

KENNEBUNKPORT ADMINISTRATIVE CODE

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TOWN OF KENNEBUNKPORT ADMINISTRATIVE CODE

ARTICLE I ELECTED OFFICERS

1.1 TOWN MEETING MODERATOR

1.1.1 Election

Each town Meeting shall elect a Moderator as prescribed by statute.

1.1.2 Qualification

The Town Meeting Moderator shall be a registered voter of the Town.

1.1.3 Duties

In addition to the duties prescribed by statute, the Town Meeting Moderator shall appoint a sufficient number of members to the Budget Board to constitute a Board consisting of twelve members, the terms of four members expiring every three years.

1.2 SELECTMEN

1.2.1 Number

There shall be five Selectmen elected at large, for staggered terms of three years each.

1.2.2 Qualifications

Selectmen shall be registered voters of the Town.

1.2.3 Vacancy

The office of a Selectman shall become vacant (1) upon the death, resignation, non-acceptance, permanent disability, incompetence or removal from office in any manner authorized by law or by this Code and (2) upon the failure to qualify, failure to elect, or forfeiture of office.

1.2.4 Forfeiture of Office

A Selectman shall forfeit his office if he:

- a. Lacks at any time during his term of office any qualification for the office described by this Code or by statute;
- b. Is convicted of a felony or a crime involving moral turpitude;
- c. Misses three (3) consecutive regularly scheduled meetings of the Board for reasons other than those of health. If illness or health reasons are claimed, the Board may request verification from a doctor; or
- d. Misses five (5) regularly scheduled meetings in any three-month period.

If a Selectman's absence is due to extenuating circumstances as determined by a majority of the Board, the requirements of subsections c and d above may be waived.

1.2.5 Filling of Vacancies

If a vacancy in the office of a Selectman shall occur when there are more than ninety (90) days remaining before the next regular Town Meeting, the remaining Selectmen shall call a Special Town meeting for the election of a qualified person to fill such vacancy. If a vacancy shall occur when there are less than ninety (90) days remaining before the next regular Town Meeting, the remaining Selectmen may, in the exercise of their sole and absolute discretion, call a Special Town Meeting to fill such vacancy. If at any time, two or more offices in the Board of Selectmen are vacant, a Special Town Meeting and election shall be held to fill such offices. In the event that all five (5) positions on the Board of Selectmen are vacant, the aforesaid Special Town Meeting shall be called by the Town Clerk.

1.2.6 Selectmen's Salary

Selectmen shall be paid a yearly salary as determined by the annual Town Meeting.

1.2.7 Expenses

Selectmen shall be reimbursed for their actual and necessary expenses incurred during the performance of their duties, provided such expenses shall be approved by the full Board.

1.2.8 General Powers and Duties

The Board of Selectmen shall have all powers of the Town which can be legally vested in the Board of Selectmen except as otherwise provided by ordinance, statute or this Code.

1.2.9 Enumeration of Responsibilities

The powers and duties of the Board of Selectmen shall include, but not be limited to, the following:

- a. To be assessors and overseers of the poor;
- b. To provide for an annual audit pursuant to statute;
- c. To appoint members of the Planning Board, the Appeals Board, the Board of Assessment Review, and other boards, agencies and positions as provided by statute and by this Code. The Board of Selectmen reserves the right to use whatever factors it deems appropriate in considering the appointment or reappointment of a citizen to a town board or commission;
- d. To propose to the Town Meeting the enactment or repeal of ordinances which require approval by a Town Meeting;
- e. To adopt, amend or repeal ordinances and regulations which do not require approval by a Town Meeting;
- f. To provide for the granting of licenses and permits for the conduct of any business in accordance with statute for such periods of time and in accordance with such rules and regulations not inconsistent with statute and upon payment by the licenses of such fees as the Board of Selectmen may establish;
- g. To recommend a budget to the Annual Town Meeting;
- h. To adopt and modify the official maps of the Town;

- i. To oversee all activities within the Town government but not to direct Town employees, either in public or in private, such being the responsibility of the Town Manager. Notwithstanding the above and with the exception of personnel matters the Board of Selectmen have the authority to discuss any issue affecting the Town with any employee of the Town;
- j. To inquire into the conduct of any office, department or agency of the Town and make investigation as to all municipal affairs not otherwise provided for by ordinance or statute;
- k. To adopt purchase procedures providing for the delegation of purchasing authority to department heads and/or the Town Manager within defined categories and limits;
- l. To prepare and post in the Town Office an agenda for its regular and special meetings one day in advance thereof, indicating the time, place of the meeting and the matters to be considered;
- m. To obtain professional services on behalf of the Town, including but not limited to legal services, accounting services and engineering services;
- n. To adopt regulations for the management of Government Wharf, the Cape Porpoise Pier and the Kennebunkport parking lot system;
- o. To adopt regulations for the internal management of the several municipal departments;
- p. To confirm the appointment by the Town Manager of the heads of the several municipal departments and to delegate to department heads the power to make internal regulations and operating procedures for such departments;
- q. To the extent permitted by state law, to establish fees for public services provided by the Town government;

- r. To the extent permitted by State law and consistent with the inter-local agreements between Arundel, Kennebunk and Kennebunkport, to adopt regulations for the management of the Kennebunk River and Cape Porpoise Harbor and to delegate to the respective harbormaster the power to make such further regulations as may be necessary for the proper usage of those waterways, such regulation and management of the Kennebunk River to be conducted in conjunction with other towns, where appropriate;
- s. To enact emergency regulations and ordinances as may be permitted by statute;
- t. To appoint ad hoc advisory or study committees as the need may arise and to charge them with specific duties;
- u. To declare as “surplus” certain old or used equipment or property which is no longer of significant use to the Town, and to dispose of said equipment or property on such terms as the Selectmen deem to be in the Town’s best interest;
- v. To evaluate on an annual basis the duties, performance and performance objectives of the Town Manager; and
- w. To appoint members of Boards and Committees as provided herein but not to direct or attempt to direct the Board of Zoning Appeals or the Planning Board in their decision making on the appeals and applications before them.

