

WASTEWATER USE ORDINANCE  
TOWN OF KENNEBUNKPORT  
KENNEBUNKPORT, MAINE

Adopted March, 1985

Amended	09/12/85
	08/14/86
	05/28/87
	06/11/91
	01/26/95
	03/09/95
	09/01/98
	10/09/03
	08/13/09
	02/22/18

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## **WASTEWATER USE ORDINANCE**

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### **ARTICLE I - PURPOSE, AUTHORITY, SCOPE AND INTENT**

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- Sec. 1.** This Ordinance shall be known and may be cited as the "Town of Kennebunkport Wastewater Use Ordinance" and will be referred to herein as "this Ordinance."
- Sec. 2.** The purpose of this Ordinance is to promote the health, comfort, public convenience and general welfare of the citizens of the Town of Kennebunkport by eliminating existing pollution, preventing further pollution and controlling sewerage systems through regulations and restrictions. This Ordinance shall restrict and regulate the accumulation, transportation, treatment and disposal of sewage in such a manner that the creation of any sewerage system, whether public or private, industrial or residential, shall not result in pollution, health hazards or other nuisances for the citizens of the Town of Kennebunkport.
- Sec. 3.** This Ordinance contains the rules and regulations adopted by the Municipal Officers to govern the Kennebunkport Sewer System under the authority granted in Title 30-A M.R.S.A. §§ 5410-5415, 3401-3409, 3421-3428, and 3442-3445 as amended; and in all other applicable state statutes. The Board of Selectmen, being the Municipal Officers of the Town of Kennebunkport, shall have the authority granted under these provisions to administer, enforce, amend or repeal this Ordinance, or any clause or provision thereof, as may be necessary or desirable, in the judgment of the Board of Selectmen, for the efficient operation of any sewerage system.
- Sec. 4.** This Ordinance shall completely supersede all other sewer ordinances enacted by the Town of Kennebunkport prior to the date of the enactment of this Ordinance, which other ordinances are hereby repealed, except as otherwise noted herein. Hereafter any person owning any building or structure within the Town of Kennebunkport which is the source of sewage and/or industrial waste or who proposes to erect such building or structure, shall conform to the requirements of this Ordinance.

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## ARTICLE II - DEFINITIONS

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Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

**Abutting Property:** Any lot that is physically contiguous with the subject lot even if only at a point, and any lot which is located directly across the street or right of way from the subject lot such that the extension of the side lines of the subject touch or enclose the abutting property.

**Apartment, Accessory:** A separate dwelling unit which is located within and subordinate to a single family detached dwelling, which dwelling was in existence on March 6, 1972, as permitted under the Town of Kennebunkport Land Use Ordinance.

**Bed and Breakfast:** A business establishment having, nine (9) or fewer guest rooms in which lodging is offered to guests for compensation and meals may be offered for compensation only to the lodgers.

**BOD** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Celsius, expressed in milligrams per liter.

**Board of Selectmen:** The duly elected Board of Selectmen of the Town of Kennebunkport.

**Building:** Any structure arranged, designed, intended or used for the shelter, housing or enclosure of persons, animals, processes, equipment or property of any kind.

**Building Drain:** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside walls of the building and conveys it to the building sewer. The building drain extends eight (8) feet outside the inner face of the building wall.

**Building Sewer or Building Connection:** The extension from the building drain to the public sewer or other place of disposal. The building sewer is the responsibility of the owner of the building from the building to the sewer main in the street or from the building to the grinder pump chamber.

**Campground:** A business establishment operated as a recreational site for tents, trailers, recreational vehicles or other forms of temporary shelter.

**Change of Use:** The change from an existing use to another use, including without limitation, the addition of a new use to an existing use.

**Church:** A building or group of buildings arranged, designed, intended or used for the conduct of religious services, and accessory uses associated therewith.

**Club:** Any voluntary association of persons organized for fraternal, social, religious, benevolent, recreational, literary, patriotic, scientific, or political purposes whose facilities are open to members but not the general public, and which is principally engaged in activities which are not customarily carried on for pecuniary gain.

**Combined Sewer.:** A sewer intended to receive both wastewater and storm or surface water.

**Company:** Any industrial or commercial establishment with a liquid waste discharge.

**Connection fee:** A charge established for the connection of any building or property to a sanitary, combined or interceptor sewer within the town. The purpose of the connection fee is to ensure that new users and current users with change of use or increased flows bear a reasonably proportionate share of the cost of capital expenditures necessary to replace and upgrade sewer facilities in order to maintain excess capacity within the system.

**Deputy Director of Public Works:** Shall have all the duties and powers of the Director of Public Works when he or she is unavailable.

**Director of Public Works:** The Director of the Public Works Department for the Town of Kennebunkport, or his or her duly authorized deputy, agent, representative or inspector.

**Dwelling:** Any building or structure or portion thereof containing one or more dwelling units, but not including a motel, hotel, inn, or similar unit.

**Dwelling Unit:** One or more habitable rooms arranged, designed or intended to be used, or used as a complete housekeeping unit for one or more individuals living together as a family with independent living, cooking, sleeping, bathing and sanitary facilities.

**Easement:** An acquired legal right for the specific use of land owned by others.

**Family:** One or more persons occupying a dwelling unit and living together as a single housekeeping unit where all occupants use and access to all living and eating areas, bathroom and food preparation and serving areas.

**Foundation:** The supporting substructure of a building or other structure including but not limited to basements, slabs, posts or frost walls.

**Frontage on the Sewer** shall exist if the public sewer line passes between the side lot lines of the property in question, as determined by drawing perpendicular lines across the roadway from the points of intersection of the property side lot lines.

**Garbage:** Solid waste from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

**Garbage, Properly Shredded:** The wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

**Gas Station:** A business establishment selling fuel and related products for motor vehicles.

**Hotel:** A building or group of buildings having ten (10) or more guest rooms in which lodging, or meals and lodging, are offered for compensation, including motels, tourist courts, motor lodges and cabins.

**Industrial Wastes:** The liquid waste from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

**Inn:** A business establishment having nine (9) or less guest rooms in which lodging is offered to guests for compensation and meals may be offered for compensation only to lodgers and to the general public.

**Lot:** An area of land in one ownership, or one leaseholder with ascertainable boundaries established by deed or other instrument of record, or a segment of land ownership defined by lot boundary lines on a subdivision plan approved by the Planning Board and recorded in the York County Registry of Deeds.

**Lot Frontage:** The horizontal distance measured in a straight line connecting the intersection of the front lot line with the side lot lines.

**Lot Lines:** The property lines bounding a lot as defined below:

- a. **Front Lot Line:** On an interior lot the line separating the lot from the street or private road. On a corner or through lot, the line separating the lot from each street or right-of-way.
- b. **Rear Lot Line:** The lot line opposite the front lot line. On a lot point at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
- c. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

**Motel:** See Hotel.

**Natural Outlet:** Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**Owner:** The person or persons, natural or corporate, in whom for the time being title is vested in real property situated in the Town.

