

AMENDED AND RESTATED INTERLOCAL AGREEMENT
KENNEBUNK RIVER COMMITTEE

WHEREAS, the Towns of Arundel, Kennebunk and Kennebunkport entered into an Interlocal Agreement dated 03-25-95 and establishing the Kennebunk River Committee; and

WHEREAS, the Agreement was amended on July 1, 2000; and

WHEREAS, the Agreement was again amended on June 30, 2011; and

WHEREAS, the Town of Arundel has withdrawn from the Agreement pursuant to Section 6.2 of the Agreement; and

WHEREAS, the remaining parties wish to amend and restate the Agreement to clarify the responsibilities of the remaining parties and the authority and organization of the River Committee; and

WHEREAS, 38 M.R.S.A. § 7 grants to municipalities the authority to adopt ordinances regulating activities in their harbors, including establishment of a harbor committee to oversee the ordinances regulating such harbors and to oversee the activities of the harbor master; and

WHEREAS, the parties to this Agreement are authorized to contract pursuant to the Maine Interlocal Cooperation Act, 30-A M.R.S.A. § § 2201-2207;

NOW, THEREFORE, the Towns of Kennebunk and Kennebunkport do hereby agree as follows:

Article 1: Description of Shared Resource

- 1.1 The purpose of this Agreement is to establish the Kennebunk River Committee and to give it sufficient authority to act as a planning, management, and appeals board in order to assist in the management of the shared resource.
- 1.2 For the purposes hereof the shared resource, known as the Kennebunk River, is defined as all portions of said River within the party municipalities which extends and runs generally southerly from the Boston and Maine Railroad Bridge, so-called, and extending to a line drawn between the extreme offshore limits of the jetties at the mouth of said River, and including all waters to the high tide levels thereof.

Article 2: Kennebunk River Committee

- 2.1 A committee is hereby created which shall act as the representative of the parties for the purposes of implementing this Agreement.
- 2.2 Membership: Membership shall consist of seven members; three persons from each party municipality shall be appointed by the Board of Selectmen of the respective municipality.

The seventh member (hereafter referred to as the “non-resident member”) shall be appointed jointly by both Boards of Selectmen and shall be (i) a resident of a municipality other than either of the party municipalities and (ii) someone who demonstrates an interest in the functioning and success of the River as described herein. All members shall serve three years terms, including the initial term of the non-resident member, except in the case of a vacancy of any member, in which event the vacancy shall be filled for the remainder of the term. Each member shall continue to serve after expiration of a term until a successor is appointed and qualified.

- 2.3 Each municipality may appoint alternates for one or more of its members. Any alternate is authorized to vote in place of a regular member from his/her municipality, if the regular member is unable to attend a meeting, is unable to participate due to a conflict of interest, or is unable to participate for any other reason. An alternate may be appointed for the non-resident member, if agreed to by the Board of Selectmen of each member municipality. Such an alternate will be appointed in the same manner as the non-reside-it member.
- 2.4 The Kennebunk River Harbormaster shall serve as a non-voting member.
- 2.5 Each member, except the Harbormaster and the non-resident member, shall be a resident of the municipality he/she represents.
- 2.6 After notice and hearing a member or alternate may be removed for cause by the Selectmen of the member's municipality, or upon determination that such member or alternate is not a resident of the municipality that appointed the member. The non-resident member may be removed for cause by a majority vote by the Board of Selectmen for each member municipality.
- 2.7 Nothing in this Agreement shall be construed as altering any term of any member duly appointed by the Board of Selectmen of either party municipality prior to the approval of this Agreement. Such members shall continue their terms in accordance with Section 2.2.
- 2.8 The members of the Committee shall hold an annual organizational meeting and elect officers. The officers shall consist of a Chairperson, Vice-Chairperson, Secretary, and Treasurer, who shall hold office for terms of one year and who shall continue in office until their successors have been elected. If an officer resigns before the term has expired, the Committee may replace the officer by a special election. Persons serving as officers at the date of adoption of this Agreement shall continue in office until the end of their term.
- 2.9 Meetings may be called by the Chairperson or by any four regular members by written notice of the time, place, and business to be considered. Notice to all members and alternates shall be given at least seven days prior to a meeting unless the Chairperson determines there is an emergency, in which case the Chairperson may waive the seven day notice provision provided that each municipality is represented by at least one member and a quorum of the members are present.