1.2.10 **Assumption of Office**

The Board of Selectmen shall meet within five days following adjournment of the annual Town Meeting or at any special Selectman’s meeting duly called. At such meeting all Selectmen elected shall be sworn to the faithful discharge of their duties by the Town Clerk or a Notary Public.

1.2.11 **Chairman**

At the first meeting of the Board of Selectmen following the adjournment of the annual Town Meeting, or as soon thereafter as practicable, the Board shall elect by majority vote of the entire Board one of its members as Chairman and one of its members as Vice Chairman for the ensuing year. The Board may fill at any time, at any meeting duly called therefore, any vacancy in the office of Chairman or Vice Chairman that may occur. The Chairman shall

preside at the meetings of the Board and shall be recognized as head of Town government for ceremonial purposes and by the Governor of the State of Maine for the purposes of military law. The Chairman shall be entitled to a vote, which vote shall be counted in all matters and things as a vote equal to that of the other members of the Board. In the temporary absence or disability of the Chairman, the Vice Chairman shall exercise the powers of the Chairman during the temporary absence or disability.

1.2.12 **Meeting Procedure**

The Board of Selectmen shall hold a regular meeting the second and fourth Thursday evenings of each month at the Town Offices or such other times and places as the Selectmen shall announce in the agenda of their meeting. Special meetings may be held on the call of the Chairman or any member upon no less than twelve (12) hours notice to each member of the Board, whenever possible. Emergency meetings of the Board of Selectmen may be called at any time by the Chairman or by any member of the Board.

Any action taken at any such emergency meeting by a quorum present thereat shall be deemed the lawful action of the Board of Selectmen. All meetings of the Board of Selectmen shall be open to the public, reserving to the Board of Selectmen the right to recess for the purpose of holding discussion in an executive session, as permitted by state statutes, provided the general subject matter for consideration is expressed in the motion calling for executive session and that any final action taken by the Board be taken in public session. The Selectmen shall keep minutes of their proceedings, which minutes shall be available to the public in the town office. Voting, except on procedural motions, shall be by ayes and nays and shall be recorded in the minutes of the Board of Selectmen. Three (3) members of the Board of Selectmen shall constitute a quorum for the conduct of business. A majority of the Board of Selectmen (not a majority of the quorum) is needed to pass a motion.

1.3 REMOVAL

Any elected official of the Town of Kennebunkport may be removed from elective office by the voters of the Town of Kennebunkport in the following manner:

- a. A number of voters equal to at least ten (10) percent of votes cast in the town at the last gubernatorial election, but in no case less than ten (10), may present a written petition, which petition shall fully set forth the reasons therefore, to those members of the Board of Selectmen having no conflict of interest in the subject matter of said petition;
- b. In or within fifteen (15) days after the receipt of such petition said Selectmen shall hold a public hearing on said petition, which hearing shall be restricted and limited to presentation and discussion of those matters set forth in the petition. Said public hearing shall be conducted by said Selectmen having no interest in the subject matter of the petition in accordance with rules of conduct and guidelines established by and set forth by them at the outset of the hearing;
- c. Notice for the aforesaid public hearing shall be given in the same manner as is provided for and established with regard to notice for a Town Meeting;
- d. In or within fifteen (15) days after the aforesaid public hearing, a Town Meeting shall be called by the said Selectmen and a vote by secret ballot shall be taken; and
- e. In the event of an affirmative vote for such removal, such vote shall take effect and such removal shall be effective as of recording thereof in the record of the Meeting, subject to such recount of the vote as may be requested and provided by statute.

ARTICLE II MUNICIPAL ADMINISTRATION

2.1 TOWN MANAGER

The Selectmen shall appoint a Town Manager who shall be responsible to them. In addition to such powers and duties as prescribed by statute for the Town Manager and such other responsibilities as specifically designed by the Board of Selectmen, the Town Manager shall:

- a. Act as the Chief Administrative and Executive Officer of the Town of Kennebunkport;
- b. Be responsible to the Board of Selectmen for the Administration of all departments and offices over which the Board has control;
- c. Execute all laws and ordinances of Kennebunkport;
- d. Serve in any office as the head of any department under the control of the Board of Selectmen when so directed by the Selectmen;
- e. Appoint, subject to confirmation by the Board of Selectmen, supervise and control heads of departments under control of the Selectmen when the department is not headed by the Town Manager under Paragraph d;
- f. Appoint, supervise and control all Town Officials which the Municipal Officers are required by statute to appoint, unless otherwise provided by ordinance or this code and except members of boards, commissions and committees; and appoint, supervise and control all other officials, including the Town Treasurer, the Road Commissioner and the Tax Collector, subordinates and assistants. The Town Manager may delegate this authority to a head of a department and report all appointments to the Board of Selectmen for confirmation;
- g. Act as purchasing agent of the Town as directed by the Selectmen;
- h. Attend all meetings of the Board of Selectmen, except during illness or vacation, or otherwise with prior approval of the Board of Selectmen;
- i. Attend municipal meetings and hearings as requested by the Board of Selectmen;
- j. Keep the Board of Selectmen informed as to the financial condition of the Town;

- k. Collect data necessary for the preparation of the budget, assist and work with the Budget Board;
- l. Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices;
- m. Exercise exclusive authority to remove for cause, after notice and hearing, all persons whom the Town Manager is authorized to appoint and report any removals to the Board of Selectmen. However, all employees shall serve a probationary period of six months and may be removed without cause, notice or hearing prior to the expiration of this probationary period;
- n. Prepare applications for state and federal grants;
- o. Coordinate departmental activities and set attainable goals for all municipal departments;
- p. Monitor all state and federal programs that may benefit the Town of Kennebunkport and supervise these programs in the Town of Kennebunkport. The Town Manager will also be responsible for any municipal programs initiated by the Board of Selectmen;
- q. Appoint at least one Deputy Tax Collector subject to confirmation by the Board of Selectmen; and
- r. Prepare or have prepared and submit to the Board of Selectmen for approval job descriptions for all municipal employees and appointed officers of the Town.