**Person:** Any individual, firm, company, association, society, corporation or group.

**pH:** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**Public Sewer:** A common sewer in which all owners of abutting properties have equal rights and is controlled by public authority. The term "public sewer" shall include the Town of Kennebunkport Wastewater Treatment Plant and Public Sewer System main line only, not the house services.

**Pollutant** shall include but is not limited to dredged spoil, solid waste, junk, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt, and industrial, municipal, domestic, commercial, or agricultural waste of any kind.

**Restaurant:** An establishment where food and drink are prepared and served to the public and where no food or beverages are served directly to the occupants of motor vehicles.

**Roomer:** A person residing in and paying rent for a room in a single-family dwelling whether or not the person eats meals on the premises.

**Sanitary Sewer:** A sewer which carries sewage and to which storm, surface, and ground\_waters are not intentionally admitted.

**Selectmen:** The duly elected members of the Town of Kennebunkport Board of Selectmen.

**Sewage:** A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments.

**Sewage Works:** Facilities for collecting, pumping, treating, and disposing of sewage.

**Sewer:** A pipe or conduit for carrying sewage.

**Sewer Extension:** Any addition to the public sewers of the Town of Kennebunkport whether located in a public way or on private property and whether constructed at public or private expense, provided that the term "sewer extension" shall not include building sewers and connections governed by Article V.

**Sewer Unit:** The source of sewage classified by land use and activity calculated to determine sewer connection fees and service charges.

**Shall** is mandatory; "may" is permissive.

**Slug:** Any discharge of water, sewage, or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than two (2) times the average twenty-four (24) hour concentration of flows during normal operation.

**Storm Drain or Storm Sewer:** A sewer, which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than, unpolluted cooling water.

**Suspended Solids:** Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, which are removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Waste and Wastewater" published by the American Public Health Association and referred to as non-filterable residue.

**Town:** The Town of Kennebunkport, County of York, State of Maine.

**Watercourse:** A channel in which a flow of water occurs, either continuously or intermittently.

**Water Pollution Control Facility:** The arrangement of devices and structures used for treating sewage and sludge (Wastewater Treatment Plant).

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### ARTICLE III - USE OF PUBLIC SEWERS REQUIRED

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**Sec. 1.** It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other waste constituting a hazard to health. Exceptions may be granted by the Selectmen to an owner or lessee acting in the normal course of farm or garden operations.

**Sec. 2.** It shall be unlawful for any person to discharge to any natural outlet in any area under the jurisdiction of the Town any sewage or other polluted water, except where suitable treatment has been provided in accordance with this Ordinance and/or any other applicable laws, rules or regulations.

**Sec. 3.** It shall be unlawful for any person to construct or use any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, if at the time such person is required by Section 4 of this Article III to connect toilet facilities in or on his property with a public sanitary sewer.

**Sec. 4.** Every building intended for human habitation, occupancy, employment, recreation or any other purpose situated within the Town, shall be provided with suitable and sufficient sanitary facilities for the use of the occupants thereof. Said facilities in character, number and method of installation shall comply with all applicable laws, rules and regulations including, but not

limited to ordinances of the Town, health laws of the State of Maine and rules and regulations of the State Bureau of Health so far as the same are compatible and not inconsistent. In the event any such laws, rules, and regulations are inconsistent, the stricter provision (s) shall apply.

**Sec. 5.** The owner of any house, building or other structures used for human occupancy, employment, recreation or other purpose, which is situated within the Town and on land that has frontage abutting street, alley or right-of-way containing a public sanitary sewer of the Town, provided any part of the foundation thereof is within two hundred (200) feet of such public sanitary sewer, or is otherwise required by the State Plumbing Code for the State of Maine to do so, is hereby required at the property owner's own expense to connect the suitable sanitary facilities as described in Article III, Section 4 above, directly with such public sanitary sewer in accordance with this Ordinance within ninety (90) days after date of official notice to do so. The requirement set forth in this section shall be subject to the availability of sewer capacity as determined by the Director of Public Works, or Selectmen, as the case may be according to the terms of this Ordinance.

**Sec. 6.** Notwithstanding any other provision of this Ordinance, a determination by the Director of Public Works that a grinder pump would be necessary for the particular property owner to connect to the public sewer shall constitute an unnecessary hardship, and that property owner shall be relieved of any obligation to connect to the public sewer. This exemption shall NOT apply if:

- a. The grinder pump is supplied to the property owner by the Town; or
- b. The existing septic system for that property is malfunctioning, in which case connection to the public sewer shall be required notwithstanding the need and associated cost of installing a grinder pump or a solids handling pump, unless a variance is obtained under Article XVII.

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## **ARTICLE IV - PRIVATE WASTEWATER DISPOSAL**

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**Sec. 1.** Where a public sanitary sewer is not available under the provisions of Article III, Section 4, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article and the State of Maine Plumbing Code, Part II Subsurface Wastewater Disposal Regulations, as amended.

**Sec. 2.** Before commencement of construction of a private wastewater disposal system the owner(s) shall first obtain a written permit signed by the licensed plumbing inspector. The application for such permit shall be made on a form furnished by the Town, which shall comply with the requirements of the Division of Health Engineering, Maine Department of Human Services, which the applicant shall supplement with any plans, specifications and other information as deemed necessary by the plumbing inspector. A permit and inspection fee in accordance with State of Maine Plumbing Code, Chapter 241, shall be paid at the time the application is filed.

- Sec. 3.** A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the plumbing inspector. The plumbing inspector shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the plumbing inspector when the work is ready for final inspection and before any underground portions are covered.
- Sec. 4.** The type, capacities, locations, and the layout of a private wastewater disposal system shall comply with the State of Maine Plumbing Code – Subsurface Wastewater Disposal Regulations as amended, and the Minimum Lot Size Law.
- Sec. 5.** At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Article III, Section 4 of this Ordinance, a direct connection from the building sewer to the public sewer shall be made within ninety (90) days. Upon the expiration of said 90 - day period, the property owner shall cease to use any septic tanks, cesspools and similar private wastewater disposal facilities and said facilities shall be cleaned of sludge and filled with clean bank run gravel or dirt, or completely removed, within thirty (30) days of abandonment. The requirement set forth in this section shall be subject to the availability of sewer capacity as determined by the Director of Public Works, or Selectmen, as the case may be according to the terms of this Ordinance.
- Sec. 6.** The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.
- Sec. 7.** The Town's Health Officer, Building Inspector, or Plumbing Inspector shall construe no statement contained in this Article to interfere with any additional requirements that may be imposed.

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## **ARTICLE V - BUILDING SEWERS AND CONNECTIONS**

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- Sec. 1.** No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director of Public Works. Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharged into the system shall notify the Director of Public Works at least forty-five (45) days prior to the proposed change or connection and shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, Subchapter 1, Subsection 361, as amended.
- Sec. 2.** There shall be two (2) classes of building sewer permits: (a) for residential and (b) commercial service, for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the Director of Public Works. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director of Public Works. A

permit and inspection fee of one dollar (\$2.00) per gallon based on the Design Flows Tables 501.1 and 501.2 in the Maine Subsurface Wastewater Disposal Rules residential or commercial building sewer permit shall be paid to the Town at the time the application is filed.