- 2.10 A quorum shall consist of representation by not less than four members or their alternates, with at least one Committee member or alternate from each municipality. An affirmative vote of at least one member (or alternate) from each municipality shall be required to pass any measure. A quorum is needed to conduct an official meeting and take any action. A meeting consisting of less than a quorum may establish another meeting date.

Article 3: Power and Duties

- 3.1 The Committee shall have all powers necessary and incidental to the implementation of this Agreement, including but not limited to:
- a. Recommending for adoption ordinances relating to the Kennebunk River to the party municipalities;
 - b. Development and recommending for adoption short and long range plans for the Kennebunk River for consideration by the party municipalities;
 - c. ~~Administering any appropriations from the municipalities~~ Recommending expenditures, to carry out the Purposes of this Agreement, to the Town Managers of the party municipalities;
 - d. Hearing and deciding any appeal of any person aggrieved by any decision, act or failure to act of the Harbormaster(s) for the Kennebunk River;
 - e. Adopting its own procedural laws to govern the conduct of its business and hearings;
 - f. Reporting to the Selectmen of each party municipality at least once a year about its activities and presenting its annual budget; and
 - g. Adopting and administering rules and regulations of the Kennebunk River including establishing and collecting fees for moorings and harbor usage, hearing reports from the Harbor Master regarding management of the shared resource, overseeing the day to day performance of the Harbor Master and making recommendations to the Town Manager of the Town that will employ the Harbor Master ~~Board of Selectmen~~ on the Harbor Master's initial hire.

Article 4: Finances

- 4.1 Any Funds received by the Committee pursuant to this Agreement shall be applied to the costs of operating the Committee except capital reserve funds which shall be segregated for that purpose.
- 4.2 The Committee shall prepare a recommended annual budget for each municipality on or before January 1 of each year.

- 4.3 The Committee is not authorized to incur any obligations beyond the amounts described in any appropriations made by the parties.

Article 5: Property

- 5.1 Any Funds remaining with the Committee upon the termination of this Agreement shall be divided equally among the municipalities of which are parties at the time of termination except capital reserve funds which shall be returned to the municipality of origin.

Article 6: Breach

- 6.1 Breach: A party shall be deemed to be in breach of this Agreement if it fails to appointment three voting members, or if it fails to perform or comply with any of the terms, provisions, or conditions of this Agreement or of the by-laws of the Committee. The Committee shall give a party written notice of specific acts or omissions which constitute breach. The party so notified shall have thirty days to conform. If the party fails to conform within the above mentioned time period, then that party shall be deemed to have withdrawn pursuant to Article 6.2 hereof. Any provisions to the contrary herein notwithstanding, any vote of the Committee with regard to any breach of any party shall be undertaken by only the non-resident member and he members of the party municipality which is not the subject of the vote referencing the alleged breach.
- 6.2 Withdrawal: Any party may withdraw from this Agreement subject to the following:
- a Withdrawal becomes effective no less than thirty days from the date upon which notice of the party's intent to withdraw is given to the committee, or upon the expiration of the thirtieth day without any conforming action required pursuant to Section 6.1.
 - b Any payments due during the notice period shall be paid to the Treasurer. If the Treasurer is a representative of a withdrawing party, payment shall be made to the Committee.
 - c Upon the effective date of withdrawal the withdrawing party shall lose all rights to benefits derived of this Agreement, and to funds previously contributed, and shall lose any interest in property held for the benefit of the parties.
 - d The withdrawing party shall pay the Committee the entire amount of any outstanding debts of the Committee; however any capital reserve monies shall be forfeited.

