, and Weston. Selectman Hutchins abstained because he is related to the property owners. **Voted:** 4-0-1. **Motion passed.**

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to authorize the supplemental bill in the amount of \$635.99 for Map 21, Block 9, Lot 6. **Roll Call Vote:** Briggs, Daggett, Matthews-Bull, and Weston. Selectman Hutchins said he will have to abstain because he is related to the property owners. **Voted:** 4-0-1. **Motion passed.**

11. Discuss short-term rentals.

Chair Daggett explained that this is a work in progress which the Board will continue to discuss and develop through the winter. He said every business has regulations and this is just a start. He reiterated that it will not be on the November ballot, which some people think.

Based on the feedback at the last meeting, Director of Planning and Development Werner Gilliam drafted an ordinance for the Board to review to get the discussion going on regulation and the process for licensing. He summarized the draft ordinance. See Exhibit A.

Discussion followed and the Board members made the following comments:

- Seasonal homes should not be considered in this.
- A seasonal is no different than a business.
- It is assumed that everyone is paying the 7% use tax.
- Residential areas should be residential and not commercial. Rentals are businesses.
- Adequate parking is required.

- It is a good draft and should be on the Town website for people to view.
- It is a good start. They need to know how many rentals they have.

Ms. Smith added that some communities license all rentals. Some of the things she wanted the Board to think about are if Goose Rocks Beach should be treated differently and whether the Board wants to examine all this information first before getting public feedback.

Public comments included the following:

- Jim McMann said he wished the public had more say in this. He is against the ordinance because the Short-Term Rental Committee had meetings in 2018 and agreed not to regulate. He said short-term rentals help people to be self-reliant and that not all out-of-state cars are from people staying at these rentals. Also, limiting stays may cause problems, and why hire a third party to manage them.
- Sharon McCabe said she concurs with Jim McMann. She said she sent a letter to the Board about why short-term rentals are important, e.g., they recommend local businesses to visitors: restaurants, stores, boating, golfing, lobster tours, bike rentals, hotels, B& B's, the trolley museum, etc. She added the big problem will be how they decide who gets a permit and that they will be competing with real estate offices. She said the cost to rental owners must be spelled out.
- Kathy Anuszewski, owner of Maritime Reality at Goose Rocks Beach, said she has rented short-term for 40 years. She said they address all of the items in Mr. Gilliam's ordinance draft.
- Keith Zakarin thanked the Board for doing this. He said it is reasonable to have controls and supports the Board.

The Board will continue this discussion at future meetings.

12. Approve the Public Safety Answering Point Service (PSAP) Agreement.

Ms. Smith explained the York Police Department provides both emergency dispatch as the Town's PSAP, and they provide emergency fire dispatch and emergency medical dispatch. York PD requires a three-year contract. Both parties have the ability to terminate the agreement with six months' notice.

Motion by Selectman Weston, seconded by Selectman Hutchins to authorize the PSAP Agreement with the Town of York. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

13. Other Business.

Chair Daggett announced the last softball game of the season is Wednesday at 6 PM.

Ms. Smith made three announcements:

- Absentee ballots for the November 3 election will not be available until the beginning of October, but people can fill out a request form online now at <https://apps.web.maine.gov/cgi-bin/online/AbsenteeBallot/index.pl>, and the Town Clerk can mail it to them when they become available. There will be a drop box out front of town hall that will hold 300 absentee ballots.
- The Town received a second award of the Keep Maine Healthy Grant for \$123,000. She will be purchasing the Abbot Labs ID Now COVID-19 Rapid Molecular Test which will give COVID-19 results in 15 minutes. The Town was able to purchase this because it has a public health nurse.
- Twenty-Three people have signed up for the Tax Club.

14. Approve the August 27, 2020, Treasurer's Warrant.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the August 27, 2020, Treasurer's Warrant. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

15. Adjournment.

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

The meeting adjourned at 8:10 PM.