- Sec. 3.** A sewer connection application shall be applied for and the fees shall be paid for, whenever a homeowner applies for a building permit that will increase the flows from that structure into the collection system.
- Sec. 4.** All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- Sec. 5.** A separate and independent building sewer shall be provided for every building requiring a sewer connection, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. A deed restriction shall be placed on both properties stating that they have joint ownership in the sewer connection and will maintain it jointly; and the owners of both properties shall be jointly and severally liable for any cost or expense of installation and connection as provided by Section 3 of this Article V.
- Sec. 6.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director of Public Works, to meet all requirements of this Ordinance. The applicant shall pay for all cost for examination and testing.
- Sec. 7.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of the buildings and plumbing code or other applicable rules and regulations of the Town.
- Sec. 8.** Whenever possible, the building sewer shall be brought from the building at an elevation above the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a grinder pump or a solids handling pump and discharged to the building sewer.
- Sec. 9.** No person shall connect any roof downspout, exterior foundation drain, area drain, or other source of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Director of Public Works for purposes of disposal of polluted surface drainage.
- Sec. 10.** The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code of other applicable rules and regulations of the Town. The connection of the building sewer into the public sewer shall be made at the curb fitting

if provided or at the "Y" branch if such branch is available at a suitable location. On direction of the Director of Public Works, where no "Y" branch is available, a neat hole shall be cut, by machine, into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of forty-five (45) degrees with an approved saddle or clamp-type fitting. Such connection shall be completely watertight at the location specified by the Director of Public Works or his Designee ("The Inspector") and shall be completed under the supervision and in the presence of the Inspector, and as directed by and to the satisfaction of the Inspector.

**Sec. 11.** The applicant for the building sewer permit shall notify the Director of Public Works twenty-four (24) hours before the building sewer is ready for inspection and connection to the public sewer. All inspections shall be performed during regular working hours. Any inspections requested after the regular working hours or on weekends will be assessed an additional inspection fee of one and one-half (1.5) times the Inspector's normal rate and any other fees that may apply.

**Sec. 12.** All excavation for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways, and/or other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

**Sec. 13.** When any building or other structure previously served by a connection to any public sewer or drain is demolished, destroyed, abandoned or altered so that any drain or portion of an abandoned plumbing system which is directly or indirectly connected to any public sewer or drain is no longer used and is not connected to the drainage system of the building or structure, the open end of such which discharged, directly or indirectly, into a public sewer or drain shall be promptly closed and sealed to the satisfaction of the Director of Public Works, so that no water or wastes not otherwise permitted to enter the public sewer or drain shall be so discharged therein. The Director of Public Works shall be notified of such abandonment or discontinuance, and of the closing and sealing of such drain, and shall be afforded an opportunity to see such work performed. All of said work shall be done by the person or party demolishing the building or structure or who alters the drainage of the premises so to make such closing and sealing necessary. In the event such person fails to perform said work, the work shall be done by the owner, lessee or tenant of the premises to the satisfaction of the Director of Public Works, all without expense to the Town.

**Sec. 14.** Unless exempted under subparagraph (B) below, every person seeking to, or required to, make connection with the public sewer system shall pay the charge under this section. Such charge is in addition to any other charge imposed by this Ordinance.

- a. The connection fee for each sewer unit charge imposed under Article XIII shall be \$3,500. For those uses to be assigned a special charge under that Article, the connection fee shall be established by the Selectmen. Any person seeking to make connection shall fill out an appropriate form provided by the Director of Public Works. When the form has been approved and the fee paid, the Director of Public

Works shall notify the Building Inspector. No building permit or occupancy permit may be issued until the fee has been paid.

- b. For any change of use within a building, or expansion or alteration to a building, which results in an increase in the sewer unit charge imposed under Article XIII, a connection fee is due for each additional sewer unit change.
- c. All connection fees generated by this section shall be placed in a non-lapsing fund, to be known as the "Water Pollution Control Facility Fund," to be used for improvements to or expansion of or replacement of the existing treatment plant and facilities.

**Sec. 15.** After the building sewer is connected to the public sewer the owner of the building sewer shall maintain the building sewer from the building to the public sewer.

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## **ARTICLE VI - SEWER EXTENSIONS**

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**Sec. 1.** Sewer Extensions within Public Way at Public Expense. Sewer extensions to be located within public ways and individual building sewers to five (5) feet from the edge of the pavement may be constructed by the Town at public expense if the voters of the Town acting at an annual or special town meeting authorize such an extension and appropriate the necessary funds therefore. Under this arrangement, each property owner shall pay for and install the building sewer from the public sewer to his or her residence or place of business in accordance with the requirements of Article V. Property owners may request that an article authorizing such a sewer extension and appropriating the necessary funds therefore be included in the warrant of the next annual town meeting by filing a written petition signed by a majority of the benefiting property owners with the Selectmen at least ninety (90) days prior to the annual meeting. Prior town meeting approval is required before the project may be built at public expense.

**Sec. 2.** Sewer Extensions within Public Way at Private Expense. If the Town does not elect to construct a sewer extension within a public way at public expense, or upon proper application, any property owner, builder or developer may offer to make an unconditional gift to the Town of a sewer extension to be constructed within a public way at the property owner's own expense under a private contract. The property owner, builder, or developer offering to make such an unconditional gift to the Town shall follow the requirements outlined below:

**(A) Submission Requirements:**

The applicant will submit an application provided by the Wastewater Department to the Director of Public Works along with the following materials:

1. An application fee in an amount equal to the greater of five dollars (\$5.00) per linear foot of pipe for the proposed sewer extension, or five hundred dollars (\$500.00) per sewer unit charge which will be assessed under Article XIII, Sec. 2 against the buildings which the applicant intends to construct, develop or provide with sewer service in connection with the proposed sewer extension. These fees shall also include any sewer units that are on abutting properties that will be able to connect to this extension. Such application fees shall be placed in a separate non-lapsing account to be used by the Town for the purpose of paying the costs of publishing legal notices, holding public hearings, reviewing sewer extension applications and studying the impacts thereof in accordance with the provisions of this Article.
2. Conceptual drawings and specifications for the project. Project drawings and specification must be submitted electronically and on paper copies.
3. A survey showing the location of the property and the proposed sewer extension. This information shall be submitted as a paper drawing and electronically in the DWG format for use with AutoCAD. The digital transfer of any subdivision plan data shall be delivered on the Town's chosen Horizontal Datum: Maine State Plane Coordinate System: Maine West Zone FIPS Zone 1802, North American Datum 1983; Units: US Survey Feet.

The preferable vertical datum is North American Vertical Datum 1988 (NAVD88). The Ellipsoid is GRS 80 (Geodetic Reference System 1980).

Data shall have survey grade positional accuracy. Data could be developed using either Real Time Kinematic (RTK) GPS, survey-grade Static GPS data collection or traditional methods of occupying known, high-precision surveyed monuments. The datum, survey methods, and type of survey equipment used shall be identified.