Article 7: Adoption and Amendment

- 7.1 Duration: Agreement shall continue until fewer than two municipalities remain as parties.

- 7.2 Effective Date: This Agreement shall take effect once it has been approved by the legislative bodies of all of the parties, signed by an authorized officer thereof, and filed with the Municipal Clerks and the Secretary of State.
- 7.3 Amendment: This Agreement may be amended by the parties by following the procedures established in Section 7.2 above, provided that amendments shall not be required to strike out the names, numbers and terms of Committee members and any other information written in this Agreement applying to parties who withdraw from this Agreement.

Article 8: Regional Review

- 8.1 This Agreement shall be filed for review with the Southern Maine Regional Planning Commission at least thirty days prior to the date of legislative action by any of the parties. Title 30-A M.R.S.A. §2342(6).

Article 9: Appeals

- 9.1 Applications to have the Committee consider an appeal from a decision, act, or failure to act of the Harbormaster shall be made within thirty days of the decision, act, or failure to act which precipitated the appeal by any person aggrieved by a Harbormaster's decision, act, or failure to act, on forms prepared by the Committee and available at the Municipal Offices. The application shall be filed with the Town Clerk of one of the party municipalities. The Clerk is responsible for notifying the Committee Chairperson that an appeal has been filed.
- 9.2 The Committee shall schedule a public hearing on the appeal within thirty days of receipt of a complete application. Notice of the hearing shall be made in a daily newspaper of general circulation, once, at least seven days prior to the hearing. The Harbormaster shall be notified in writing. A complete record of the hearing shall be kept, and written findings and conclusions shall be issued within seven days of the Committee making the decision.
- 9.3 Decisions by the Committee may be appealed to the Maine Superior Court pursuant to the Maine Rules of Civil Procedure, Rule 80B, within thirty days of the rendering of the Committee's decision.
- 9.4 In deciding any appeal the Committee shall hear, it shall approve, approve with conditions or modifications, or disapprove the decision, act, or failure to act of the Harbormaster from which the appeal is made. In reaching its decision the Committee shall be guided by its interpretation of all current state laws, local ordinances, and rules and regulations.
- 9.5 Enforcement of the Committee decisions shall be the responsibility of the Harbormaster, if applicable and upon direction of the Committee, and the party municipalities.

This Amended and Restate Agreement shall take effect upon its approval by the legislative bodies of both of the parties and execution by the authorized Officers thereof. The River Committee shall cause an executed copy of this Amendment to be filed with the Secretary of State, the Southern Maine Regional Planning Commission and the Municipal Clerks of each member Town.

IN WITNESS WHEREOF, the parties have by their authorized officers caused this agreement to be executed.

**BOARD OF SELECTMEN
TOWN OF KENNEBUNK**

By: _____

**BOARD OF SELECTMEN
TOWN OF KENNEBUNKPORT**

By: _____

Town of Kennebunkport - Code of the Town
Part II: Zoning Ordinances
Chapter 240: Land Use
Article I: General
Section 6.12: Signs and Billboards

§ 240-6.12. Signs and billboards.

