

**Town of Kennebunkport  
Board of Selectmen Meeting VIA Zoom  
November 12, 2020  
6:00 PM**

Minutes of the Selectmen's Meeting of November 12, 2020

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

**Others attending via Zoom:** Arlene McMurray, David Powell, Laurie Smith, and others

**1. Call to Order.**

Chair Daggett called the meeting to order at 6:00 PM. He took **roll call** of Selectmen present: Patrick Briggs, Allen Daggett, Edward Hutchins, Sheila Matthews-Bull, and D. Michael Weston.

**2. Approve the October 22, 26, and 29, 2020, selectmen meeting minutes.**

**Motion** by Selectman Briggs, seconded by Selectman Hutchins, to approve the October 22, 2020 selectmen meeting minutes. **Roll Call Vote:** Briggs, Daggett, Hutchins, Matthews-Bull, and Weston. Selectman Matthews-Bull abstained because she was not at this meeting. **Voted:** 4-0-1. **Motion passed.**

**Motion** by Selectman Matthews-Bull, seconded by Selectman Hutchins, to approve the October 26, 2020 selectmen meeting minutes. **Roll Call Vote:** Briggs, Daggett, Hutchins, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

**Motion** by Selectman Matthews-Bull, seconded by Selectman Weston, to approve the October 29, 2020 selectmen meeting minutes. **Roll Call Vote:** Daggett, Matthews-Bull, and Weston. Selectmen Briggs and Hutchins abstained because they were not at this meeting. **Voted:** 3-0-2. **Motion passed.**

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

There were no comments.

**4. Approve the FY2022 budget schedule.**

**Motion** by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the FY2022 Budget Schedule. **Roll Call Vote:** Briggs, Daggett, Hutchins, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

**5. Discuss climate change goals.**

The Board continued its discussion from a previous meeting on climate change goals.

Selectman Weston suggested developing an action plan of what can realistically be done and coming up with a date for developing a skeleton plan.

Selectman Matthews-Bull asked about electric cars, as she was concerned about their reliability for the police department usage.

Selectman Weston responded that he has only driven sedans and not SUV's, but they are very reliable, have terrific acceleration, and depending on the model can get 350 to 450 miles a day.

Selectman Hutchins has been researching electric cars and agrees with Selectmen Weston. He has been discussing electric cars with the police chief.

Selectman Matthews-Bull suggested purchasing just one electric car for the police department to try out. The Board agreed.

The Board will continue discussing climate change goals at future meetings.

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

## **6. Discuss FY2022 budget goals.**

The Board's budget goals are as follows:

- Look at solar energy and apply for any grant money. Make sure solar panels can be moved from an old building to a newer building.
- Spend the money on the Wastewater Department projects.
- Have the town manager and treasurer estimate the implications of COVID-19 for the next budget so they can make an informed decision.

Town Manager Laurie Smith will work with Treasurer Jen Lord to come up with a budget forecast model for next year and bring a summary back to the Board.

## **7. Discuss Short-Term Rental Ordinance.**

Chair Daggett explained the ground rules. He said the Board will listen to all comments from the audience first and then respond after it has heard from everyone. Each person will be given up to five minutes to comment. He added that an executive session will start at 7:30 PM.

Heyward Whetsel, Sandra Sherlock-White, Kathy Cop, Colin Cuskley, Peter Milnes, Francisca Sabadie, Kathleen Kaneerum, Wayne Burbank, Paul Hogan, Lisa Miller, Kathy Baker, and others commented or asked questions. Below are some of their comments/questions:

- The new draft is too complex. Make a simple, online registration.