2.2 REMOVAL

All officers appointed by the Board of Selectmen and reporting to the Town Manager may, upon recommendation of the Town Manager, be removed by the Selectmen for cause, after notice and hearing, which hearing shall be conducted by the Board of Selectmen consistent with statute.

2.3 MUNICIPAL DEPARTMENTS

The municipal administration shall be divided into the following departments:

- 2.3.1 Administrative Department
- Fire Department
- Health Department
- Parks and Recreation Department
- Planning and Development Department
- Police Department
- Public Works Department
- Town Clerk Department

2.4 ELECTRONIC MAIL POLICY

Use of the electronic mail (e-mail) by members of any Kennebunkport Board or Committee should conform to the same standards of judgment, propriety and ethics as other forms of Board or Committee related communication. All Board and Committee members shall comply with the following guidelines when using e-mail in the conduct of Board or Committee business:

- a. Boards and Committees shall not use e-mail as a substitute for deliberations at meetings or for other communications or business properly confined to meetings.
- b. Board and Committee members should be aware that e-mail and e-mail attachments received or prepared for use in Board or Committee business or containing information relating to Board or Committee business are public records which may be inspected by any person upon request, unless made confidential by Maine's Right to Know Law (1 M. R. S. A., Section 401 et seq).
- c. Board or Committee members should avoid reference to confidential information about employees, personnel or other matters in e-mail communications because of the risk of improper disclosure. All Board and Committee members should comply with the same standards as Town employees with regard to confidential information.

ARTICLE III APPOINTED OFFICERS

3.0 APPOINTED OFFICERS

The Board of Selectmen shall appoint the following officers:

Animal Control Officer
Assessor's Agent
Assistant Code Enforcement Officer
Assistant Plumbing Inspector
Emergency Management Director
Code Enforcement Officer
Constable
Fire Inspector
Harbor Masters
Health Officer
Plumbing Inspector
Road Commissioner
Registrar of Voters
Shellfish Warden
Street Naming & Numbering Delegate
Tax Collector
Town Clerk
Treasurer
Tree Warden
Town Forester

3.1 ANIMAL CONTROL OFFICER

3.1.1 Appointment

The Board of Selectmen shall appoint annually an Animal Control Officer. The Animal Control Officer shall report directly to, and be supervised by, the Town Manager, or his or her designee,

3.1.2 Duties

The duties of the Animal Control Officer shall be the enforcement of statutes relating to the duties of animal control officers and such other duties as may be required by the Board of Selectmen.

3.1.3 Compensation

The compensation of the Animal Control Officer shall be on the basis of a salary to be determined by the Board of selectmen and not otherwise.

3.2 SHELLFISH WARDEN

3.2.1 Appointment

The Board of Selectmen shall appoint annually a Shellfish Conservation Committee consisting of one or more persons.

3.2.2 Chairman

The Chairman of the Shellfish Conservation Committee shall be known and serve as the Shellfish Warden. The Shellfish Warden shall report directly to, and be supervised by, the Town Manager, or his or her designee. Notwithstanding any other provision of this Administrative Code, the Chairman of the Shellfish Conservation Committee serving as Shellfish Warden shall not be required to be a resident of the Town.

3.2.3 Duties

The duties of the Shellfish Conservation Committee shall be as set forth in the Shellfish Conservation Ordinance of the Town of Kennebunkport.

3.3 EMERGENCY MANAGEMENT DIRECTOR

3.3.1 Appointment

The Board of Selectmen shall appoint annually the Emergency Management Director. The Emergency Management Director shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.3.2 Duties

The duties of the Emergency Management Director shall be as specified by the Board of Selectmen, by statute, and by ordinances of the Town.

3.4 CODE ENFORCEMENT OFFICER

3.4.1 Appointment

The Board of Selectmen shall appoint annually the Code Enforcement Officer and may appoint an Assistant Code Enforcement Officer. The Code Enforcement Officer shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.4.2 Qualifications

The Code Enforcement Officer and the Assistant Code Enforcement Officer shall hold the certifications required by State statute. Prior to their appointment by the Board of Selectmen, the qualifications of the Code Enforcement Officer and the Assistant Code Enforcement Officer shall be reviewed by the Planning Board and Appeals Board.

3.4.3 Duties

The duties of the Code Enforcement Office shall be prescribed by the Land Use Ordinance of the Town of Kennebunkport, the Planning Board Regulations, the State Plumbing Code and any applicable federal and state statute. The Code Enforcement Officer or someone appointed to act with his authority is the sole municipal officer authorized to notify any person of non-compliance with the Kennebunkport Land Use Ordinance.

3.5 FIRE INSPECTOR

3.5.1 Appointment

The Fire Chief(s) shall serve as the Fire Inspector as required by 25 M.R.S.A. Sec. 2391. The Fire Inspector shall appoint annually such Deputy Fire Inspectors as he/she deems necessary to perform the duties and functions of the Fire Inspector. The Fire Chief shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.5.2 Duties

The duties of the Fire Inspector shall be as set forth in the statutes of the State of Maine, as the same may be amended from time to time, and such other duties as shall be prescribed by the Board of Selectmen.

3.5.3 Inspections

The Fire Inspectors shall maintain a list of all public buildings in the Town of Kennebunkport, shall inspect all such public buildings periodically and shall issue a permit of compliance in accordance with the statutes of the State of Maine and the ordinances of this Town. The Fire Inspector shall deny a permit when violations of such statutes or ordinances are found. The Fire Inspector shall submit to the Board of Selectmen copies of all permits and/or denials issued.

3.5.4 Authority

The Fire Inspector shall have the authority to close a building to public use when that building is found to be in violation of fire and safety regulations, laws, or statutes of the State of Maine, or the ordinances of the Town of Kennebunkport, when in the judgment of the Fire Inspector there is a danger to the public.