- A. **General.** ~~Permanent and temporary signage within the Town of Kennebunkport shall be subject to the standards set forth in this section. Signage within the Town of Kennebunkport shall also be subject to the permitting requirements set forth in § 240-11.2(G). Except for business directional signs permitted under Subsection B, all signs shall relate to goods and services available on the premises on which the sign is located, or to the availability of the premises themselves for sale, rent or lease.~~
- B. **Official Business Directional and Off-Premise Signs.** ~~Off-premises directional signs and official business directional signs as defined in 23 M.R.S.A. § 1903, off premises directional signs, and signs advertising commercial uses that are located on premises other than the premise upon which the sign is located shall not be permitted.;~~ Official business directional signs, and off premises directional signs ~~except that directional signs~~ not larger than six inches in width and 24 inches in length are permitted on posts provided for that purpose by the Town without the necessity of a permit. Such directional signs shall be placed on the Town posts on a space-available basis.
- C. **Performance Standards for Permanent Signs** ~~Size, location and illumination.~~
- (1) No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or working, the sign or billboard may interfere with, obstruct the view of, or be confused with any authorized sign, signal or device, or otherwise constitute a hazard to pedestrian or vehicular traffic.
 - (2) Roof-mounted signs are prohibited.
 - (3) No sign or portion of a sign structure shall exceed 20 feet in height measured from the adjacent road surface.
 - (4) Illuminated signs shall be permitted, subject to the following restrictions and prohibitions:
 - (a) There shall be no intermittently illuminated, traveling light, animated, flashing light, or internally illuminated signs.
 - (b) All illuminated signs shall be shielded or hooded so the light source itself is not visible off of the premises.
 - (5) In all zones;
 - (a) Signs erected on non-residential properties shall conform to the requirements set forth in Subsection H, Table A. The allowable

~~number and dimensionssquare footage of signage on a non-residential property shall be calculated based upon the gross square footage of floor space that is owned or leased by the sign permit applicant within the structure(s) located on the non-residential property for which a sign permit is sought. per building occupant shall be based upon the gross square footage of unit floor space that is rented or owned by ., and nNo sign shall exceed the area as permitted in Subsection H.~~

~~(a)(b) Signage erected on residential properties shall conform to the requirements set forth in Subsection H, Table B.~~

- (6) All signs overhanging a sidewalk or public way shall be no less than 10 feet from the surface of the pavement.
- (7) No signs shall be posted on trees which are under the jurisdiction of the Tree Warden of the Town.
- (8) The area of a sign shall be calculated by measuring the area of the smallest rectangle capable of enclosing the sign in every plane. If a three-dimensional sign has a depth of more than one foot, the area of the sign shall be calculated by measuring the total surface area of the smallest box capable of enclosing the entire sign.
- (9) Window lettering displaying information such as business name, hours of operation, website, etc., is permitted to occupy up to 35% of the glazed area per window. Lettering governed by this subsection shall not be considered signage for purposes of calculating the area of allowable square footage or number of signs. (See Subsection H.)
- (10) Signs erected or installed in the interior of a structure which form an integral part of a bona fide window display which is related to merchandise or services available within the structure shall not be considered signs for purposes related to this section.

D. Number and location of signs.

- (1) Except as expressly prohibited under this chapter, in all zones, ~~each business occupant or nonprofit organization may erect~~ sign(s) may be attached or affixed to ~~the~~ buildings. Freestanding signs shall be limited based on the specifications set forth in this chapter.
- (2) No freestanding sign shall be located within five feet of the lot line adjacent to the street. However, a setback of less than five feet is permitted upon prior written approval by the Chief of Police after a determination that the sign does not create any sight distance or safety issues.
- (3) In addition to the signs permitted under Subsection D(1), and except as expressly prohibited under this chapter, on-premises signs advertising the availability of the premises for sale, rent or lease shall be permitted.

E. Home occupations signs. One sign identifying the name, address and profession of a permitted home occupation or a lawfully existing nonconforming home occupation shall be allowed, provided such sign does not exceed two square feet in area and is not illuminated.

F. Temporary signs.

(1) Temporary Signs Placed Within Public Right-of-Way: Temporary signs placed within the public right-of-way shall conform to the provisions of 23 M.R.S. § 1913-A.

(1)(2) Temporary Signs Placed Outside the Public Right-of-Way: Temporary signs placed outside of the public right-of-way shall The following temporary signs (in addition to those specified in Subsection H), not exceeding six square feet in area, and may be posted in any zone without a permit from the Code Enforcement Officer for no longer than ninety (390) days; and are permitted without a permit from the Code Enforcement Officer. Temporary signs specified in this section shall not be attached to fences, trees, utility poles, or the like and shall not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.