4. A list of all the property owners and mailing addresses that are within two hundred (200) feet of the proposed sewer extension property boundaries. This list shall be submitted on paper and electronically and be able to be used with MS Word format.
5. Proof of the ability to secure an irrevocable letter of credit or post cash or other cash equivalent in a form acceptable to the Board of Selectmen in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of the project. The letter of credit or the cash security will remain in effect until after the guaranty has expired.
6. Any other information the Town may require on a case-by-case basis.

If any easements, rights, title, or interests to other properties are required for the construction of the sewer extension, the property owner, builder, developer or applicant must have acquired them before the Town will make any review.

**(B) Review of Extension Application:**

The Director of Public Works shall immediately give the completed application to the Secretary of the Planning Board who shall refer it to the Planning Board. The Planning Board shall schedule a public hearing to be held within sixty (60) days of receipt of a completed application as determined by the Director of Public Works.

At least ten (10) days prior to the hearing date, the Secretary to the Planning Board shall publish a notice of the hearing in a newspaper of general circulation in the Town. The notice shall identify generally the route of the proposed extension, the name of the applicant, and the time and place of the public hearing.

Notice of the hearing shall be sent by the Town by certified mail to the owners of all property within two hundred (200) feet of the property boundaries of the project at least seven (7) days in advance of the hearing. The owners of abutting property shall be considered to be those shown on the tax lists as those against whom taxes are assessed. The Planning Board shall maintain as a part of the record for each case a completed list of all property owners so notified. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate the action of the Planning Board.

At the hearing, the applicant, Director of Public Works, and any other interested person may be heard. The public hearing may be continued to a later date at the discretion of the Planning Board.

With the approval of the Town Manager, the Planning Board may arrange for a study of the likely impacts of the proposed sewer extension. Such study shall address but not be limited to the following issues:

1. Whether there are reasonable alternative methods of sewage disposal at the site or sites to be served by the proposed extension;
2. Whether the proposed extension will result in significant benefit or harm to environmental quality;
3. Whether the proposed extension will provide economic benefits or will significantly increase costs to the Town;
4. Whether the proposed extension will tend to significantly increase residential, commercial or industrial development in the area to be served by the extension and whether such increase is compatible with the Town's Comprehensive Plan; and
5. Such other issues as the Planning Board may direct.

Within forty-five (45) days of the close of the public hearing or receipt of the results of the Planning Board's study, whichever is later, the Planning Board shall issue a written recommendation to the Board of Selectmen as to whether the sewer extension project should be built and whether the proposed unconditional gift of such extension to the Town should be accepted or refused and shall state the reasons for its recommendation.

With the approval of the Town Manager, the Director of Public Works may arrange for a study of the likely impacts of the proposed sewer extension. Such study may address but not be limited to the following issues:

1. Whether the proposed extension will significantly increase or decrease user fees within the Town;
2. Whether the proposed extension will be compatible with future or planned extensions of the sewer system within the Town;
3. Whether the increase in sewage resulting from the proposed extension can be adequately handled by the existing treatment plant, pumping stations and other facilities;
4. Such other issues as the Director of Public Works may direct.

Within forty-five (45) days of the close of the Planning Board's public hearing or receipt of the results of the Director of Public Works study, whichever is later, the Director of Public Works shall issue a written recommendation to the Board of Selectmen as to whether the sewer extension project should be built and whether the proposed unconditional gift of such extension to the Town should be accepted or refused and shall state the reasons for its recommendation.

The studies requested by the Planning Board and/or the Director of Public Works shall be paid for from the non-lapsing account established under this Section or by such other monies as may be properly authorized. In the event that the costs associated with any of the studies exceed eighty percent (80%) of the application fees, the applicant will be assessed additional fees to cover the cost of doing the studies.

Following the receipt of the Planning Board's and Director of Public Works recommendations, the Board of Selectmen shall approve or deny the project.

**(C) Acceptance of Unconditional Gift by Town Meeting:**

All sewer extensions, including any pumping stations, constructed at the property owner's or applicant's expense, together with a sewer easement in a form satisfactory to the Selectmen, must be offered to the Town as an unconditional gift.

Following the Selectmen's approval of the project but prior to the Selectmen's insertion of an article in the warrant, the property owner, builder or developer must submit plans and specifications for the proposed sewer extension to the Director of Public Works for his review, including a complete set of drawings on paper and on a computer disk in the Auto-Cad format (DWG), showing the equipment as proposed to be installed. The Director of Public Works must approve said plans and specifications before any work is commenced and before an article can be placed in the warrant.

Following the Director of Public Works approval of the plans, specifications and drawings, the Selectmen shall insert an article in the warrant of the next annual or special town meeting to see if the Town will vote to accept the proposed unconditional gift of the sewer extension that will be in the Towns road way. A special town meeting may be called to address this one item if the applicant agrees to bear the cost of the meeting. The recommendations of the Planning Board and Director of Public Works may be set forth as an informational item beneath the article in the warrant calling the annual or special town meeting.

The article included in the warrant shall require as a condition to acceptance of the proposed gift that the applicant shall furnish the Town with an irrevocable letter of credit or cash or cash equivalent in a form acceptable to the Board of Selectmen to ensure proper completion of the project. The guarantee shall be in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of the project and shall remain in effect until after the contractor's warranty period has expired or until any adjustments are made by the Director of Public Works as referenced in Section E below. The amount of the guarantee shall be increased if the cost of the project, as determined by final bids, is significantly higher than the estimated costs furnished to the Planning Board. The Town Manager shall order such adjustment to be made if needed to provide security equal to one hundred twenty-five (125%) of the cost of the project. The article included in the warrant shall also provide that acceptance of a sewer extension to be constructed at private expense shall be subject to prior approval of the contractor and the terms of the construction contract by the Selectmen.

**(D) Construction and Inspection after Approval by Town Meeting:**

If the Town votes to accept the proposed gift of a sewer extension to be constructed in a public way under private contract, the applicant must obtain all permits required under existing ordinances and state law, including a permit from the Board of Selectmen. All construction shall at least meet the minimum design and construction specifications provided by the Town, which shall be given to the property owner, builder or developer at the time a permit is obtained. No construction or work on the sewer extension project may begin until (1) the Director of Public Works has approved the plans and specifications submitted by the property owner, builder or developer, and (2) the unconditional gift of the sewer extension has been accepted by the Town meeting.

Each building sewer must be installed and inspected as required in Article V and the fees required under Article V shall be paid. The installation of the sewer extension shall be subject to periodic inspection by the Director of Public Works or his authorized representatives, who shall include a full-time inspector if the Director of Public Works determines it to be in the Town's best interests. The expenses for said inspection shall be paid for by the owner, builder or developer. The Director of Public Works decisions shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass all tests required in Article V before it is to be used.

It is the responsibility of the applicant to ensure compliance with all of the applicable requirements of the Maine Department of Environmental Protection (DEP), the federal Environmental Protection Agency (EPA) and the Town.