3.5.5 Fees and Compensation

The Town of Kennebunkport may charge a nominal fee to the owner of the building for such annual inspection. Such fees shall be made payable to the Town of Kennebunkport.

3.6 HARBOR MASTERS

3.6.1 Cape Porpoise Harbormaster

The Board of Selectmen shall annually appoint a Harbormaster for Cape Porpoise Harbor. The Harbormaster shall report directly to, and be supervised by, the Police Chief, or his or her designee. The duties of the Cape Porpoise Harbormaster shall be the effective management of Cape Porpoise Harbor, Goose Rocks Beach and Turbat's Creek and for the enforcement of any municipal ordinance relating to harbors and any other duties specified by the Board of Selectmen or by Federal or State Statute. The Cape Porpoise Harbormaster may also serve as the Pier Manager upon appointment by the Town Manager.

3.6.2 Kennebunk River Harbormaster

The Harbormaster for the Kennebunk River is appointed annually by the Boards of Selectmen of Kennebunk and Kennebunkport. Certain duties and responsibilities of this office are prescribed by Title 38, M.R.S.A. The Harbormaster has the additional duty to administer and enforce the provisions of the Kennebunk River Committee Ordinance with the authority granted by law and through his appointment as Harbormaster, any other duties specified by federal or state statute.

3.7 HEALTH OFFICER

3.7.1 Appointment

The Board of Selectmen shall annually appoint a Health Officer.

3.7.2 Qualifications

The Health Officer shall be a duly qualified, State certified medical practitioner.

3.7.3 Duties

The duties of the Health Officer shall be as prescribed by statute.

3.8 REGISTRAR OF VOTERS

3.8.1 Appointment

The Board of Selectmen shall appoint in writing a qualified Registrar of Voters by January 1st of each odd-numbered year. The Registrar of Voters shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.8.2 Qualifications

The Registrar must be a citizen of the United States, a resident of the State and at least 18 years of age. The Registrar may not hold or be a candidate for any State or county office, or be an officer in a municipal, county or State party committee.

3.8.3 Term of Office

The Registrar shall serve for 2 years and until a successor is appointed and sworn. If the Clerk is appointed to serve as Registrar, the term of the Registrar is the same as the term of the Clerk.

3.8.4 Vacancy

When there is a vacancy in the office of Registrar, the Board of Selectmen shall appoint a qualified person to fill the vacancy for the remainder of the term of office. If the Board of Selectmen fails to appoint a Registrar to fill the vacancy within 15 days after the Board of Selectmen receives notification of the vacancy, the Clerk shall appoint a qualified person to fill the vacancy for the remainder of the term of office.

3.9 TREE WARDEN

3.9.1 Appointment

The Board of Selectmen shall annually appoint a Tree Warden. The Tree Warden shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.9.2 Duties

The duties of the Tree Warden shall be as prescribed by ordinances of the Town and statute.

3.10 TOWN FORESTER

3.10.1 Appointment

The Board of Selectmen shall annually appoint a Town Forester. The Town Forester shall report directly to, and be supervised by, the Town Manager, or his or her designee.

3.10.2 Duties

The duties of the Town Forester shall be the management of the Town forest and such duties as may be prescribed by ordinances of the Town and statute.

3.11 TOWN CLERK

The Selectmen shall appoint annually the Town Clerk. The Town Clerk shall report directly to, and be supervised by, the Town Manager. The Town Clerk shall exercise such powers and duties as prescribed by law and such other responsibilities as specifically designated by the Town Manager.

ARTICLE IV BOARDS AND COMMISSIONS

4.1 QUALIFICATION AND REMOVAL

4.1.1 Residence Qualification

All persons appointed to Boards and Committees under Article IV shall be registered voters in the Town of Kennebunkport and shall continue to serve only so long as they remain registered voters, except as provided in Article 4.11.1, Article 4.12.1 and Article 4.16.

4.1.2 Removal of Appointees to a Board or Committee

A vacancy on any board or committee may occur by the following means: non-acceptance, death, resignation, permanent disability or incompetence, failure to qualify for the office within 10 days after written demand by the Board of Selectmen, removal from office in any manner provided by law, and forfeiture of office as provided in this Administrative Code.

4.1.3 Appointees to a board or committee shall forfeit their office if they:

- a. Lack at any time during their term of office any qualifications for the office prescribed by the Administrative Code or by the Constitution and Laws of the State of Maine;
- b. Violate any express prohibition of this Code;
- c. Are convicted of a crime punishable by imprisonment for more than 30 days whether or not such imprisonment actually occurs;
- d. With respect to all boards or committees other than the Board of Selectmen, fail to attend the greater of three (3) consecutive regular meetings of the board or commission or more than 25% of all meetings within any 6 month period, unless such absences are determined not to be grounds for forfeiture pursuant to Section 4.1.3;
- e. Fail to disclose a conflict of interest; or
- f. Fail to perform the duties of the office.

4.1.4 **Determination of Forfeiture**

The determination of whether a forfeiture has occurred shall be made by the Board of Selectmen by appropriate proceedings of a judicial nature and after written notice and hearing. After receipt of such written notice, where the reason of alleged forfeiture is failure to attend the requisite number of meetings, the six month period for determining whether the member failed to attend the requisite percentage of all meetings shall end on the date of such written notice, and no subsequent meetings may be included in determining whether a forfeiture has occurred. Notice of the hearing shall be given to all other individuals who are members of the board or committee at the time the alleged grounds for forfeiture occurred. The determination of when a vacancy exists shall be made by the Board of Selectmen no later than its next regularly scheduled meeting. Upon such determination, a vacancy shall be deemed to “occur” for purposes of filling such vacancy.