- Establish a comprehensive baseline first.
- Make automatic transfer when it is intrafamily.
- Clarify revocation of license.
- Short-term rental tax revenues should not be overlooked.
- Short-term rentals help homeowners keep their homes.
- Individual property rights are an inherent incident of ownership.
- Short-term rentals are safer for travelers during the pandemic.
- Short-term rentals should not be treated differently than long-term tenancy.
- People have privacy rights and inspections are an intrusion.
- The Town should not limit tourists who are contributing to the economy.
- License limits and renewal of licenses makes it difficult for long timers.
- The Land Use Ordinance does not mention short-term rentals.
- What has brought this to the surface at this time?
- The limits on rental units is ambiguous.
- The plan for fire extinguishers, smoke detectors, and locations is complex.
- Concerned about voting on an ordinance that can be changed.
- Specify evacuation plan.
- Homeowners should be able to rent their homes because sometimes circumstances change and perhaps homeowner may have to relocate for medical reasons.
- Families that inherit a house would like to be able to visit Kennebunkport in their parent's home.
- Many people need the rental income which helps pay for their taxes.
- There will be a lack of tax revenues if people cannot rent out their home.
- Why a cap on rentals?
- Agrees with inspections.
- Why has the maximum rate of licenses issued changed in this new draft so the number of licenses can now be reduced? This line was eliminated "In no event shall the number of annual licenses be less than the number issued in the previous calendar year."
- Realtors say that people who come every year would like to continue.
- Noise rules should apply to all homeowners.
- The Town is undervaluing the amount of money renters bring to local businesses because renters eat out. Local businesses would be negatively impacted.
- It is difficult to regulate.
- The ordinance prohibits advertising.
- Rental managers have guidelines they need to follow for fire extinguishers, radon testing, etc. to make sure rental properties are compliant.
- Rentals must be registered in Augusta.
- Try to gather the data first. Do not think they need a license.
- Anyone who purchases a home will take care of it. Owners will not allow people to be disrespectful.
- The VRBO does self-monitoring.
- Some want to keep their home in the family and could not continue if short-term rentals are not allowed. Short-term rentals should be grandfathered in.

Selectman Weston summarized that there was most interest in: what prompted this ordinance now, transferability, gather data first, and license limitations. His concern was that fewer people live here year around, and people no longer know their neighbors. He said neighborhoods are changing, and it is hard to get young people to move here.

Selectman Matthews Bull questioned why have zoning if short-term rentals are allowed in areas that are zoned residential. She said she noticed many out-of-state people were coming during this pandemic. She also asked what happens to a homeowner's property value when there are short-term rentals nearby.

Selectman Hutchins said he brought this topic forward because they need to get a handle on this to protect the community. Also, there are some people that do not like short-term rentals.

Chair Daggett commented that people should be able to inherit property, and licenses should be transferrable to sons and daughters; houses assessed with licenses do not have higher value; there are safety issues, trash issues, and businesses in residential communities; and they need to keep track of what is going on. He agreed with Selectman Weston's concern that you lose a sense of community when you do not know your neighbors.

Since an executive session followed, the Board was unable to answer all the questions and will respond more at a future meeting.

## **8. Other Business.**

Selectman Matthews-Bull said the Kennebunkport Business Association (KBA) will still have Prelude this year, but it will be safe with less people. She hopes locals will participate. The KBA is starting to decorate now.

Ms. Smith announced that this year there will be a Holiday Trail of Lights in which homeowners and businesses decorate their homes or buildings, and spectators can drive around and vote for their favorite. Each vote costs \$5. The funds will be donated to a not-for-profit partner of the house or business receiving the vote. There is also a \$25 entry fee for businesses and homeowners who want to participate. The deadline for the entry fee is November 23 at the end of the day. There will be two categories of winners—businesses and homes. The grand prize winner will receive an extra \$500 for the organization they select.

## **9. Approve the November 12, 2020, Treasurer's Warrant.**

**Motion** by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the November 12, 2020, Treasurer's Warrant. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

## **10. Executive Session per (MRSA 1, §405-6E) for consultation with Town attorney to discuss legal rights and duties.**

**Motion** by Selectman Matthews-Bull, seconded by Selectman Briggs, to go into executive session per MRSA 1, §405-6E) for consultation with the Town Attorney to discuss legal rights and duties. Selectman Hutchins recused himself. He will not be attending the session **Roll Call Vote:** Briggs, Daggett, Matthews-Bull, and Weston. **Voted:** 4-0. **Motion passed.**

The Board went into executive session at 7:42 PM and came out at 8:34 PM

No action was taken.

#### **11. Adjournment.**

**Motion** by Selectman Matthews-Bull, seconded by Selectman Briggs, to adjourn. **Roll Call Vote:** Briggs, Daggett, Matthews-Bull, and Weston. **Voted:** 4-0. **Motion passed.**

The meeting adjourned at 8:34 PM.

Submitted by Arlene McMurray  
Administrative Assistant

**Exhibit A – November 12, 2020****Kennebunkport Short-term Rental License/Ordinance****A. Purpose:**

The purpose of this ordinance/license is to require the disclosure and licensing of short-term rentals operated within the Town of Kennebunkport, and to balance the desire of property owners to rent their properties to short-term tenants with the desire of residents to preserve the peaceful quiet and enjoyment of their residential neighborhoods. This Ordinance is intended to ensure that residential neighborhoods are not unduly impacted by the operation of short-term rentals within the Town, and to provide a licensing program that enables the Town to monitor and track the proliferation of short-term rentals within its borders.