Submitted by Arlene McMurray
Administrative Assistant

Exhibit A - 8-27-2020

Kennebunkport Short-term Rental License/Ordinance

A. Purpose:

The purpose of this ordinance/license is to balance the desire of property owners to rent their properties to short-term tenants and the desire of residents to preserve the peaceful quiet and enjoyment of their residential neighborhoods. In some cases, short-term rentals take on the character of a business operating in a residential neighborhood that create negative impacts of unsupervised tourism activities on adjacent residents. Therefore, to preserve the character of residential neighborhoods, help maintain housing availability for long-term residents and protect the public safety of visitors and residents, the operation of short-term rentals must be regulated in some fashion.

B. Applicability: This ordinance/license may be applied to all legal residential dwelling units with the exception of accessory apartments that have been constructed/permitted after November 3rd 2009.

C. Definitions:

Advertising: Any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed through various media, including, but not limited to, newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages.

Dwelling unit: One or more rooms arranged for complete, independent housekeeping purposes with space for living and sleeping; space or facilities for eating or cooking; and provisions for sanitation. For purposes of this regulation Recreational vehicles are not considered dwelling units.

Good Neighbor guidelines: A document prepared by the town that summarizes the general rules of conduct, consideration and respect, including, without limitation, provisions pertaining to the use and occupancy of a dwelling unit used or occupied as a short-term rental.

Owner: A person who is the owner of record of real property as documented by deed or other document evidencing ownership recorded at the York County Registry of Deeds.

Short-term rental: The use of a residential dwelling unit offered for rent for transient occupancy by tenants for a tenancy of less than 30 days, excluding motels, hotels, bed and breakfasts, inns, and residential rental accommodations.

D. General Requirements:

1. License Required: No Short-term rental shall be advertised, rented, or operated without first obtaining a Short-term rental License. Failure to obtain or renew a license prior to offering, advertising, or renting the short-term rental shall require payment of double the short-term rental

license fee. The second failure to obtain or renew a license (within a 5-year period) shall be prohibited from obtaining a license for one (1) year. A license application received more than 30 days after the license deadline shall be considered late. A short-term rental license shall be valid for the calendar year in which the license is issued. The property must remain in compliance with the short-term rental license for the calendar year in which the license is issued.

Licenses are not transferable to a new owner. Any change in ownership or change in the members/managers/officers of an owner shall require a new license. Licenses are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.

2. Advertising: It shall be unlawful to advertise occupancy or use of a short-term rental that has not been licensed. For the purposes of this section, the term "advertise" shall mean any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed through various media included, but not limited to newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages. The short-term rental advertising must be consistent with the terms of the short-term rental license and must include the current short-term rental license number. Advertising of the short-term rental must state that the short-term must be rented for a minimum period of seven consecutive (7) days.

3. Minimum stay length: No more than one (1) rental/use of the short-term rental shall occur in a seven (7) day period. When a rental or non-compensated use of the property by any one individual or group, including but not limited to personal or family use by the property owner, of less than seven (7) days occurs, the property shall remain vacant for the remaining portion of the seven (7) day period. Further, not more than one Short-term rental agreement shall be entered for any given property for any consecutive seven-day period.

4. Registration record: The short-term rental owner must (a) maintain accurate, up-to-date records of all rental transactions involving the short-term rental, including the number of tenants and the length of their stays, and upcoming reservations; and (b) present said information to Town inspection officials upon request. Failure of the short-term rental owner to provide this information within 5 business days of a Town request for the same shall be considered a violation of this section.

E. Review Procedure:

Issuance procedure:

1. Short-term rental License applications shall be submitted to the Code Enforcement Office where it shall be endorsed with the date and time of receipt. Applications may be submitted beginning in October of the previous license year. The Code Enforcement Officer shall review all applications for completeness and accuracy and in the order that they were received.