4.1.5 **Attendance**

- a. The failure of an appointed board or committee member to attend the greater of three consecutive regular meetings of the board or commission or more than 25% of all meetings within any six month period shall not result in forfeiture of office if the Board of Selectmen determines that the absences were justified and that forfeiture is not in the best interests of the Town. In making this determination, the Board of Selectmen shall consider all relevant evidence, including but not limited to the following:
 - (i) whether the reason for the absence was within or beyond the board/committee members control;
 - (ii) whether the absence interfered with the efficient operational functioning of the board or committee;
 - (iii) whether the board/committee member could have given advance notice;
 - (iv) the attendance history of the board/committee member.
- b. The board/committee member shall have the burden of establishing by a preponderance of the evidence that the absences were justified and forfeiture is not in the best interests of the Town.

4.1.6 Filling a Vacancy

When a vacancy occurs in any appointed Town office or position, the Board of Selectmen shall appoint a qualified person to fill the vacancy within 60 days.

4.1.7 Town Employees

Employees of the Town of Kennebunkport may not serve on standing boards and commissions, except by ex-officio appointment. This limitation does not apply to individuals who are hired by the Town to serve as temporary election workers or wardens, occasional part time or temporary employees, or volunteer fire and reserve police personnel. Such individuals may serve on a board or commission unrelated to their work for the town.

4.2 LEGAL STANDING

No Board or Committee established under this Administrative Code shall have legal standing to appeal a decision of any other municipal body or officer or to monitor an action at law against any other municipal body or officer without the consent of the Board of Selectmen unless such standing is specifically granted by State Statute.

4.3 DECISIONS OF BOARDS AND COMMITTEES

A quorum shall consist of the majority of the full membership of a Board or Committee. A simple majority of the full membership (not a majority of the quorum) is needed to pass a motion. For purposes of this section, full membership shall mean the regular membership of a Board or Committee not including alternate members unless alternate member(s) are designated regular members in the absence or disqualification of any regular member(s). Alternate members, when there are alternate members, of any Board or Committee may participate in proceedings but may only vote when designated as a voting member by the Chair to act for a member who is unable to vote because of absence or disqualification.

4.4 PARSONS WAY COMMITTEE

4.4.1 Composition

The Parsons Way Committee shall be composed of three or more members.

4.4.2 Appointment

The Board of Selectmen shall appoint the members of the Parsons Way Committee.

4.4.3 Terms

The members of Parsons Way Committee shall serve for three-year terms, and the terms shall be staggered. Appointments to replace members unable to complete their terms shall be for the unexpired portion of the three-year term.

4.4.4 Organization

The members of the Parsons Way Committee shall elect annually from its membership a Chairman and a Secretary.

4.4.5 Duties

The duties of the Parsons Way Committee shall be to make recommendations to the Board of Selectmen for the management of Parsons Way consistent with the conditions under which Henry Parsons deeded Parsons Way to the Town (by deed dated July 29, 1944, recorded in the York County Registry of Deeds in Book 1018 at Page 179), accepted by the Town of Kennebunkport at the March 6, 1944 Town Meeting, Warrant Article 53, and with further reference to a 3-page letter signed by Henry Parsons dated March 2, 1944, addressed “To the Citizens of Kennebunkport”, expressing his intent.

4.5 PLANNING BOARD

4.5.1 Composition

The Planning Board shall consist of five members and two alternate members.

4.5.2 Appointment

The Board of Selectmen shall appoint the members of the Planning Board.

4.5.3 Terms

The members of the Planning Board shall serve for three year terms on a staggered basis. Members are limited to serving three full, consecutive terms. Reappointment may occur after a one year period of non-service. The Board of Selectmen may, despite the term limitations in this section and for good cause shown, appoint a member for an additional one year of service beyond the three consecutive terms.

4.5.4 Organization

The members of the Planning Board shall elect annually from its membership a Chairman, a Vice-Chairman and a Secretary.

4.5.5 Powers and Duties

The powers and duties of the Planning Board shall be as prescribed by statute. Members shall attend and complete a training session for Planning Board members sponsored by the Maine Municipal Association in their first year of service and in their sixth year of service.

4.5.6 Regulations

The Planning Board may adopt such procedures for the conduct of its own business and such standards for evaluating the proposals brought before it as are consistent with ordinances of the Town and statute.

4.6 PUBLIC SAFETY COMMITTEE

4.6.1 Composition

The Public Safety Committee shall be composed of seven members: the Fire Chief, the Chief of Police, the Highway Superintendent, the Sewer Department Supervisor, the Emergency Management Director, the Chief of Service for the Kennebunkport Emergency Medical Services and one Selectman.

4.6.2 Organization

The Public Safety Committee shall annually elect from its members (other than the Selectman) a Chairman.

4.6.3 Duties

The Public Safety Committee shall be an advisory committee. The Committee shall annually review the communications budget which shall be prepared by the Chief of Police and make recommendations for the acceptance, amendment or non-acceptance of each budget item.

4.7 LIGHTING COMMITTEE

4.7.1 Composition

The Lighting Committee shall be composed of five or more members.

4.7.2 Appointment

The Board of Selectmen shall appoint the members of the Lighting Committee.

4.7.3 Terms

The members of the Lighting Committee shall serve for three years.

4.7.4 Organization

The members of the Lighting Committee shall choose from its membership a Chairman and Secretary. The Committee may adopt such further procedures as it deems necessary for its own organization.

4.7.5 Duties

The Selectmen may charge the Lighting Committee with specific tasks.

4.8 SEWER ADVISORY COMMITTEE

4.8.1 Composition

The Sewer Advisory Committee shall be composed of three or more members.

4.8.2 Appointment

The Board of Selectmen shall appoint the members of the Sewer Advisory Committee.

4.8.3

Terms

Members of the Sewer Advisory Committee shall serve for terms of one year.

4.8.4 Organization

The members of the Sewer Advisory Committee shall elect annually from its membership a Chairman and a Secretary. The Sewer Advisory Committee may adopt such further procedures as it deems necessary for its own organization.

4.8.5 Duties

The Selectmen may charge the Sewer Advisory Committee with specific tasks.

4.9 CEMETERY COMMITTEE

4.9.1 Composition

The Cemetery Committee shall be composed of three or more members.