**(E) Town Acquisition of All Sewer Extensions:**

Within (30) thirty days after the installation, inspection of the project and the connection of 90% of the intended sewer units as described in Section 2(D) above, the owner shall convey title to said sewer extension to the Town, together with a perpetual sewer easement and maintenance easement. Said sewers and pump stations, after conveyance to the Town, shall be guaranteed by the property owner, builder, or developer against defects in materials or workmanship for twelve (12) months after acceptance by the Town, provided, however, that after completion of construction of the sewer line extension and acceptance thereof by the Town, but prior to the expiration of the twelve (12) month warranty period, the Director of Public Works shall have discretion to release to the owner up to ninety percent (90%) of the guarantee amount upon the Director of Public Works determination that the sewer extension has been properly constructed, is free of defects in materials or workmanship and is operationally sound. The guarantee shall be in a form and in an amount acceptable to the Town Manager, who may act in consultation with the Selectmen, the Director of Public Works, the Town's attorney, and any other appropriate persons.

**Sec. 3. Sewer Extensions Located on Private Property at Private Expense.** Any property owner may request permission of the Town to construct, at the property owner's own expense, a sewer extension on private property serving two (2) or more buildings. The property owner, builder, or developer shall offer to make an unconditional gift to the Town of a sewer extension to be constructed on private property at the property owner's own expense under a private contract. The property owner, builder, or developer offering to make such an unconditional gift to the Town shall follow the requirements outlined in Section 2(A) and (B) above.

Following the Selectmen's approval of the project, the property owner, builder or developer must submit plans and specifications for the proposed sewer extension to the Director of Public Works for his review, including a complete set of drawings on paper and on computer disk in the Auto-Cad format (DWG), showing the equipment as proposed to be installed. The Director of Public Works must approve said plans and specifications before any work is commenced.

Digital transfer of any subdivision plan data shall be delivered on the Town's chosen Horizontal Datum: Maine State Plane Coordinate System: Maine West Zone FIPS Zone 1802, North American Datum 1983; Units: US Survey Feet.

The preferable vertical datum is North American Vertical Datum 1988 (NAVD88). The Ellipsoid is GRS 80 (Geodetic Reference System 1980).

Data shall have survey grade positional accuracy. Data could be developed using either Real Time Kinematic (RTK) GPS, survey-grade Static GPS data collection or traditional methods of occupying known, high-precision surveyed monuments. The datum, survey methods, and type of survey equipment used shall be identified.

Construction of a sewer extension on private property at private expense, however, need not be delayed until after a Town meeting vote to accept the proposed unconditional gift of the extension. Although the property owner, builder or developer must offer the sewer extension to the Town as an unconditional gift, if the unconditional gift is rejected the sewer extension will remain the property of the property owner and not the Town.

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## **ARTICLE VII - USE OF PUBLIC SEWERS**

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- Sec. 1.** No person shall discharge or cause to be discharged any storm water surface waters, groundwater, roof run off, substance drainage, uncontaminated cooling water, or unpolluted commercial or industrial process waters to any public sanitary sewer.
- Sec. 2.** Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm water sewers, or to a natural outlet approved by the Maine DEP and the Director of Public Works. Industrial cooling water or unpolluted process water may be discharged, on approval of the Maine DEP and the Director of Public Works, to a storm sewer or natural outlet.
- Sec. 3.** No person shall discharge or cause to be discharged any of the following described waters or waste to any public sewers:
- a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas, which will create a fire or explosive hazard in the wastewater facilities.
  - b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or in interaction with other wastes, to injure or interfere with any sewer treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
  - c. Any water or waste having a pH lower than 6.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

- d. Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to ashes, sand, mud, straw, shavings, metal, glass, rags, bones, feathers, tar, plastics, wood, underground garbage, fibers, whole blood, paunch, manure, hair and fleshings, entrails, paper, dishes, cups, milk containers, or other substances which are whole or ground by garbage grinders.
- e. Any waste or pollutants including oxygen-demanding pollutants (BOD, etc.) which released in quantities of flow or concentrations or both constitute a "slug" as defined in Article II.
- f. Any heated water or pollutants in amounts which will inhibit or interfere with biological activity in the waste water treatment works but in no case heated water or pollutants in such quantities that the temperature at the wastewater treatment works influent exceeds 104 degrees Fahrenheit (40 degrees Celsius); unless the wastewater treatment works is designed to accommodate such heat.

**Sec. 4.** No person shall discharge or cause to be discharged the following described substances, materials, water, or waste if it appears likely in the opinion of the Director of Public Works that such waste may harm the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving streams, or may otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Director of Public Works shall consider such factors as the quantities of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of sewage treatment process, capacity of the wastewater treatment plant, degree of treat ability of waste in the wastewater treatment plant, and other relevant factors.

Substances prohibited are:

- a. Any liquid or vapor having a temperature higher than one hundred four (104) degrees Fahrenheit (40 degrees Celsius).
- b. Wastewater containing petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin.
- c. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not.
- d. Garbage grinders are prohibited for the commercial users.
- e. Any water or waste containing strong acid, iron, pickling waste, or concentrated plating solutions, whether neutralized or not.
- f. Any waste or water containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or waste exerting an excessive chlorine residual to such a degree that any such material in the composite sewage at the wastewater treatment plant exceeds the limits established by the Director of Public Works for such materials.

- g. Any water or waste containing phenols or other taste or odor-producing substances, in such concentrations exceeding limit which may be established by the Director of Public Works as necessary, after treatment of the composite sewage, to meet the requirement of the State, federal, or other public agencies having jurisdiction over such discharge to any receiving waters.
- h. Any radioactive waste or isotopes of such half-life or concentration as may exceed limits established by the Director of Public Works in compliance with applicable State or Federal regulations.
- i. Any water or waste having a pH in excess of 8.0.
- j. Materials, which exert or cause:
  - 1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - 2. Excessive discoloration, such as, but not limited to, dye waste and vegetable tanning solutions.
  - 3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works.
  - 4. Unusual volume of flow or concentration of wastes constituting a "slug" as defined in Article II.
- k. Waters or waste containing substances which are not amenable to proper treatment or reduction by the Town's wastewater treatment process, or which would result in impermissible levels of phosphates and nitrates being discharged in the wastewater treatment plant effluent.
- l. Overflow by draining from cesspools or receptacles storing organic waste (other than septic tank disposal at the Town's treatment plant in accordance with Town procedures).
- m. Steam exhausts, boiler blowoffs, sediment traps, or pipes carrying hot circulating water.

**Sec. 5.** If any water or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the Director of Public Works may have detrimental effect upon the sewage works, processes, equipment, or receiving water, or which otherwise create a hazard to life or constitute a public nuisance, the Director of Public Works may:

- a. Reject the water;
- b. Require pretreatment to an acceptable condition for discharge to the public sewers;
- c. Require control over the quantities and rates of discharge; and/or
- d. Require payment to cover the cost of handling and treating the waste not covered by existing taxes or sewer charges, pursuant to the provisions of Section 12 of this Article VII.

When considering the above alternatives, the Director of Public Works shall give consideration to the economic impact of each alternative on the discharger. If the Director of Public Works permits the pretreatment or equalization of waste flows, the design and installation of the pretreatment or equipment shall be subject to the review and approval of the Director of Public Works, and subject to the requirements of all applicable codes, ordinances, laws, and the municipal discharge permit.