~~Temporary signs giving notice. Signs of a temporary nature such as political posters, advertisements of charitable functions, notices of meetings and other noncommercial signs of a similar nature are permitted for a period not to exceed 30 days and shall be removed by the person(s) who posted the signs. Temporary signs specified in this section shall not be attached to fences, trees, utility poles, or the like and shall not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public. Temporary development or construction sign. One temporary development or construction sign, attached to a building or freestanding, may be erected, provided such sign shall be limited to a general~~

§ 240-6.12

§ 240-6.12

~~identification of the project and shall be removed within 30 days after completion of the project.~~

~~(2) Once removed, no temporary sign shall be posted within 30 days of the removal date.~~

(3) Street banners may exceed six square feet but be no larger than 50 square feet.

(4) Temporary signs do not require a permit but must conform to all provisions of this chapter.

G. The above regulations shall not apply to the following:

- (1) Flags and insignia of any government, and flags placed within brackets mounted to permanent residential and non-residential structures, and freestanding flags that are not affixed to any structure.
- (2) Traffic control signs, signs designating route numbers or other informational signs erected or required by governmental bodies.
- (3) Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or moving or flashing lights.
- (4) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- (5) Signs posting property as private, and/or no trespass signs.
- (4)(6) Internally lit signs that are owned and operated by the Town of Kennebunkport, and located on property owned by the Town of Kennebunkport, or a political subdivision thereof.

H. Permanent Commercial Sign dimensions and number for permanent signs located on non-residential and residential properties.

Table A: Signage for Commercial Properties

<u>Non-Residential Commercial Unit Size</u> (gross square footage)				
	0 to 500	500 to 1,000	1,000 to 2,500	2,500+
Window lettering (percentage of window covered)	35%	35%	35%	35%
Window display	Permitted	Permitted	Permitted	Permitted
Menu (square footage), restaurant/ takeout only	15	15	20	20
Total square footage of signage (excluding window lettering, window displays and menus) for all zones	50	70	90	100
Maximum gross area per sign in all zones (square feet)	20	20	30	40
Number of attached signs	2	3	3	4

Number of freestanding signs	1	1	2	2
Temporary sale, special events, daily menu (10 square feet)	1	1	2	2

Table B: Signage for Residential Properties

Residential Property Signage (1 <u>permanent</u> sign per residential property)	
<u>Total square footage of signage for all zones</u>	<u>20</u>
<u>Total number of attached and freestanding signs for all zones</u>	<u>1</u>

- I. Nonconforming Signs. Any permanent sign in place prior to [FILL IN WITH DATE] and not in conformance with this section may remain in place. Nonconforming permanent signs may be replaced after approval and issuance of a permit from the Code Enforcement Officer pursuant to § 240-11.2(G). If a nonconforming permanent sign is removed, and is not replaced, for a period of six (6) months, then the Code Enforcement Officer may only approve, and issue a permit for, a new permanent sign that conforms to the provisions of this section.

Town of Kennebunkport - Code of the Town
Part I: General Ordinances
Chapter 147: Streets and Sidewalks
Article III: Right-of-Way and Road Infringement
Section 35: Conduct Prohibited

§ 147-35. Conduct prohibited.

- A. No person shall place or erect any ~~sign or~~ object in or on any Town right-of-way or road without first consulting with the Chief of Police and Director of Public Works or their designees to get their recommendation, and then appearing before the Board of Selectmen of the Town of Kennebunkport to get that Board's approval. This section shall not be interpreted to prohibit placement of temporary signs in the public right of way.
- B. Any person found to be in violation of this section will be given 24 hours to remove the sign or object. If the sign or object is not removed within 24 hours, then the Public Works Department will remove the sign or object, and the owner of the sign or object shall pay all costs of removal.