4.9.2 Appointment

The Board of Selectmen shall appoint the members of the Cemetery Committee.

4.9.3 Terms

The members of the Cemetery Committee shall serve for terms of one year.

4.9.4 Organization

The members of the Cemetery Committee shall elect annually from its membership a Chairman and a Secretary.

4.9.5 Duties

The Cemetery Committee shall be responsible, within the limitations of its budget, for the maintenance of those cemeteries in the Town of Kennebunkport for which there are no other provisions.

4.10 GROWTH PLANNING COMMITTEE

4.10.1 Composition

The Growth Planning committee shall be composed of five members and two alternate members.

4.10.2 Appointment

The Board of Selectmen shall appoint the members of the Growth Planning Committee.

4.10.3 Terms

The members of the Growth Planning Committee shall serve for terms of three years on a staggered basis as provided in said ordinance.

4.10.4 Organization

The members of the Growth Planning Committee shall elect annually from its membership a Chairman and a Secretary. The Committee may adopt such further procedures as it deems necessary for its own organization.

4.10.5 Duties

The Growth Planning Committee shall have such duties as may be set forth in a growth planning ordinance to be adopted by the Town Meeting.

4.11 CAPE PORPOISE PIER COMMITTEE

4.11.1 Composition

The Cape Porpoise Pier Committee shall be composed of five or more members, one of whom shall be a member of the Board of Selectmen. Nonresidents may be appointed to this committee provided they are commercial fishermen from the Cape Porpoise Pier and at least 75% of the membership are registered voters of Kennebunkport.

4.11.2 Appointment

The Board of Selectmen shall appoint the members of the Cape Porpoise Pier Committee.

4.11.3 Terms

The members of the Cape Porpoise Pier Committee shall serve for terms of one year.

4.11.4 Organization

The members of the Cape Porpoise Pier Committee shall elect annually from its membership a Chairman, a Vice-Chairman and a Secretary.

4.11.5 Duties

The Cape Porpoise Pier Committee shall advise the Board of Selectmen on all matters addressed in the Cape Porpoise Pier Ordinance.

4.12 GOVERNMENT WHARF COMMITTEE

4.12.1 Composition

The Government Wharf Committee shall be composed of five or more members, one of whom shall be a member of the Board of Selectmen. Nonresidents may be appointed to this committee provided they are commercial fishermen from Government Wharf and at least 75% of the membership are registered voters of Kennebunkport.

4.12.2 Appointment

The Board of Selectmen shall appoint the members of the Government Wharf Committee.

4.12.3 Terms

The members of the Government Wharf Committee shall serve for terms of one year.

4.12.4 Organization

The members of the Government Wharf Committee shall elect annually from its membership a Chairman, a Vice-Chairman and a Secretary.

4.12.5 Duties

The Government Wharf Committee shall advise the Board of Selectmen on all matters relating to the management of Government Wharf.

4.13 RECREATION COMMITTEE

4.13.1 Composition

The Recreation Committee shall consist of five or more members.

4.13.2 Appointment

The Board of Selectmen shall appoint the members of the Recreation Committee.

4.13.3 Terms

All members of the committee will serve two-year terms.

4.13.4 Organization

The members of the Recreation Committee shall elect annually from its membership a chairman, vice-chairman, secretary and treasurer.

4.13.5 Duties

The Recreation Committee shall be charged with the assessment and enhancement of Kennebunkport's public recreation facilities in response to the community's needs and priorities. It will work with the Department of Parks and Recreation to help develop a long range plan of facilities.

4.14 SOLID WASTE COMMITTEE

4.14.1 Composition

The Solid Waste Committee shall consist of three or more members.

4.14.2 Appointment

The Board of Selectmen shall appoint the members of the Solid Waste Committee.

4.14.3 Terms

Members of the Solid Waste Committee shall serve for terms of three years.

4.14.4 Organization

The members of the Solid Waste Committee shall elect annually from its membership a Chairman and a Secretary. The Solid Waste Committee may adopt such procedures as it deems necessary for its own organization.

4.14.5 Duties

The Selectmen may charge the Solid Waste Committee with specific tasks.

4.15 ADMINISTRATIVE CODE COMMITTEE

4.15.1 Composition

The Administrative Code Committee shall consist of five or more members.

4.15.2 Appointment

The Board of Selectmen shall appoint the members of the Administrative Code Committee. For two positions preference shall be given to former members of the Board of Selectmen. For one position preference shall be given to persons who are members or former members of the Zoning Board of Appeals, the Planning Board or to persons trained in the Law.

4.15.3 Terms

All members of the committee will serve one-year terms. Successive terms are permissible.

4.15.4 Organization

The members of the Administrative Code Committee shall elect annually from its membership a chairman and a vice-chairman.

4.15.5 Duties

The Administrative Code Committee shall propose amendments to the Administrative Code either on its own initiative or at the request of the Board of Selectmen.

4.16 RIVER COMMITTEE

The River Committee, established by the inter-local Agreement among Kennebunkport and Kennebunk, shall be responsible for all Kennebunk River

harbor activities as set forth in the Agreement, the Kennebunk River Committee Ordinance and as otherwise required by law.

4.17 BOARD OF APPEALS

4.17.1 Composition

The Board of Appeals shall consist of seven members.

4.17.2 Appointment

The Board of Selectmen shall appoint the members of the Board of Appeals.

4.17.3 Terms

Members of the Board of Appeals shall serve three-year terms which shall be staggered. Members are limited to serving three full, consecutive terms. Reappointment may occur after a one year period of non-service. The Board of Selectmen may, despite the term limitations in this section and for good cause shown, appoint a member for an additional one year of service beyond the three consecutive terms.

4.17.4 Organization

The members of the Board of Appeals shall elect annually from its membership a chairman, a vice-chairman and a recorder. The board may adopt such further procedures as may be necessary for its organization.