**Sec. 6.** Grease, oil and sand interceptors shall be provided when in the opinion of the Director of Public Works, they are necessary for the proper handling of the liquid waste containing floatable grease or for any flammable waste, sand, other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director of Public Works, and shall be located as to be readily and easily accessible for cleaning and inspection. All new construction and the remodeling of any old construction shall conform to the requirements of the Maine State Plumbing Code and the State of Maine Subsurface Wastewater Disposal Rules for grease and oil interceptors. The minimum size for an external grease trap shall be at least one thousand (1,000) gallons of liquid capacity.

With the approval of the Director of Public Works, an automatic / mechanical (self-cleaning) grease removal unit may be used instead of the external grease trap. The automatic grease removal unit must be sized in accordance with the manufacturer's written recommendations and the water temperature of the influent, as it enters the unit ca not exceed one hundred fifty (150) degrees F.

Dishwasher wastewater shall not be discharged into an automatic grease removal unit, except that the wastewater from the pre-rinse station shall discharge to the grease removal unit.

In maintaining these interceptors, the owner (s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which are subject to review by the Director of Public Works. Any removal and hauling of the collected materials not performed by the owner (s) or the owner (s)' agent (s) must be performed by currently licensed waste disposal firms.

- Sec. 7.** Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.
- Sec. 8.** When required by the Director of Public Works, the owner of any property serviced by a building sewer carrying commercial, industrial waste shall install a suitable manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the waste. Such manhole, if required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Director of Public Works. The manhole shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times.
- Sec. 9.** The Director of Public Works may require a user of the sewer services to provide information needed to determine compliance with this Ordinance. These requirements may include:
- a. Description of wastewaters discharged, together with peak rate and volume over a specified time period.
  - b. Chemical analyses of wastewaters.
  - c. Information on raw materials, processes, and products affecting wastewater volume and quality.
  - d. Quantity and disposition of specific liquid, sludge, oil, solvents, or other materials important to sewer use control.
  - e. A plot plan of sewers of the user's property showing sewer and pretreatment facility location.
  - f. Details of wastewater pretreatment facilities.
  - g. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
- Sec. 10.** All measurements, tests, and analyses of the characteristics of water and pollutants to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association or other methods approved by the U.S. EPA and the Me. DEP, and shall be determined at the structure as required in Article VII, Section 8, or upon suitable samples taken at said structure. In the event that no special structure has been required, suitable samples shall be taken at the downstream manhole in the public sewer nearest to the point of origin. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the wastewater facilities and to determine the existence of any hazard to life, limb, or property.

- a. All industries discharging into a public sewer shall perform such monitoring of their discharges as the Director of Public Works and/or other duly authorized employees of the Town may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Director of Public Works. Such records shall be made available upon request by the Director of Public Works to other agencies having jurisdiction over discharges.

**Sec. 11.** The municipality shall develop, and the Director of Public Works shall enforce, pretreatment regulations for existing and new sources of pollution that are discharging or proposed to be discharged into the municipally owned wastewater treatment facilities as set forth in Title 40, Chapter 1, Part 128 and Part 403 of the Final Rules of the United States Environmental Protection Agency.

**Sec. 12.** Nothing in this Article shall be construed to prevent any agreement between the Town and any industrial concern whereby industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore, by the industrial concern; provided that such agreements do not contravene any requirement of existing Federal or State laws and/or regulations and are compatible with any User Charge and Industrial Cost Recovery System in effect.

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## **ARTICLE VIII - SEWER CAPACITY ALLOCATIONS**

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**Sec. 1.** Renovation to the Kennebunkport Water Pollution Control Facility which were completed in the spring of 1998 have increased its capacity to an amount in excess of 2,000 pounds of BOD5 per day. However until such time as the facility additions are operated to its capacity, the actual capacity added by these renovations will be unknown. Therefore, upon the completion of these renovations, as evidenced by the Town Manager's receipt of a letter from the Director of Public Works stating the renovations are completed, persons may then apply for sewer units which will be allocated on a first come / first served basis until such time as the sewer units capable of generating a total of two hundred (200) pounds of BOD 5 per day (based upon the typical load production of 0.7085 \* pound of BOD 5 per day) shall be allocated. At that time, no further sewer units shall be allocated until the Town studies the remaining capacity, if any, and determines how it shall be allocated. A sewer permit or letter of adequate capacity issued under the allocation formula repealed by the amendment remains valid unless it lapses or becomes invalid in accordance with one or more of the provisions of Article IX of this Ordinance.

- Sec. 2.** The Town reserves the right to reject any and all application for sewer connection permits if, in the best judgment of the Director of Public Works and/or the Board of Selectman, such denials are necessary to protect the health, safety and welfare or the citizens of the Town of Kennebunkport. This provision shall apply regardless of whether lots were previously determined to be "vacant "by the Town, or whether the property owner has purchased a stub or incurred any other expense in anticipation of connecting to the sewer system.
- Sec. 3.** With respect to any sources to which capacity is allocated, that capacity shall be forfeited or reduced as follows:
- a. Capacity shall be forfeited in its entirety if a letter of adequate capacity or a permit lapses or becomes invalid in accordance with one or more of the provisions of Article IX of this Ordinance.
  - b. In parallel with the provisions of Article IX, capacity shall be reduced if the project as ultimately approved or constructed contains fewer units than the number set forth in the preceding section.
- Sec. 4.** Neither the allocation of the sewer capacity to a lot nor the placement of a sewer stub for a lot shall be construed to mean that the lot is buildable. The determination as to whether a lot is buildable shall be based on any applicable ordinances and regulations.

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**ARTICLE IX - LAPSE OF SEWER PERMIT  
AND ENTITLEMENT TO SEWER CAPACITY**

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A sewer permit issued under the terms of this Ordinance, or a letter from the Director of Public Works as part of any other municipal review process stating that adequate sewer capacity exists for a proposed project ("letter of adequate capacity"), shall lapse, become invalid, and be of no further force or effect, if any one or more of the following occurs:

- a. The sewer permit or letter of adequate capacity expires by its own terms.
- b. A project approved by the Planning Board loses its approval for any reason, including the failure to timely commence or complete construction as required by applicable regulations or ordinances.
- c. The building permit (s) for a particular structure or project expires or becomes invalid for any reason, including the failure to timely commence or complete construction as required by the terms of the permit itself or by applicable regulations or ordinances.

- d. A project pending before the Planning Board is transferred to another owner of record, and the new owner fails to obtain a determination by the Planning Board that the new owner has adequate financial and technical capacity to complete the project and/or the new owner fails to provide the performance guarantees required by the Planning Board.
- e. The applicant fails to comply with applicable time periods and deadlines for processing the application and fails to get an extension of time prior to the expiration of those time periods and deadlines.
- f. The application is withdrawn by the applicant or by the Planning Board.

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## **ARTICLE X - PROTECTION FROM DAMAGE**

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**Sec. 1.** No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenances, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of criminal mischief as set forth in Maine Revised Statutes Annotated, Title 17-A, Chapter 33, Subsection 806 as amended as well as be subject to civil liability for reasonable costs to repair or replace the damaged structure or equipment including, without limitation, the Town's reasonable costs and attorney's fees.