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

**B. Applicability:** This ordinance shall apply to all legal residential dwelling units. Accessory apartments that have been constructed/permitted after November 3<sup>rd</sup>, 2009 may not be used as Short-term rentals.

**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.

**Family Member:** Any individual who is related to the Short-term rental owner by blood or through marriage including, but not limited to, the Short-term rental owner's spouse, father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, cousin, nephew, niece, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

**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.

a. Short-term rental license renewal. Short-term rental licenses shall expire on December 31st of each calendar year, and Short-term rental license holders may renew such license by submitting a renewal application, on forms provided by the Town. Any renewal application received after December 31st of the previous license year shall be considered late.

**2. Transferability:** Licenses are not transferable to a new owner, except that a Short-term rental license shall be transferable to a Family Member of the previous owner. Any change in ownership or change in the members/managers/officers of an owner shall require a new license, except when the Short-term rental property is transferred to a new owner who is a Family Member of the previous owner. Licenses are limited to the dwelling unit for which they are issued and shall not be transferable to a different dwelling unit.

**3. 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.

**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 Town Clerk 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 Town Clerk, or the Town Clerk's designee, shall review all applications for completeness and accuracy and in the order that they were received.
2. The Town Clerk shall have the authority to issue a Short-term rental license.
3. The Town Clerk shall provide a Short-term rental application to be completed by the applicant and submitted to the Town Clerk 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 Town Clerk, or the Town Clerk's designee, shall determine if the form has been properly completed before any license is issued.
5. The first time that a Short-term rental application 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.

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

6. If the Town Clerk, or the Town Clerk's designee, in consultation with 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. ..

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

## **G. Standards:**

The Town Clerk 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 designating parking spaces that will be provided for tenants and guests on the same lot where the Short-term rental is located. Guest parking at the Short-term rental shall occur in parking spaces designated by the applicant, and the number of guest vehicles allowed at the Short-term rental shall be limited to the number of on-site parking spaces designated by the applicant. Garage parking spaces not allowed for tenant use shall not be used to meet the Short-term rental parking requirement. Tenants and guests of Short-term rentals are prohibited from parking in a manner that impedes access by emergency vehicles to the property or any other dwelling in the neighborhood.

6. 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 conditioned, suspended or revoked by the Board of Selectmen after a public hearing if the Board of Selectmen determine that a violation of this ordinance, any applicable statute, ordinance, or regulation, or Short-term rental license certification, condition, or criteria has occurred.

1. Violations of this Ordinance. Violations of this ordinance include, but are not limited to, the following:
  - a. Providing false or misleading information on an application, or renewal application, for a Short-term rental license;
  - b. Failure to provide the registration records as provided in Section D(4) within 5 business days of a Town request for such records;
  - c. Failure to comply with the parking provisions of Section G(5) of this Ordinance;
  - d. Failure to comply with the rental intensity limitations of Section G(7) of this Ordinance;
  - e. Violation of any Short-term rental license certification, condition, or criteria;
  - F. Violation of any statute, ordinance, or regulation applicable to the Short-term rental property.
2. Complaints Concerning Short-term rentals. The Code Enforcement Officer shall establish and maintain a log of all complaints for each Short-term rental received and substantiated by the Town. The Code Enforcement Officer shall seek the correction of all substantiated complaints by the Short-term rental license holder.
3. Suspension or Revocation of a Permit. When, in the judgement of the Code Enforcement Officer, the nature and/or number of complaints warrants further review of the Short-term rental license, he shall provide a report of the same to the Board of Selectmen for its consideration. The Board of Selectmen may condition, suspend, or revoke a Short-term rental license, following a public hearing, on the basis of the licensee's non-compliance with this ordinance, any applicable law, ordinance, or regulation, or Short-term rental license certification, condition, or criteria.
4. Appeal. Any person aggrieved by the decision of the Board of Selectmen to suspend or revoke a Short-term rental license may appeal the decision of the Board of Selectmen to Superior Court, pursuant to Maine Rule of Civil Procedure 80B, within thirty (30) days of the Board of Selectmen's decision.

## **I. Additional Regulations**

The Board of Selectmen may adopt regulations implementing the provisions of this Ordinance.

## **J. Maximum Rate of Licenses Issued:**

The Town Clerk 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.