4.17.5 Powers and Duties

The powers and duties of the Board of Appeals shall be as prescribed by the Kennebunkport Land Use Ordinance and the statutes of the State of Maine. Members shall attend and complete a training session for Appeals Board members sponsored by the Maine Municipal Association in their first year of service and in their sixth year of service.

4.18 **BUDGET BOARD**

4.18.1 **Composition**

The Budget Board shall consist of twelve members.

4.18.2 **Appointment**

The Moderator of the Town Meeting shall appoint four members to the Budget Board each year.

4.18.3 **Terms**

Members of the Budget Board shall serve for terms of three years. Any vacancies arising in the Budget Board for any reason shall be filled by the Moderator of the preceding Town Meeting by appointment for the unexpired term.

4.18.4 **Qualifications**

No member of the Board of Selectmen, the School Committee or any Department Head with financial responsibility, or the spouses of any of the aforementioned persons shall serve on the Budget Board.

4.18.5 **Organization**

The members of the Budget Board shall elect a Chairman, Vice-Chairman and Secretary at the first Budget Board meeting after the annual Town Meeting.

4.18.6 **Meetings**

The Budget Board shall meet to review receipts and expenditures at the call of the Chairman.

4.18.7 **Duties**

The Budget Board shall consider any and all financial questions for the purpose of making reports and recommendations to the Town. The Chairman of the Budget Board and the Town Manager shall establish budgetary guidelines, and shall prepare a budget calendar for budgetary preparation and review. The Budget Board shall review all budget proposals submitted and make recommendations. These recommendations shall be included in the warrant for consideration at the annual or special Town Meetings.

4.18.8 Prerogatives

The Budget Board or any subcommittee of the Budget Board may call upon department heads or any persons requesting town funds for assistance on information during the budget review process.

4.19 CONSERVATION COMMISSION

4.19.1 Composition

The Conservation Commission shall be composed of five or more members.

4.19.2 Appointment

The Board of selectmen shall appoint members of the Conservation Commission.

4.19.3 Terms

The terms of office initially shall be 1, 2, and 3 years, such that the terms of approximately 1/3 of the members shall expire each year, or until the appointment of their successors, and their successors shall be appointed for terms of 3 years each. Any commissioner presently serving a term greater than 3 years may serve until his term expires. The appointment of his successor shall be for a term of 3 years.

4.19.4 Organization

The Conservation Commission shall elect one of its members annually to be Chairman.

4.19.5 Duties

The duties of the Conservation Commission shall be those prescribed by the Board of Selectmen and any other duties prescribed by ordinances of the Town or statute.

4.20 SIDEWALK COMMITTEE

4.20.1 Composition

The Sidewalk Committee shall be composed of three or more members.

4.20.2 Appointment

The Board of Selectmen shall appoint the members of the Sidewalk Committee.

4.20.3 Terms

The members of the Sidewalk Committee shall serve for terms of one year.

4.20.4 Organization

The members of the Sidewalk Committee shall elect annually from its membership a Chairman, a Vice-Chairman, and a Secretary.

4.20.5 Duties

The Sidewalk Committee shall advise the Board of Selectmen on all matters concerning the construction and maintenance of sidewalks in the Town of Kennebunkport.

4.21 SHADE TREE COMMITTEE

4.21.1 Composition

The Shade Tree Committee shall consist of three (3) or more members.

4.21.2 Appointment

The Board of Selectmen shall appoint the members of the Shade Tree Committee. The town Tree Warden shall be an ex-officio member of the committee.

4.21.3 Terms

The members of the Shade Tree Committee shall serve for terms of one year.

4.21.4 Organization

The members of the Shade Tree Committee shall elect annually from its membership a Chairman and a Secretary. The Shade Tree Committee may adopt such procedures as it deems necessary for its own organization.

4.21.5 Duties

The Shade Tree Committee shall be charged with regulating the planting, protection, maintenance and removal of shade trees in the town rights of way and easements. This work shall be done in cooperation with the property owners, public agencies, local and state officials. The improvement and preservation of shade trees shall follow the standard policies and specifications of state and national organizations with modifications to suit local conditions and the recommendations of the committee.

4.22 BOARD OF ASSESSMENT REVIEW

4.22.1 Composition

The Board of Assessment Review shall consist of five members and two alternate members.

4.22.2 Appointment

The Board of Selectmen shall appoint the members of the Board of Assessment Review.

4.22.3 Terms

The members of the Board of Assessment Review shall serve for three years each or until their successors are appointed, except that for transition purposes, initial terms shall be staggered. Members are limited to serving three full, consecutive terms. Reappointment may occur after a one year period of non-service. The Board of Selectmen may, despite the term limitations in this section and for good cause shown, appoint a member for an additional one year of service beyond the three consecutive terms.

4.22.4 Organization

The members of the Board of Assessment Review shall elect annually from its membership a Chairman, and a Secretary.

4.22.5 Powers and Duties

Pursuant to 30-A M.R.S.A § 2526(6) and other applicable statutes the Board of Assessment Review shall hear and decide all appeals properly taken from the refusal of the Municipal Assessors to make such property tax abatements as are asked for. Members shall attend and complete a training session for Assessment Review Board members sponsored by the Maine Municipal Association in their first year of service and in their sixth year of service.

4.22.6 Regulations

The Board of Assessment Review may adopt such procedures for the conduct of its business as are consistent with ordinances of the Town and statute. The Board may take such evidence and testimony as it deems necessary and may grant such abatements as it thinks proper. The Board's decisions may be appealed in accordance with 36 M.S.R.A. § 843.

ARTICLE V ANNUAL & SPECIAL TOWN MEETINGS

- 5.1 The Annual Town Meeting shall convene on the second Tuesday of each June for the purpose of electing Town Officials and for voting on referendum articles and other secret ballot articles and shall adjourn to the Saturday immediately following the second Tuesday of June for the purpose of considering and adopting the budget and acting upon remaining business. The terms of those elected Town officials whose terms would have expired in March on the date of the annual town meeting shall be automatically extended to the date of the next corresponding Annual Town Meeting in June. All annual and special Town Meetings shall be called in accordance with the provisions of the statutes of the State of Maine.