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## **ARTICLE XI - POWER AND AUTHORITY OF INSPECTORS**

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**Sec. 1.** The Director of Public Works, and other duly authorized representatives of the Town having proper credentials and identification, shall be permitted to enter all properties at all reasonable times upon reasonable notice for the purposes of inspection, observation, measurement, sampling, and testing in accordance with this Ordinance. The Director of Public Works and Town representative(s) shall have no authority to inquire about any commercial process, including metallurgical, chemical, oil, refining, ceramic, paper, or other process beyond that point having a direct bearing on the kind and source of discharge to the wastewater facilities. Such information shall be kept confidential upon the company's establishing, to the satisfaction of the Director of Public Works, that the revelation to the public of the information in question might result in an advantage to competitors.

**Sec. 2.** The Director of Public Works and other duly authorized representatives of the Town having proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duty negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of

the sewerage works lying within said easement. All entry and subsequent work, if any, or property within said easement shall be done in full accordance with the terms of the negotiated easement pertaining to the private property involved.

- Sec. 3.** While performing the necessary work on private properties referred to in Article XI, Section 1 above, the Director of Public Works or authorized representative(s) of the Town shall observe all the safety rules applicable to the premises established by the company. The Town shall hold the company harmless from any liability for injury or death to Town employees performing such work; and the Town shall indemnify the company against loss or damage to the company's property caused by Town employees and against liability claims for personal injury or property damage against the company arising out of any sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article V, Section 8 of this Ordinance.

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## **ARTICLE XII - PENALTIES**

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- Sec. 1.** Any person found to be violating any provision of this Ordinance, except Article X, shall be served by the Director of Public Works with written notice stating the nature of the failure or violation and providing a reasonable time limit for the satisfactory correction or cessation thereof. The offender shall within the period of time stated in such notice permanently cease or correct all such failures or violations.
- Sec. 2.** Any violation which continues beyond the time limit set forth in a written notice to cease or correct the violation shall constitute a civil violation punishable by a fine of not less more than one hundred dollars (\$100.00) nor more than \$2,500 for each violation. Each day a violation continues shall be considered a separate offense. Fines, costs, and attorney's fees may be recovered as provided under 30-A M.R.S.A. § 4452.
- Sec. 3.** Any person violating any of these rules and regulations shall become liable to the Town for any expense, loss or damage caused the Town by reason of such violation, including but not limited to costs and reasonable attorneys' fees to enforce this Ordinance.
- Sec. 4.** Notwithstanding any of the foregoing provisions, the Town may institute any appropriate action including injunction or other proceeding to prevent, restrain, or abate a violation hereof.
- Sec. 5.** No permit for expansion of an existing facility shall be issued if there are outstanding sewer permit or connection fees unless and until satisfactory arrangement for payment of the same has been made with the Board of Selectmen.

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## ARTICLE XIII - SEWER SERVICE CHARGE

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**Sec. 1.** The source of a portion of the revenues for retiring debt service, capital expenditures, operation and maintenance of the public sewer system of the Town shall be a sewer service charge assigned to owners of property located within the limits of the Town whose property, residence, or place of business is capable of being tied into the sewer system pursuant to Article III, section 5 of this Ordinance. A portion of the funds collected pursuant to this Article shall be placed in a separate reserve fund for operation and maintenance, including replacement, of the public sewer system. The contribution to the reserve fund shall be determined by the Selectman on a year to year basis.

**Sec. 2.** Sewer service charge rates shall be determined by the Board of Selectmen on a year to year basis. The sewer service charge will be computed and billed at regular intervals though the calendar year, as established by the Board of Selectmen. In general, charges will be calculated based on the following criteria:

- a. The total cost annually of operating and maintaining the sewer system.
- b. Forty percent (40%) of the cost annually necessary to retire the debt service.
- c. The following schedule of sewer unit charges:

Minimum charge	1 Sewer Unit
Single Family Dwelling Unit	1 Sewer Unit
Multi-family Dwelling Unit or Condominium Dwelling Unit	1 Sewer Unit per DU*
School students every 20	1 Sewer Unit
Motel/Hotel/Inn/Bed and Breakfast Units (every two rooms with double occupancy)	1 Sewer Unit
Motel/Hotel/Inn/Bed and Breakfast Units (every four rooms with single occupancy)	1 Sewer Unit
Restaurant Seats (every ten seats)	1 Sewer Unit
Tourist-House Rooms (every two double occupancy rooms)	1 Sewer Unit

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\*Dwelling Unit

Tourist-House Rooms (every four single occupancy rooms)	1 Sewer Unit
Yacht or Country Club Members (every fifty members)	1 Sewer Unit
Church or Club Members (every 100 members)	1 Sewer Unit
Commercial Employees (every zero to five employees)	1 Sewer Unit
Commercial Employees (every five to ten employees)	1.5 Sewer Unit
Industry Employees (every zero to ten employees)	1.5 Sewer Unit
Gas Station	3 Sewer Units
Laundromat Machines (every two machines)	1 Sewer Unit
Campground (sewer hookups)	1 Sewer Unit
Septic Waste	\$.10 per gallon

- Sec. 3.** The sewer service charges assigned to any property owner who contributes a significant quantity of industrial waste to the public sewers, or who contributes a combination of sewage and industrial waste to the public sewer, shall be determined on a block rate structure based on water consumption. The property owners to be charged in this manner will be determined by the Selectmen on a year-to-year basis.
- Sec. 4.** A special sewer service charge shall be assigned to any commercial, industrial firm or organization who, by virtue of the volume, strength or unusual characteristics of their waste alone, would overload or upset the capacity or efficiency of the public sewer system or a part thereof if such waste entered the public sewer or whose waste disposal situation is such that it would be in the public interest to waive the requirements of Section 1, 2, and 3 of this Article. The Selectmen, after appropriate study, and advice from the Director of Public Works, shall assign a special sewer service charge to such an entity by separate agreement with said entity. The applicable portions of the preceding section, as well as the equitable rights of the public, shall be the basis for such an arrangement.
- Sec. 5.** The Director of Public Works reserves the right, from time to time, to change sewer service charges originally or previously assigned to any property owner.

- Sec. 6.** Each sewer service charge levied pursuant to these rules and regulation is hereby made a lien on the premises. If said charge is not paid within thirty (30) days after it becomes due and payable, it shall be certified to the Town Treasurer who shall record notice of said lien with interest and penalties allowed by law in the York County Registry of Deeds.
- Sec. 7.** The charges and assessments levied pursuant to this Article XIII shall be used consistently with the Clean Water Act, 33 U.S.C. e 1251 et seq., as amended, and all other applicable federal regulations.
- Sec. 8.** When a Sewer Connection Application is processed, and a permit is issued, the owner of the property for which the application was issued will be billed for the units that were approved. If the application was approved during the billing year, the sewer charge will be pro-rated for the rest of that year; any year thereafter the owner will receive a bill for all the units that were approved for a full year. The sewer bill will be assessed regardless of whether the units are tied into the collection system or not.