2. The Code Enforcement Officer shall have the authority to issue a Short-term rental license.

3. The Code Enforcement Officer shall provide a Short-term rental application to be completed by the applicant and submitted to the Code Enforcement Officer accompanied by the Short-term rental license fee as established by the Board of Selectmen. The form shall include a non-exclusive checklist of code requirements that the property owner shall demonstrate compliance with.

4. The Code Enforcement Officer shall determine if the form has been properly completed before any license is issued.

5. The first time that a Short-term rental license is submitted for a property, no license shall be issued until the Code Enforcement Officer or designee has inspected the proposed Short-term rental property for compliance with the Short-term rental Standards and compliance with building code requirements. Thereafter, renewal of a Short-term rental license shall require inspection by the Code Enforcement Officer of the Short-term rental property no less than once every five years.

When the Code Enforcement Officer does not conduct an annual inspection, the Short-term rental owner shall certify that there have been no material changes since the last inspection by the Code Enforcement Officer.

6. If the Code Enforcement Officer determines that the proposed Short-term rental application complies with the Short-term rental Standards, a Short-term rental license shall be issued. A license shall be valid for one (1) year from date of issuance. The license may be subject to suspension by the Code Enforcement Officer if the Short-term rental property becomes non-compliant with the Short-term rental Standards and may be revoked.

F. Submission Requirements:

The Short-term rental license application shall include the following information:

1. Location. The street address and map/ block/lot number of the Short-term rental property.

2. Contact Person/Owner Responsibility. The name of the owner of the Short-term rental property and contact information, including address and telephone number. In addition, if someone other than the owner is acting as the local contact person, contact information for that person shall also be provided. Regardless of who enters the Short-term rental agreement, or who may be designated as the owner's contact person, the property owner shall be responsible for compliance with the Short-term rental Ordinance provisions.

3. Availability. The registration form shall include when, during the calendar year, the Short-term rental will be available for rental. If this changes, the owner shall notify the Code Enforcement Officer.

4. All information needed to demonstrate compliance with the standards listed below.

G. Standards:

The Code Enforcement Officer shall issue a Short-term rental license upon the applicant satisfying the above requirements if the following standards are met:

1. Code compliance. An applicant's property, without limitation, comply with the following building safety requirements code sections of the (International Residential Code, ("IRC,") and the International Building Code, ("IBC")):

a. IRC Section R 314, Smoke Alarms: A smoke alarm is required in each bedroom. A smoke alarm is also required outside of each bedroom and in the immediate vicinity. A smoke alarm is also required to be on each story of the dwelling, including basements and habitable attics. The alarms shall be interconnected as much as reasonably possible. (Reference IRC Section R314)

b. IRC Section R 315, Carbon Monoxide Alarms: If a house has an attached garage or a fuel fired appliance, a carbon monoxide alarm shall be installed outside each bedroom and 2 in the immediate vicinity. (Reference IRC Section R315)

c. IBC Section 906, Portable Fire Extinguishers: At least one portable fire extinguisher shall be mounted in a prominent location. One size/type 2/A is required or two size/type 1/A extinguishers. The building shall be an R-1 Occupancy (Boarding House) for the purpose of determining the type and location of portable fire extinguishers; IBC Section 1006.2. 1006.3 and 1006.4.

2.The applicant shall provide floor plans of the dwelling unit that shows the location of the alarms and fire extinguisher(s).

3. Building evacuation plan. A building evacuation plan shall be prominently posted in the Short-term rental property during the rental period.

4. Sanitary waste disposal. The applicant shall submit information demonstrating that adequate sanitary waste disposal is available in compliance with the Maine Subsurface Wastewater Disposal Rules, or that the property is served by public sewer. This shall include the total number of bedrooms included in the property, any additional sleeping space, and the total number of tenants that the property accommodates. The total number of tenants used to determine adequacy of sanitary waste disposal shall not be less than the total number of tenants that the property is advertised to accommodate. For the purpose of evaluating the adequacy of a subsurface disposal system, every two tenants shall be equivalent to one bedroom.