The Town's fiscal year shall be July 1 through the following June 30, commencing July 1, 2002, with a six month interim fiscal and budget year running from January 1, 2002, through June 30, 2002, to provide for the change in the fiscal year. In addition, property taxes will be billed on or about February 1, 2002, to fund the six month interim budget and thereafter twice a year with half of the taxes to be billed on or about August 1 and the second half to be billed on or about February 1.

- 5.2 A notification of any annual or special Town Meeting shall be sent to all box holders of the Town of Kennebunkport and shall also occur by the following methods: by posting the warrant at five (5) conspicuous places in the Town, by advertisement in a newspaper of general circulation in the Town and by announcement on a local cable television channel at least seven (7) days prior to that annual or special Town Meeting date. The notification shall also name the location of the distribution points where the warrant for the annual or special Town Meeting is available.

ARTICLE VI ENACTMENT OF ORDINANCES

6 PURPOSE

The Town of Kennebunkport may enact ordinances for all purposes authorized or permitted under the Constitution of Maine and state statute; including without limitation ordinances promoting the general welfare, preventing disease, providing for the public health and safety, and restricting the use of real property by zones as provided by the statutes of the State of Maine.

Proposed ordinances to be presented to the voters of the Town of Kennebunkport shall be written by or under the direction of the Board of Selectmen in such a fashion as they shall deem necessary and enacted by the Town of Kennebunkport in the following manner:

- a. A proposed ordinance may be brought before a Town Meeting on the Warrant either at the direction of the Board of Selectmen, to include it, or by petition procedures duly established by the laws of the State of Maine. Any proposed amendment to the Land Use Ordinances of the Town shall be established and enacted in accordance with the provisions for such action as the same are set forth within the Land Use Ordinance of the Town of Kennebunkport, as the same shall be amended from time to time.
- b. One copy of the proposed ordinance shall be certified by the Selectmen to the Town Clerk at least seven (7) days prior to the election to be preserved as a public record. Copies shall be made available for the distribution to the voters by the Town Clerk prior to and at the Town Meeting.
- c. The subject matter of the proposed ordinance shall be reduced to the question, "Shall an ordinance entitled _____ be enacted?" and shall be submitted to the Town Meeting for action as an article in the Warrant or as a question on a secret ballot.

- d. To the extent authorized by statute, the Board of Selectmen may by majority vote enact ordinances for the regulation of vehicular traffic and for the promotion of public safety on public ways as they deem necessary following proper posting in a local newspaper seven (7) days before the hearing is held.
- e. Except as provided in Sub-Paragraph d of this Article, the provisions of the Article shall not apply to ordinances which may be enacted by the Selectmen.

ARTICLE VII MUNICIPAL ELECTIONS

7.1 MUNICIPAL ELECTIONS

Regular elections for the Board of Selectmen, except as otherwise provided herein for the filling of vacancies, shall be held at the annual Town Meeting as their terms expire. In accordance with the general laws of the State of Maine, any registered voter of the Town of Kennebunkport may be nominated for the Board of Selectmen or any other elected Town Office.

7.2 CONDUCT OF MUNICIPAL ELECTIONS AND TOWN MEETINGS

All Town meetings and municipal elections shall be governed by the applicable provisions of the statutes of the State of Maine.

ARTICLE VIII OATH OF OFFICE

8 OATH OF OFFICE

Every elected and appointed official of the Town of Kennebunkport and every member of the Zoning Board of Appeals, Planning Board, Board of Assessment Review and Budget Board shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk:

“I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the ordinances of the Town of Kennebunkport and the statutes of the State of Maine and will fully discharge the duties of _____.”

ARTICLE IX CONFLICT OF INTEREST

9 PERSONAL FINANCIAL INTEREST

Any official or employee of the Town of Kennebunkport who has a financial interest, either direct or indirect or by reason of ownership interest in any business entity, enterprise or corporation, in any agreement or contract with the Town of Kennebunkport for the sale of land, materials, supplies, or services to the Town shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as an official of the Town or an employee of the Town in the making of any such sale or purchase or in any other manner relating to the undertaking or performance of any such contract or agreement. Any officer or employee of the Town who willfully conceals such financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and such action shall constitute grounds for removal from office or position as herein provided. Violation of this section by any municipal officer or employee with the knowledge either expressed or implied, of such financial interest shall render any related contract, sale, agreement, or obligation voidable by the disinterested members of the Board of Selectmen in the exercise of their sole and absolute discretion. Any officer or employee violating the provisions of this section shall be held personally liable for any damages suffered by the Town or any office or agency of the Town arising out of such action.

ARTICLE X SEVERABILITY

- 10 In the event that any portion of this Code shall be held invalid, such invalidity shall not affect the validity and full force and effect of the remaining portions hereof.

ARTICLE XI MUNICIPAL ORDINANCES

- 11 All ordinances of the Town of Kennebunkport in full force and effect as of the effective date of the adoption of this Code, which said ordinances shall not be inconsistent with the provisions of this Code, shall continue in full force until repealed.

ARTICLE XII AMENDMENT

- 12 This Code may be revised or amended by a vote of the Town by Article or Referendum at any Town Meeting duly called and held in accordance with the laws of the State of Maine.

ARTICLE XIII AMENDMENT OF STATE STATUTES

- 13 Any reference herein to the statutes of the State of Maine is made to those statutes of the State of Maine in effect as of the effective date of this Code, together with any amendments to said statutes as the same shall be made from time to time.

ARTICLE XIV RELATIONSHIP TO STATE STATUTES

- 14 Except as permitted under the Town's home rule authority, in the event of a conflict between this ordinance and any provision of state statute the state statute shall control.

ARTICLE XV EFFECTIVE DATE

- 15 The code shall be effective at the conclusion of the Town Meeting whereat an affirmative vote for the enactment was recorded.