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**ARTICLE XIV LICENSING OF PERSONS AUTHORIZED  
TO MAKE CONNECTION TO THE PUBLIC SEWERS**

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- Sec. 1.** Plumbers and drain layers of established reputation and experience, as determined by the Director of Public Works, will be licensed by the Town as A Drain Layer authorized to perform work, subject to compliance with the following requirements:
- a. Applicants for licenses, after approval by the Director of Public Works, shall file with the Director of Public Works a Certificate of Insurance in the sum of \$1,000,000 / \$1,000,000 to cover Public Liability and a Certificate of Insurance in the sum of \$500,000 covering Property Damage. In addition, a Certificate of Insurance covering Workman's Compensation shall be filed, all of which shall remain in full force and effect for a period of at least one year from the date of approval. Said Insurance shall indemnify the Selectmen and the Town of Kennebunkport against any all claims, liability or action for damage, incurred in or in any way connected with the performance of work by the Drain Layer, and for or by reason of any acts or omission of said Drain Layer in the performance of his work, including acts of negligence.
  - b. Applicants for licenses will be approved or disapproved within a period of thirty-one (31) days after filing the application.
- Sec. 2.** All licenses expire one year from the date of issuance thereof and no licenses are transferable.
- Sec. 3.** The Director of Public Works reserves the right to revoke any license if any provision or requirement of said license is violated.

- Sec. 4.** Each licensee shall give personal attention to all installations, shall ensure that work is performed in a workmanlike manner, and shall employ only competent workers.
- Sec. 5.** All licensees are required to give a full written report to the Director of Public Works within twenty-four (24) hours in the event any prohibited substances are found in a sewer or house drain during the course of the work.
- Sec. 6.** Notification that work has been completed and certification that all conditions of this Ordinance have been complied with shall be filed in writing with the Director of Public Works within twenty-four (24) hours after the completion of the work authorized by each permit.

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## **ARTICLE XV - SEPTIC WASTE**

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The following regulations shall govern the disposal of septic waste at the treatment facilities:

- a. Septic waste from the Town of Kennebunkport, or from any other municipality with written authorization from the Selectmen, will be accepted.
- b. A permit must be procured from the Director of Public Works or the Director of Public Works' authorized representative prior to receiving any septic waste for subsequent disposal at the Town's treatment facilities.
- c. The application for said permit shall be signed by the property owner or the property owner's duly authorized representative and shall indicate the source of the septic waste.
- d. Any waste which the Director of Public Works or any agent of the Director of Public Works deems suspicious shall be tested, at the waste hauler's expense, to ascertain that the waste meets the specifications for sludge composition and is free of detrimental chemicals.
- e. The waste hauler shall be responsible for the removal and proper disposal of the contaminated waste and any other materials that may have contaminated.
- f. The waste hauler shall be duly licensed in accordance with the laws of the State of Maine, and shall provide a copy of the license to the Director of Public Works.

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## ARTICLE XVI - VALIDITY

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- Sec. 1.** All rules, regulations, or other ordinances in conflict herewith are repealed.
- Sec. 2.** The invalidity of any section, clause, sentence, or provision of these rules and regulations shall not affect the validity of any other part of these rules and regulations, which can be given effect without such invalid part or parts.

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## ARTICLE XVII - APPEALS

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- Sec. 1.** The Selectmen shall have the following powers and duties to be exercised only upon written appeal by a party aggrieved by a decision of the Director of Public Works, Plumbing Inspector and/or Town Health Officer, insofar as such decision arises from requirements of this Ordinance:
- a. To determine whether the decisions of these authorities are in conformity with the provisions of this Ordinance, and to interpret the meaning of this Ordinance in a case of uncertainty.
  - b. To grant variances from the terms of this Ordinance where there is no substantial departure from the intent of this Ordinance and where necessary to avoid undue hardship. A projected expenditure of an amount exceeding fifteen percent (15%) of the assessed value of the buildings on the land to be served by the public sewer shall be considered as prima facie evidence of undue hardship.
  - c. To permit an exception to this Ordinance only when the terms of the exception have been specifically set forth in this Ordinance.
- Sec. 2.** The Selectman shall schedule a hearing on each appeal under this Ordinance within sixty (60) days of receipt of a completed application. At least ten (10) days prior to the hearing the Town Clerk shall cause to be advertised in a newspaper of general circulation in the Town a notice of such appeal identifying the property involved, the nature of the appeal and the starting time and place of the public hearing on the appeal. Owners of properties within two hundred (200) feet of the property for which the appeal is made shall be notified by mail. Failure of any such owner to receive this notice shall not invalidate the proceeding herein prescribed.

The Selectmen shall not continue a hearing on an appeal to a future date except for good cause or by agreement of the appellant. Upon conclusion of the hearing and a determination by the Selectmen, written notice of the Selectmen's decision shall be sent forthwith to the appellant and to the municipal employee or officer concerned. Failure of the Selectmen to issue such notice within thirty (30) days of the date the hearing concludes shall constitute a denial of said appeal.

**Sec. 3.** The procedure for instituting an appeal shall be as follows:

- a. Any person including any municipal department head aggrieved by a decision of the Director of Public Works, the Town Health Officer, and/or the Plumbing Inspector, which decision arises from interpretation or application of this Ordinance, may appeal such decision to the Selectmen.
- b. Any such appeal must be filed with the Town Clerk within thirty (30) days of the date of the decision of the Director of Public Works, Health Officer, and/or Plumbing Inspector. Said appeal shall be filed upon forms to be approved by the Selectmen. The appellant shall set forth the grounds for appeal and shall refer to the specific provision of this Ordinance involved. Following the receipt of any appeal, the Town Clerk shall notify forthwith the employee or officer concerned and the Chairperson of the Board of Selectmen. The appellant shall pay to the Town Treasurer a fee of Twenty-five (\$25.00) plus the cost of advertising and mailing notices. The appellant shall supply the names and address of all the property owners that have property within two hundred feet of the property that the appeal is for.
- c. An aggrieved party may appeal any decision of the Selectmen to Superior Court as provided by the laws of the State of Maine.

**Sec. 4.** After a decision on an appeal has been made by the Selectmen, a new appeal of similar import shall not be entertained by the Selectmen until one year shall have elapsed from the date of said decision, except that the Selectmen may entertain a new appeal if the Chairperson determines that, owing to a mistake of law or misunderstanding of fact, an injustice was done, or if the Chairperson determines that a change has taken place in some essential aspect of the appeal.

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## ARTICLE XVIII - EFFECTIVE DATE

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**Sec. 1.** This Ordinance shall be in full force and effect upon adoption by the Selectman.

Passed and adopted by the Selectmen of the Town of Kennebunkport, County of York, State of Maine on the 22<sup>nd</sup> day of February, 2018, by the following votes:

Ayes 5      Namely\_\_\_\_\_

Nays 0      Namely\_\_\_\_\_

Signed: \_\_\_\_\_  
Patrick Briggs

\_\_\_\_\_  
Allen Daggett

\_\_\_\_\_  
Stuart Barwise

\_\_\_\_\_  
Edward Hutchins

\_\_\_\_\_  
Sheila Matthews-Bull

\_\_\_\_\_  
Tracey O’Roak, Clerk