5. Parking. The applicant shall include a depiction of how parking will be provided for tenants and guests on the same lot where the Short-term rental is located. Garage parking spaces not allowed for tenant use shall not be used to meet the Short-term rental parking requirement.

6. Rental Agreement Addendum. The Short-term rental license application shall be submitted with an addendum to be attached to the Short-term rental agreement between owner and tenant that shall be provided to all tenants. The Town shall not be responsible for enforcement of the rental agreement of addendum. The rental agreement addendum shall include the following:

- a. Contact person and contact information.
- b. Emergency responder contact information.
- c. Building evacuation plan.
- d. Maximum number of tenants and guests.
- e. Parking arrangements, including a prohibition of tenants and guests parking in a manner that impedes access by emergency vehicles to the property or any other dwelling in the neighborhood.
- f. Maximum number of tenants and guests allowed at the property.
- g. Good neighbor guidelines.

7. Limit on rental intensity.

The maximum tenant capacity of a short-term rental shall be limited to no more than 2 tenants per bedroom, plus 2 additional tenants for no more than 1 additional sleeping space.

H. Suspension and Revocation of License:

A license for a Short-term rental may be suspended or revoked if the Code Enforcement Officer determines that one or more substantiated complaints regarding Short-term rentals of a property have been made in a three-year period. The Police Department may provide a report of conditions observed and reported to the Code Enforcement Officer.

Complaint. Any individual or town official may file and/or initiate a complaint against a Short-term rental license holder. If the Police Department or the Code Enforcement Officer receives a complaint, they shall visit the property. The Police Department shall generate a report of the facts its officers have observed upon a visit, and statements made to them regarding the Short-term rental. The Police Department shall then forward the report to the Code Enforcement Officer. When the Code Enforcement Officer receives a report from the Police Department, or the Code Enforcement Officer has responded to a complaint or independently investigated, the Code Enforcement Officer shall inspect the property and shall collect information related to the complaint, including notifying the property owner and requesting information regarding the complaint. Within five days of receiving a Police Report or complaint, the Code Enforcement Officer shall determine if the complaint is substantiated. A complaint is substantiated when the Code Enforcement Officer concludes that one or more violations of the Short-term rental provisions occurred.

2. First Substantiated Complaint. Once the Code Enforcement Officer has made a finding of a substantiated complaint, the Code Enforcement Officer shall notify the property owner in writing. The notification shall require the property owner to meet with the Code Enforcement Officer within five (5)

business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected. The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer. Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a second 36 violation of the Short-term rental provisions. In addition, the Code Enforcement Officer may suspend the Short-term rental license for a term not to exceed thirty days.

3. Second Substantiated Complaint. Once the Code Enforcement Office has made a finding of two (2) substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the Short-term rental license shall be suspended for not less than thirty days, nor more than one hundred twenty days. The notification shall require the property owner to meet with the Code Enforcement Officer within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected. The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer. Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a violation of the Short-term rental provisions.

4. Third Substantiated Complaint. Once the Code Enforcement Officer has made a finding of three substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the Short-term rental license has been revoked for (1)one calendar year.

5. Appeal. An appeal to the Zoning Board of Appeals as an Administrative Appeal may be taken by any person aggrieved by a determination of the Code Enforcement Officer

Effective Date. [to be determined.] The Short-term rental provisions shall be fully effective as to all contracts for short-term rentals executed on or after 30 days from date of enactment, and shall further apply to all contracts in effect on such date to the extent the application of these provisions would not result in a substantial impairment of such existing contracts.

I. Maximum Rate of Licenses Issued:

The Code Enforcement Officer shall issue short-term rental licenses on an annual basis. The total number of annual licenses shall be set each year by the Board of Selectmen at their first meeting of the calendar year. In no event shall the number of annual licenses be less than the number issued in the previous calendar year: