

**TOWN OF KENNEBUNK**  
**BOARD OF SELECTMEN**  
**TUESDAY, MARCH 22, 2016 – 6:30 P.M.**  
**KENNEBUNK TOWN HALL**  
**3<sup>rd</sup> FLOOR/ROOM 301**  
**AGENDA**

**REGULAR MEETING – 6:30 P.M.**

**1. Call to Order & The Pledge of Allegiance**

*I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.*

**2. Minutes (2-3 minutes)**

- a. March 8, 2016 Regular Meeting

**3. Items to be Signed (3-5 minutes)**

- a. Items as Presented

**4. Public Hearing(s) (5-10 minutes)**

- a. The Municipal Officers of the Town of Kennebunk will hold a Public Hearing to act on the following:

**Federal Jacks d/b/a Federal Jacks Brewpub Inc.**  
**Located at 2 Western Avenue**  
**For a renewal Malt, Spirituous and Vinous Liquor License**  
**And**  
**renewal for a Special Amusement Permit**

*Town Manager's Note (not part of the public hearing notice):*

*Fire Department: no deficiencies noted in the annual inspection.*

*Police Department: no calls for service that would interfere with the renewal of the license.*

**MOTION:** *To approve the renewal Malt, Spirituous and Vinous Liquor License Application AND renewal Special Amusement Permit for Federal Jacks d/b/a Federal Jacks Brewpub Inc.*

- b. The Municipal Officers of the Town of Kennebunk will hold a Public Hearing to act on the following:

**To Receive Public Comment on the 2016-2017 Municipal Budget  
for the Town of Kennebunk**

*Town Manager's Note (not part of the public hearing notice):*

*Selectmen, Budget Board and staff have assembled a proposed budget for the coming year (July 2016 – June 2017). A PowerPoint presentation will be provided at Tuesday's meeting. This public hearing complies with the Town Charter.*

**5. Public Comments (5-10 minutes)**

**6. Acknowledgements/Announcements (5 minutes)**

**7. Time Sensitive Business**

a. Approve the CDBG Application for a Microenterprise Grant Discussed at the 3/8/16 Public Hearing (5 minutes) – At the last meeting, the Board held public hearings to discuss CDBG applications. The Board needs to vote to send the Microenterprise Grant application to the Department of Economic Development and Community Development (DECD).

1. Listed as Public Hearing 4h on the March 8<sup>th</sup> agenda – To discuss an application being submitted to the State of Maine CDBG program for a Microenterprise grant. The purpose of the request is to assist the following businesses with expansion, location, or rehabilitation activities: **We Care Drycleaners, Tom Joyal Freight House, Garden Street Market, Douglass Chancellor Meyers & Associates, Fitness Nuthouse, and Home Instead.** Funding for each business will be approximately \$25,000.

**MOTION:** To approve the submittal of the CDBG application for a Microenterprise grant to the Department of Economic and Community Development.

b. Take up the Following Election Items as Recommended by the Town Clerk for the June 14, 2016 State Primary and Municipal Election (5 minutes)

1. Confirm the Town Clerk’s appointment of May Lou Nedeau as the Warden.
2. Appoint the following as Election Clerks through June 30, 2018.

Eleanor Laude	Sue Brunelle	Sharon Cuneo	Susan Crowell
Dawne Tilton	Fred Trexler	Martha Hussey	Harriet Mill
Theresa Collard	Natalie Savage	Joan Carroll	Jane Obermeyer
Mary Lou Nedeau	Lynda Blunt	Linda Johnson	Terrance Beers
Mary Crimmins	Carol Whitten	Lynne Bridges	Rebecca Beers
Liz Walsh	June Huston	Pam Plummer	Tom Wolf
Laurette Dumas	Barbara Duffy	Marcia Cook	Ellen Wolf
Barbara Weeman	Trudy Weeman	Carrie Weeman	Betsy MacDonald
Craig MacDonald	Frank Nedeau	Slattery	

**RESOLVED:** To confirm the Town Clerk’s appointment of Mary Lou Nedeau as Warden for the June 14, 2016 State Primary and Municipal Election and appoint the Election Clerks noted above through June 30, 2018.

3. Set the polling hours from 6:00 a.m. to 8:00 p.m.
4. Establish the following additional hours that the Town Clerk’s Office will be open for voter registration and absentee balloting:

Saturday, June 4	11:00 a.m. to 4:00 p.m.
Sunday, June 5	11:00 a.m. to 4:00 p.m.
Monday, June 6	4:30 p.m. to 7:30 p.m.
Tuesday, June 7	4:30 p.m. to 7:30 p.m.
Wednesday, June 8	4:30 p.m. to 7:30 p.m.
Thursday, June 9	4:30 p.m. to 7:30 p.m.

**RESOLVED:** To set the polling hours from 6:00 a.m. to 8:00 p.m. and the additional hours for the Town Clerk’s office as noted above.

5. Nomination papers will be available for the following positions:

Board of Selectmen	(2) 3-year terms
RSU 21 Directors	(2) 3-year terms
Trustee KLP	(1) 3-year term
Trustee Sewer District	(2) 3-year terms

Beginning Monday, March 28<sup>th</sup>, nomination papers can be picked up in the Town Clerk’s Office and must be returned by Monday, May 2<sup>nd</sup> by 4:30 p.m. A minimum of 25 signatures is required. FMI, please contact the Town Clerk’s office at 604-1326.

c. Award the Town Hall Auditorium Solar Roller Window Shade Bids (10 minutes) – The Town recently requested bids for adding new roller window shades for the Town Hall Auditorium. The 10 main windows would have a shade operated by a chain clutch stainless steel mechanism. The project also included the cleaning, repairing and reinstallation of the existing swags/drapes (see attached RFP). A total of six bids were received and opened on February 22<sup>nd</sup>:

	<u>New Roller Shades</u>	<u>Clean Existing Swags</u>
• Well Dressed Interiors Kennebunk, ME	\$8,900.00	included in price
• Budget Blinds of So. Maine Kennebunk, ME	\$8,830.00	\$1,650.00
• Solarize Window Insulators Arundel, ME	\$7,000.00	included in price
• Color Concepts Bangor, ME	\$5,949.00	included in price
• Walker Specialties Braintree, MA	\$5,600.00	included in price
• Statewide Specialties, LLC Braintree, MA	\$3,810.00	Time/material (at Davis Bacon wage scale)

The low bidder did not meet specifications. They submitted a time and material request for the cleaning, repairing and reinstallation of the swags/drapes based on the Davis Bacon federal wage scale. The time and materials is an uncontrollable cost and could exceed the second low bid price. Walker Specialties, the second lowest bidder, is a manufacturer and has met the specifications of the RFP (blackout, fire retardant, and non-PVC solar shades; chain clutch mechanism with one continuous shade).

The recommendation is to award the bid to Walker Specialties at a price of \$5,600.00.

**MOTION:** To award the bid to Walker Specialties at a price of \$5,600.00.

## 8. Old Business (2<sup>nd</sup> Reading)

- a. Discuss a Request by the Energy Efficiency Advisory Committee for an Ordinance Regulating Single-Use Carryout Plastic Shopping Bags (5-10 minutes) – The Energy Efficiency Advisory Committee presented a draft ordinance on regulating single-use carryout plastic shopping bags. The proposed ordinance has been reviewed by the Selectmen’s Ordinance Subcommittee and Town attorney and was updated for the last meeting. The only item added to the ordinance since the last meeting is “Section 10 Amendments”, which allows the Selectmen to modify the ordinance in the future with a public hearing. See attached proposed ordinance. This ordinance bans single-use plastic bags with a thickness of less than 3 mils with an integral handle. The proposed Town Meeting warrant article is as follows:

Art. \_\_\_\_\_ Shall an ordinance entitled “Single-Use Plastic Carry Out Bag Ordinance” to eliminate the use of single-use carry out plastic bags by retail establishments engaged in the sale of food or other merchandise in the Town of Kennebunk be enacted?

A true copy of the complete text of the above-proposed ordinance is on file for public inspection in the Town Clerk’s office and will also be available for public inspection at the Annual Town Meeting to be held on June 14, 2016, prior to voting on the same.

**MOTION:** To schedule a public hearing on April 12<sup>th</sup>.

- b. Discuss the Town Meeting Warrant Article for the Discontinuance of the PAYT Trash Bags (10-15 minutes) – At the last meeting, the Board discussed the PAYT warrant article. The article needs to address three areas: changes to the Solid Waste, Pay As You Throw, Recycling and Residential Compost Ordinance, the budgetary impact, and the property tax levy limit. This will require two warrant article questions; one question can combine the ordinance changes and budgetary impact, while the property tax levy limit needs to be a separate question. The proposed Town Meeting warrant article is as follows:

Art. \_\_\_\_\_ Shall an Ordinance entitled “Amendment to Sec. 3-14 of the Town’s Solid Waste, Pay as You Throw, Recycling and Residential Compost Ordinance” be enacted to delete all references to “Pay As You Throw” and related provisions thereby eliminating the “pay per bag” trash program in Kennebunk, which shall raise and appropriate \$435,000 for the collection and disposal of the Town’s municipal solid waste and other related miscellaneous expenditures by assessment.

[Fiscal Note: If this ordinance amendment passes, the elimination of the “Pay as You Throw” program of trash collection (purchase of blue and purple trash bags) will result in an increase to the Town’s budget by \$435,000, which is the equivalent of (an approximate) \$.23 increase to the Town’s tax mil rate. On the other hand, if this ordinance amendment fails, the continuance of the “Pay as You Throw” trash program may require the price of bags to be increased by 35%.]

Note: This warrant article pertains to the Town’s blue and purple trash bags, not the Town’s new trash and recycling containers. The containers will continue to be used regardless of the outcome of the vote.

A true copy of the complete text of the above-proposed ordinance is on file for public inspection in the Town Clerk’s office and will also be available for public inspection at the Annual Town Meeting to be held on June 14, 2016, prior to voting on the same.

**MOTION:** To place this warrant article on the June 14, 2016 Town Meeting Warrant as presented.

## 9. New Business (1<sup>st</sup> Reading)

- a. Discuss Creating a New Committee on Aging (10-15 minutes) – Mr. Bevan Davies has requested the Board consider forming a new committee on aging (see attached letter). The committee could support the aging community with information on services, mass transportation and specialized transportation, affordable housing and at-home elder care. Currently “No Place Like Home” is a non-Town committee working to assist the elderly. How would the Board like to proceed?

**MOTION:** Move to a second reading.

- b. Discuss Awarding the Comprehensive Plan & Zoning Ordinance Update Project (10-15 minutes) – The Town released an RFP for consulting services to assist the Town Comprehensive Plan & Zoning Ordinance Update Committee in reviewing, analyzing and providing recommendations for improvements to current regulations. The Town received three bids. After the committee interviewed the candidates, they selected Southern Maine Planning & Development Commission (SMPDC) as they are most qualified to assist in this process. The total cost for services would be \$49,500.00. The Town has \$50,000.00 budgeted in the current budget. The attached memorandum defines the work plan and expenditures for services.

**MOTION:** To award the Comprehensive Plan & Zoning Ordinance Update contract to Southern Maine Planning & Development Commission at a price of \$49,500.00.

- c. Discuss the Street Sign Replacement Project (5 minutes) – The new street signs (for public and private identification of the roadways) are ready to be ordered. The Town has approved this purchase in the current budget. The original discussion was to have all street signs green in color.

After compiling the data and examining the usage further, staff and I recommend using the two-color distinction of green signs for public roads and blue signs for private roads, versus green signs for all roads. The color distinction would better aid staff and the public and is utilized in many other communities.

**MOTION:** To approve the two-color distinction of green for public roads and blue for private roads for the new Kennebunk street signs.

- d. Discuss Proposed Changes to Four Town Ordinances (10-15 minutes) – The following ordinances are being recommended for minor adjustments.

- **Section 3-14 – Solid Waste, Pay As You Throw, Recycling and Residential Compost Ordinance** – This ordinance has been amended to potentially reflect the discontinuation of the PAYT program. If the program is not discontinued by the voters in June, these changes would not be applied.

A public hearing is needed to receive public comment on the proposed changes. These changes do require a Town Meeting vote.

- **Section 4-7 – Property Tax Assistance Ordinance** – This ordinance has been amended to comply with current Maine State law. The program would apply to homeowners and renters with a \$300 cap. The program would only exist if funded by the Town. Currently, the balance in this fund is \$19,372.11.

A public hearing is needed to receive public comment on the proposed changes. These changes do require a Town Meeting vote.

- **Section 6-1 – Street Vendors and Peddlers** – This ordinance would have a new clarification inserted in Section 6-1.5.6 Location, which states: “Applicant shall comply with all local ordinances by permit of the Code Enforcement Officer.” This clarifies the need for vendors of proposed sites to meet setbacks and traffic/pedestrian safety regulations.

A public hearing is needed to receive public comment on the proposed changes. These changes do require a Town Meeting vote.

- **6-3 Victualer & Lodging Licenses** – Section 6-3.8 Exemptions (4<sup>th</sup> paragraph) of this ordinance clarifies farmers’ market requirements for a Victualer license.

Businesses participating in ~~the Kennebunk~~ a farmers’ market located in a Town approved location ~~the Town parking lot~~ are exempt from the requirements of this Ordinance during the hours the farmers’ market is in operation. (06-21-2011)

A public hearing is needed to receive public comment on the proposed changes. These changes do not require a Town Meeting vote; the changes can be approved at the Public Hearing, per the current Ordinance language.

The proposed amendments to the above Ordinances are attached for your review; items to be deleted are crossed through and new wording is underlined.

**MOTION:** To send the proposed changes to the Town Ordinances noted above to a Public Hearing on April 12<sup>th</sup>.

- e. Discuss Boards and Committees (resignations/appointments, if any) (2-3 minutes)
- f. Discuss Any Other Business (2-3 minutes)

## 10. Selectmen’s Comments

- a. Subcommittee Reports (if any)
- b. Individual Selectmen Comments

## 11. Town Manager’s Comments/Notes

- a. We want to hear from you! Complete our Online Survey (or paper version available at Town Hall). The Town is developing a strategic planning process to guide their future activities. The survey is divided into three sections:
  1. Strategic planning questions for the Board of Selectmen and Town Manager
  2. Comprehensive planning and land use questions for the Update Committee
  3. Demographic information about you to help us better understand trends in the community

Please take the time to participate in this important effort. Your comments and observations will be anonymous and we encourage you to be open and candid.

The online survey can be found on the homepage of the Town’s website (under News & Announcements) or at [www.kennebunkmaine.us/planningsurvey](http://www.kennebunkmaine.us/planningsurvey). Printed copies are also available at the Town Clerk’s Office. Surveys must be completed by April 15<sup>th</sup>.

- b. Wright Pierce Report/Dams – Kennebunk Light & Power District will hold their regular meeting on the third floor of the Kennebunk Town Office on Tuesday, March 29<sup>th</sup> at 6:00 p.m. as they have limited space at their facility. At this meeting, KLPD will review the Wright Pierce report regarding the dams. They will allow a limited time for citizen comments.
- c. Hear an Update on the New Program: Board of Selectmen Outreach Sessions – This new program begins on Saturday, March 19<sup>th</sup> and will be held at the Police Department (meeting room next to lobby) from 8:30 a.m. to 10:30 a.m.

Future sessions will be held on the 3<sup>rd</sup> Saturday of each month at the Town Hall (3<sup>rd</sup> floor) from 8:30 a.m. to 10:30 a.m.

These sessions will provide residents with a chance to meet and talk with Selectmen on a one-on-one basis. They will be informal gatherings attended by two Selectmen. Refreshments will be available.

Watch our website ([www.kennebunkmaine.us/calendars](http://www.kennebunkmaine.us/calendars)) for any changes in the schedule due to the weather, availability of Selectmen, etc.

## 12. Executive Session(s)

- a. Discuss an Economic Development Matter with the Town Manager, Economic Development Director and Finance Director regarding an economic development matter where premature disclosure of the same would prejudice the competitive bargaining position of the Town relative to the same - Title 1 MRSA Sec. 405(6)(C)
- b. Discuss Pending Litigation with the Town Manager, Finance Director, Community Development Director, and Town Attorney - Title 1 MRSA Sec. 405(6)(E)
- c. Discuss the Town Manager's Review with the Town Manager - Title 1 MRSA Sec. 405(6)(A)

## 13. Adjournment

2

(MINUTES)

**TOWN OF KENNEBUNK**  
**BOARD OF SELECTMEN MINUTES**  
**MARCH 8, 2016 – 6:15 P.M.**

**SPECIAL MEETING**

**Interview the following Candidate(s) for Committees:**

Robert C. Danzilo

River Committee

Vacancy: (1) Non-Resident, Joint Member  
w/ Kennebunkport (Regular 2019)

The Candidate appeared before the Board and answered questions pertaining to background and history. Danzilo explained his interest in the committee, which includes his concerns with the traffic on the river. The Vice-Chair explained all appointments will be announced at the end of the meeting and he will be contacted with the decision.

**REGULAR MEETING**

**1. CALL TO ORDER**

On March 8, 2016, at 6:30 p.m., in Room 301 of the Town Hall, Richard Morin, Vice-Chairman of the Board of Selectmen for the Town of Kennebunk, called to order the Regular Meeting of the Board of Selectmen. Present were Selectmen Richard Morin, Edward Karytko, Christopher Cluff, Shiloh Schulte and Deborah Beal. Absent were Kevin Donovan and Daniel Boothby.

Also present were Town Manager Barry Tibbetts and Finance Director Joel Downs.

**2. MINUTES**

a. February 23, 2016 Regular Meeting

Budget Meetings

- b. February 2, 2016 Special Meeting (Budget Meeting 6:00 pm)
- c. February 4, 2016 Special Meeting (Budget Meeting 6:00 pm)
- d. February 6, 2016 Special Meeting (Budget Meeting 8:30 am)
- e. February 11, 2016 Special Meeting (Budget Meeting 6:00 pm)
- f. February 13, 2016 Special Meeting (Budget Meeting 8:30 am)
- g. February 16, 2016 Special Meeting (Budget Meeting 6:00 pm)

The Vice-Chair announced the items and asked for Town/Board input. Karytko commented on the brevity of the Budget Minutes. Tibbetts explained the Minutes are in abbreviated form.

**A motion was made to accept the Minutes of the February 23, 2016 Regular meeting and all Budget meetings presented.**

**MOVED:** Cluff

**SECONDED:** Schulte

**MODIFICATIONS:** None

**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

The Vice-Chair proceeded to the next item.

**3. ITEMS TO BE SIGNED**

- a. Items as Presented have been signed.

The Vice-Chair proceeded to the next item.

**4. PUBLIC HEARING(S)**

- a. The Vice-Chair opened a public hearing to act on the following:

**SUPHAB, Inc d/b/a Mekhong Thai Restaurant  
Located at 35 Western Avenue  
For a renewal Malt, Spirituous and Vinous Liquor License Application**

Town Manager's Note (not part of the public hearing notice):

*Fire Department: nothing found in the inspection that would interfere with the renewal of the license.*

*Police Department: no calls for service that would interfere with the renewal of the license.*

**A motion was made to approve the renewal Malt, Spirituous and Vinous Liquor License Application for SUPHAB, Inc. d/b/a Mekhong Thai Restaurant.**

**MOVED:** Karytko  
**SECONDED:** Cluff  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

- b. The Vice-Chair opened a public hearing to act on the following:

**Sebago Brewing Company d/b/a Sebago Brewing Company  
Located at 65 Portland Road  
For a renewal Malt, Spirituous and Vinous Liquor License Application**

Town Manager's Note (not part of the public hearing notice):

*Fire Department: nothing found in the inspection that would interfere with the renewal of the license.*

*Police Department: no calls for service that would interfere with the renewal of the license.*

There were no public comments.

**A motion was made to approve the renewal Malt, Spirituous and Vinous Liquor License Application for Sebago Brewing Company, d/b/a Sebago Brewing Company.**

**MOVED:** Cluff  
**SECONDED:** Karytko  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

- c. The Vice-Chair opened a public hearing to act on the following:

**Richard Taranto d/b/a Old Vines LLC**  
**Located at 173 Port Road**  
**For a renewal Malt, Spirituous and Vinous Liquor License Application**

Town Manager's Note (not part of the public hearing notice):

*Fire Department: nothing found in the inspection that would interfere with the renewal of the license.*

*Police Department: no calls for service that would interfere with the renewal of the license.*

There were no public comments.

**A motion was made to approve the renewal Malt, Spirituous and Vinous Liquor License Application for Richard Taranto d/b/a Old Vines LLC.**

**MOVED:** Schulte  
**SECONDED:** Karytko  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

- d. The Vice-Chair opened a public hearing to act on the following:

**Joseph Ryan d/b/a Ryan's Corner House**  
**Located at 17 Western Avenue**  
**For a renewal Malt, Spirituous and Vinous Liquor License Application**

Town Manager's Note (not part of the public hearing notice):

*Fire Department: nothing found in the inspection that would interfere with the renewal of the license.*

*Police Department: no calls for service that would interfere with the renewal of the license.*

There were no public comments.

**A motion was made to approve the renewal Malt, Spirituous and Vinous Liquor License Application for Joseph Ryan d/b/a Ryan's Corner House.**

**MOVED:** Karytko  
**SECONDED:** Cluff  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

- e. The Vice-Chair opened a public hearing to act on the following:

**Denise Rubin d/b/a On The Marsh**  
**Located at 46 Western Avenue**  
**For a renewal Malt, Spirituous and Vinous Liquor License Application**  
**AND**  
**renewal of a Special Amusement Permit**

Town Manager's Note (not part of the public hearing notice):

*Fire Department: nothing found in the inspection that would interfere with the renewal of the license.*

*Police Department: no calls for service that would interfere with the renewal of the license.*

There were no public comments.

**A motion was made to approve the renewal Malt, Spirituous and Vinous Liquor License Application and Special Amusement Permit for Denise Rubin d/b/a On The Marsh.**

**MOVED:** Cluff  
**SECONDED:** Schulte  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

f. The Vice-Chair opened a public hearing to act on the following:

**J. Steven Kingston d/b/a The Clam Shack  
Located at 2 Western Avenue  
For a renewal Malt and Vinous Liquor License Application**

Town Manager's Note (not part of the public hearing notice):

*Fire Department: annual inspection will take place on Monday, 3/7; will report at 3/8 meeting.*

*Police Department: no calls for service that would interfere with the renewal of the license.*

There were no public comments

**A motion was made to approve the renewal Malt and Vinous Liquor License Application for J. Steven Kingston d/b/a The Clam Shack pending final inspection and approval by the Fire Chief.**

**MOVED:** Schulte  
**SECONDED:** Karytko  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

g. The Vice-Chair opened a public hearing to act on the following:

To discuss an application being submitted to the State of Maine CDBG program for an Economic Development Program grant. The purpose of the request is to assist **Fire N Brew** with \$250,000 of gap financing to construct a new production plant in Kennebunk. Public comments will be solicited at this Hearing and will be submitted as part of the application's required documentation.

All persons wishing to make comments or ask questions about the proposal are invited to attend this Public Hearing. Comments may be submitted in writing to: Mat Eddy, Economic Development Director at 1 Summer Street, Kennebunk, ME 04043 at any time prior to the Public Hearing. TDD/TTY users may call 711. If you are physically unable to access any of the Town's programs or services, please call Merton Brown, Town Clerk at 207-604-1326 so that accommodations can be made.

DISCUSSION:

Matt Eddy, Economic Development Director, explained the grant application process and the Letters of Intent were approved. The next step is the application process. Eddy is working out the figures and working with the Varanos, owners of Fire N Brew, to develop the manufacturing facility for Hidden Cove Brewery of Wells. There has been no site chosen at this time.

Resident Lionel Menard is concerned because the Kennebunk Sewer Department has not given their plan and does not believe the Town's current sewer system can handle a manufacturing business such as this. Eddy explained that the business would still be required to go through the Planning Board and Site Plan Review Board process for approval. Karytko expressed his concern of adding industries that will take the place of new homes because of the Town's sewer system, especially since the Town is spending money on the schools. Schulte agreed that they need to look at possible expansion of homes instead of businesses. Eddy stated that if the grant is approved, the Board will need to vote to accept.

Resident Myra Sparkowich asked how many the company will be employing. Eddy replied 8-11 new employees.

h. The Vice-Chair opened a public hearing to act on the following:

To discuss an application being submitted to the State of Maine CDBG program for a Microenterprise grant. The purpose of the request is to assist the following businesses with expansion, location, or rehabilitation activities: **We Care Drycleaners, Tom Joyal Freight House, Garden Street Market, Douglass Chancellor Meyers & Associates, Fitness Nuthouse, and Home Instead.** Funding for each business will be approximately \$25,000. Public comments will be solicited at this Hearing and will be submitted as part of the application's required documentation.

All persons wishing to make comments or ask questions about the proposal are invited to attend this Public Hearing. Comments may be submitted in writing to: Mat Eddy, Economic Development Director at 1 Summer Street, Kennebunk, ME 04043 at any time prior to the Public Hearing. TDD/TTY users may call 711. If you are physically unable to access any of the Town's programs or services, please call Merton Brown, Town Clerk at 207-604-1326 so that accommodations can be made.

DISCUSSION:

Eddy stated this would benefit the businesses listed above by helping them make improvements. He further explained that the owners will put in amounts of their own. The grant would cover façade improvements as well. Schulte asked how the businesses were identified. Eddy explained they needed to prove need in a proforma and where they are financially. Conversation ensued regarding private businesses using grants. Schulte explained it is a State of Maine grant and if the Town does not apply, the money will go to another town. Improvements will add to our community.

Resident Lionel Menard does not agree with giving money away for this type of business. Resident Diane Denk reminded the Board of the importance of the businesses and requested they think outside the box.

i. The Vice-Chair opened a public hearing to act on the following:

To discuss an application being submitted to the State of Maine CDBG program for an Economic Development Program grant. The purpose of the request is to assist **Gymnation** with gap financing of

\$120,000 to develop a new home, with a new structure and equipment along Route 1 south, adjacent to Garret Pillsbury. Public comments will be solicited at this Hearing and will be submitted as part of the application's required documentation.

All persons wishing to make comments or ask questions about the proposal are invited to attend this Public Hearing. Comments may be submitted in writing to: Mat Eddy, Economic Development Director at 1 Summer Street, Kennebunk, ME 04043 at any time prior to the Public Hearing. TDD/TTY users may call 711. If you are physically unable to access any of the Town's programs or services, please call Merton Brown, Town Clerk at 207-604-1326 so that accommodations can be made.

DISCUSSION:

Eddy explained Gymnation needs to relocate because of the Sewer District's expansion on Water Street. He further explained that their numbers are solid and the process was based on a detailed analysis. Gymnation's gap is \$150,000 and the Town does not want to lose the business because it brings many people to the community. Schulte mentioned his children go to Gymnation and he has been happy with them. He would need to recuse himself if there were a vote. Karytko mentioned that he is not questioning the value of the business, just where the money comes from and where it goes.

The Vice-Chair moved to the next item.

**5. PUBLIC COMMENTS**

Resident Myra Sparkowich mentioned fixing a business's façade would put someone to work. The Mousam River has been used for years for irrigation on crops and has many other uses, therefore, she is opposed of taking the dams out. For the potential plastic bag issue, she would like to educate the children to find a way to use those bags instead of charging 5 cents a bag.

Resident Diane Denk discussed the Democratic caucus. She acknowledged Merton Brown, Town Clerk, and Mary Lou Nedeau for their efforts at the caucus. There were 275 new registers to vote and thanked the public for registering. Brown and Nedeau managed the work in a friendly manner.

Resident Lionel Menard asked about the date for the formal dam review meeting and a date for the formal sewer review. Tibbetts will ask the Sewer District of their timeline. Menard hopes the Board could facilitate the meeting because it would be useful for people to understand.

Merton Brown, Town Clerk, has spoken with Todd Shea, from Kennebunk Light and Power, and there is a meeting scheduled here on March 29<sup>th</sup> to discuss the Wright Pierce Report, which is part of KLPD's regular meeting. KLPD is restricting public comments to 15 minutes. Brown has not heard about a meeting from the Sewer District. There are two open selectmen positions, two open school board positions, one open KLPD position and two Sewer District. Nomination papers are available on March 28<sup>th</sup> at the Town Clerk's office and are due back May 2<sup>nd</sup>. There is a requirement is 25 signatures but no more than 100. Brown thanked Diane Denk for her comments. He mentioned that he has never experienced such angry people as he did at the caucus. Karytko thanked Brown on behalf of the Republicans and agrees with Denk that it is a thankless job.

The Vice-Chair moved to the next item.

**6. ACKNOWLEDGEMENTS/ANNOUNCEMENTS**

- a. Accept the Following Donation – The Town recently received a \$250 donation from The Patriot Riders of America-Maine Chapter One from their annual Chili Cook-off. They requested their donation be applied to the Town’s Emergency Fuel Assistance Fund.

There were no public comments.

**A motion was made to accept the donation from the Patriot Riders of America-Maine Chapter One and send a letter thanking them for the generous donation.**

**MOVED:** Schulte  
**SECONDED:** Karytko  
**MODIFICATIONS:** None  
**VOTE:** 4 in favor, 1 recused (Beal), 2 absent (Donovan, Boothby). The motion carried.

The Vice-Chair moved to the next item.

- b. Accept a Grant on Behalf of the Community Garden Committee – The Community Garden Committee is the recipient of a Kitchen Gardeners International/SeedMoney Grant in the amount of \$860.60. The award included a "Donation" of \$460.60 and a Merit Grant of \$400.00. The Merit Grant is significant as the Kennebunk Community Garden was one of only 50 gardens chosen from a field of 450 applicants.

*About the Program/Grant:*

- Kitchen Gardeners International (KGI) is a non-profit community of over 30,000 people who are growing food and helping others to do the same.
- The SeedMoney Garden Grants Program is a fundraising portal for non-profit food garden projects such as community and school gardens and other garden projects serving people in need. They offer traditional crowdfunding tools as well as the possibility to receive challenge grants.

This is the third year in a row that the Committee has been awarded grants from this program. Congratulations to the Community Garden Committee on your hard work and outstanding efforts in serving the community. Kennebunk is fortunate to have a dedicated group of volunteers working on behalf of our most vulnerable residents. Thank you!

There were no public comments.

**A motion was made to accept the grant in the amount of \$860.60 from the Kitchen Gardeners International/SeedMoney organizations.**

**MOVED:** Karytko  
**SECONDED:** Cluff  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

The Vice-Chair moved to the next item.

7. **TIME SENSITIVE BUSINESS** - NONE

The Vice-Chair moved to the next item.

8. **OLD BUSINESS (2<sup>ND</sup> READING)**

- a. Discuss a Request by the Energy Efficiency Advisory Committee for an Ordinance Regulating Single-Use Carryout Plastic Shopping Bags – At the meeting on February 9<sup>th</sup>, the Energy Efficiency Advisory Committee presented a draft ordinance on regulating single-use carryout plastic shopping bags. The proposed ordinance was reviewed by the Selectmen’s Ordinance Subcommittee and the Town attorney. An updated draft was included in the Board packet for your review.

**DISCUSSION:**

Tibbetts explained the history of the proposed ordinance and that it bans single use plastic bags that have integral handles. Exceptions are thinner bags used for items such as meat or vegetables. The Board of Selectmen can set a fee and enforce it if a business does not comply.

Morin was disappointed that Styrofoam was not included in the ordinance. Tibbetts explained that the Committee did discuss it and plan to come back at a later date.

Residents requested the ordinance not be modified and include an exclusion for businesses that are 5,000 sq. ft or less.

Resident Arlene Poisson stated that she has sent letters to Dunkin Donuts and McDonalds requesting discontinuing using Styrofoam. She did learn people can request no Styrofoam when they order.

**A motion was made to send the proposed ordinance to a second reading.**

**MOVED:** Karytko

**SECONDED:** Cluff

**MODIFICATIONS:** None

**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

The Vice-Chair moved to the next item.

- b. Discuss the Sale of the Route One South (Rest Area) Property – Information from last meeting: The Board has discussed the disposition of the Route One South Rest Area property with the discussion centered on turning the property from a tax idle parcel to a taxable parcel with business growth.

The June 10, 2014 Town Meeting vote authorized the Board to sell the 14 acre Rest Area property and to seek re-development proposals for that land, subject to such conditions as the Board of Selectmen deems in the Town’s best interests of the Town (see warrant article that was included in the Board packet).

One proposal was received in response to the RFP, which was sent out in late August. The project was not awarded, based on the proposed use that was submitted, which did not meet the desired goals of the EDC.

The best option for that property was submitted by Benjamin Meggs (see P&S agreement that was included in the Board packet) who will bring in a light manufacturing operation toward the rear of the property and retail/office space in the front. The building will be 20,000 sq. ft. in the initial phase with future build outs.

Our attorney will complete the final P&S Agreement by Monday.

**DISCUSSION:**

Eddy explained he has been working with Benjamin Meggs, who has a background in the shipbuilding industry. Meggs is looking at various options for the front of property. The commercial piece is rigging small boats that serve large yachts.

Benjamin Meggs described the businesses he is looking at for the front of the property. He explained his business, which is rigging lightweight boats out for mother ships.

There were no public comments.

**A motion was made to sell the parcel under the terms identified in the Purchase and Sale agreement.**

**MOVED:** Cluff  
**SECONDED:** Schulte  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

The Vice-Chair moved to the next item.

**9. NEW BUSINESS (1<sup>ST</sup> READING)**

- a. Discuss the PAYT Bag Program – Selectman Karytko requested this item be placed on the agenda. He would like to discuss what date should be used if residents at the June Town Meeting vote to discontinue the use of the blue and purple (PAYT) Town trash bags.

The initial timeline was for a July 1<sup>st</sup> effective date. To achieve this timeline, the Town should mail a letter in May informing the residents of the upcoming vote and projected bag pricing (if the bags are not eliminated). If the warrant article (to discontinue the use of the bags) is approved, I would recommend the effective date remain July 1<sup>st</sup>.

**DISCUSSION:**

Karytko explained he added this to tonight's agenda because he had been asked about the timeframe if the bags were discontinued. Tibbetts stated there is concern how the information would be announced. Tibbetts further explained if the bags are discontinued, it is best fiscally to have an effective date of July 1<sup>st</sup> and waiting longer will discourage people from buying bags. Tibbetts will send a letter explaining the issue in mid-May. Discussion ensued regarding covering the current deficit and the projected costs over the next year. Board members discussed alternative fee options such as lift and weight fees. The potential consequence of discontinuing bags would be an increase in the mil rate. Morin suggested a multiple question on the ballot of eliminating the bags along with an alternative option.

Arlene Poisson stated that she does not have any problems buying the trash bags and having the trash as a homeowner and rental owner. She reminded the Board not to assume people will vote to discontinue them.

**A motion was made that if the PAYT program is discontinued, the changes would be effective July 1, 2016.**

**MOVED:** Karytko  
**SECONDED:** Cluff  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

- b. Discuss an Informal Facilitated Discussion on the Mousam River Dams Removal – Mr. David Wayne, a resident of Kennebunk and a professional facilitator, has offered to meet with a limited number of representatives from the various groups involved with the river to identify common ground on the dams issue. Members of “Save the Mousam” and “Free the Mousam”, staff from the Town and KLPD, and a group of neutral Townspeople would be the focus. These sessions would not be binding to the Town, KLPD or any group.

Mr. Wayne will be in attendance to share the process with the Board.

DISCUSSION:

David Wayne came to the podium and explained the reasons he approached the Town and the members of the Save the Mousam and Free the Mousam. Wayne described his background and believes a sit down meeting would be beneficial and enable people to look at the alternatives that are available. Wayne feels timing is an issue and the meeting should wait until KPLD makes their decision. Wayne is not mediating, he is facilitating the meeting. Cluff asked how Wayne envisions the process. Wayne replied that it would be a 2-hour session with clear ground rules and he requested members who will attend have experience in areas, such as financial. Schulte explained the Town did reach out to meet with KPLD in a public setting but they declined. Schulte is concerned with the number of people who will attend. Wayne explained it will be a small number and will not be public but may be recorded.

There were no public comments.

**A motion was made to set up the facilitated discussion with David Wayne with a mutually agreeable time.**

**MOVED:** Cluff  
**SECONDED:** Beal  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

The Vice-Chair moved to the next item.

- c. Discuss Boards and Committees (resignations/appointments, if any)

- Accept the Following Resignation(s):

Lia Langeveld

Downtown Committee – Alternate 2016

**A motion was made to accept the resignation of Lia Langeveld from the Downtown Committee and send a letter thanking her for her service.**

**MOVED:** Cluff  
**SECONDED:** Karytko  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

- Appointment of Resident(s) being interviewed at the beginning of the meeting:

Robert C. Danzilo                  River Committee                  Vacancy: (1) Non-Resident, Joint Member  
w/ Kennebunkport (Regular 2019)

**A motion was made to appoint Robert Danzilo to the River Committee's Regular Non-Resident (Joint Member with Kennebunkport) position with a term expiring on June 30, 2019.**

**MOVED:** Karytko  
**SECONDED:** Schulte  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

The Vice-Chair moved to the next item.

d. Discuss Any Other Business

It was decided that the quarterly review for the Town Manager will take place on March 22<sup>nd</sup> at the Selectmen's meeting.

The Vice-Chair moved to the next item.

**10. SELECTMEN'S COMMENTS**

a. Subcommittee Reports

The Ordinance Committee has met regarding the plastic shopping bag ordinance, which was an item on tonight's agenda.

b. Individual Selectmen Comments

Selectman Beal

- None

Selectman Schulte

- Sad to see the skating rink close for the season.

Selectman Karytko

- Mat Lanigan Bridge Project – Attended the last meeting and the poll for colors choices was so close that another poll will be taken. Items are on schedule.
- West Kennebunk Lights and Banner – thanked Chris Osterrieder, Town Engineer, for his explanation of the problems with the banners. The flags will be positioned in front and banners in the rear.

- Site Plan Review – the last meeting was productive.
- School Board Meeting – a resolution was made to allow Arundel students attending Thorton Academy Middle School to remain. The will allow next year’s 5<sup>th</sup> graders to go to their choice. After, students will be required to attend KMS. Students attending high school will be allowed to choose as usual.
- Happy St. Patty’s Day.
- Thanked Joel Downs for his help with a document on the computer.
- Asked if the ZBA hearings will be televised. Tibbetts informed him that ZBA is planning to discuss this at their next meeting.
- Everyone needs to recycle if the PAYT bag system is discontinued. This will keep the tax mil rate down.

Selectman Cluff

- Attended briefly an Economic Development Committee meeting. The Committee is working on formulating TIF strategies and priorities.

Selectman Morin

- Attended a Lower Village Committee meeting on Monday and asked to include the Board Selectmen to the broadcast of the Chamber.

**11. TOWN MANAGER’S COMMENTS/NOTES**

- a. New Program – Board of Selectmen Outreach Sessions – This new program will begin on Saturday, March 19<sup>th</sup> and will be held on the 3<sup>rd</sup> floor of the Town Hall from 8:30 a.m. to 10:30 a.m. Future sessions will be held on the 3<sup>rd</sup> Saturday of each month, same location, same time.

These sessions will provide residents with a chance to meet and talk with Selectmen on a one-on-one basis. They will be informal gatherings attended by two Selectmen. Refreshments will be available.

Watch our website ([www.kennebunkmaine.us/calendars](http://www.kennebunkmaine.us/calendars)) for any changes in the schedule due to the weather, availability of Selectmen, etc.

- b. Information from the Town Clerk’s office regarding the June 14<sup>th</sup> Election – Nomination papers will be available on March 28<sup>th</sup> for the following positions:

Board of Selectmen	(2) 3-year terms
RSU 21 Directors	(2) 3-year terms
Trustee KLP	(1) 3-year term
Trustee Sewer District	(2) 3-year terms

Beginning Monday, March 28<sup>th</sup>, nomination papers can be picked up in the Town Clerk’s Office and must be returned by Monday, May 2<sup>nd</sup> by 4:30 p.m. A minimum of 25 signatures is required. FMI, please contact the Town Clerk’s office at 604-1326.

- c. Gooch's Beach Makes National Geographic's "Ten Beaches to Visit Now" list! – Information is posted on our website at: [www.kennebunkmaine.us/news](http://www.kennebunkmaine.us/news). Check it out!

**12. EXECUTIVE SESSION(S)**

- a. Discuss Pending Litigation with the Town Manager, Finance Director and Town Attorney - Title 1  
MRSA Sec. 405(6)(E)

**A motion was made to go into Executive Session at 8:40 pm to discuss Pending Litigation.**

**MOVED:** Cluff  
**SECONDED:** Schulte  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 absent (Donovan, Boothby). The motion carried.

Upon coming out of executive session, the Board had nothing to report.

After coming out of executive session, the Town Manager requested to be allowed to exercise his ability to purchase (MainePERS) services rendered with the Town of Casco. This cost would be at the Manager's expense. After a brief discussion, the Board voted the following:

**A motion was made to allow Barry Tibbetts to purchase 100% of the cost for previous service rendered with the Town of Casco within the MainePERS program.**

**MOVED:** Schulte  
**SECONDED:** Cluff  
**DISCUSSION:** As Noted  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 opposed. The motion carried.

**13. ADJOURNMENT**

**A motion was made to adjourn the meeting at 9:47 p.m.**

**MOVED:** Schulte  
**SECONDED:** Cluff  
**DISCUSSION:** As Noted  
**MODIFICATIONS:** None  
**VOTE:** 5 in favor, 2 opposed. The motion carried.

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Deborah Beal, Secretary  
Kennebunk Board of Selectmen

Minutes Approved: \_\_\_\_\_

7.a.

# Micro-Enterprise Assistance Grant Program Application Checklist & Packaging Requirements

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Use this to make sure your Application contains all required submissions and is packaged in the proper order!

A complete original application consists of the following items packaged in this exact order. The four copies minus the Cover Sheet and Activity Designation Sheet must also be packaged in the same order starting with the Required Responses.



Cover Sheet with original signature;



Activity Designation Sheet;



Required Responses to the Impact, Development Strategy and Citizen Participation sections. (Maximum of four (4) pages);



Budget Summary;



Public hearing record including the published public hearing notice, attested hearing minutes and attendance list – Notice must comply with sample notice contained on page 16 of this application package



Mandatory attachment documenting *cost estimates and projected program timeline*.

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Incomplete or improperly packaged applications will not be reviewed.

Include only materials requested by OCD; do not provide additional attachments!

**Community Development Block Grant  
Micro Enterprise Assistance Grant Program**

**Budget Summary (Include Cash & In-Kind)**

<b>Cost Category</b>	<b>Column 1 CDBG</b>	<b>Column 2 Local</b>	<b>Column 3 State</b>	<b>Column 4 Utility</b>	<b>Column 5 Non-CDBG Federal</b>	<b>Column 6 Other</b>	<b>Column 7 Cost Category Total</b>
<b>MEGrants/Loans</b>							
<b>Façade Grants</b>							
<b>Architect</b>							
<b>Administration</b>							
<b>Other (List)</b>							
<b>1.</b>							
<b>2.</b>							
<b>3.</b>							
<b>TOTAL COSTS</b>							

**Directions for Completing Budget Summary**

1. For each applicable cost (cash and in-kind) in the Cost Category column, list the projected dollar amount for all applicable funding sources in columns 1-6.
2. List the total dollar amount for each cost category in column 7, Cost Category Total
3. Enter the total of all Cost Category amounts in column 7 in the TOTAL COSTS box directly under column 7.
4. **Submit a copy of this Budget Summary with the original and all four copies of the application.**

**STATE OF MAINE  
COMMUNITY DEVELOPMENT BLOCK GRANT  
COVER SHEET AND CERTIFICATIONS**

**Micro-Enterprise Assistance Grant Program**

**A. Applicant Identification**

<b>Applicant:</b>	Town of Kennebunk		
<b>Address:</b>	1 Summer Street		
<b>Town/City/County:</b>	Kennebunk		
<b>Zip Code + Four:</b>	04043		
<b>Chief Executive Officer:</b>	Barry Tibbetts		
<b>Phone Number:</b>	985-2102	<b>E-mail:</b>	btibbetts@kennebunkmaine.us
<b>Contact Person:</b>	Mathew Eddy		
<b>Phone Number:604-1366</b>		<b>E-mail:</b>	meddy@kennebunkmaine.us
<b>Census Tract(s) Where Proposed MEA Activities will occur:280.02</b>			

<b>DUNS #:</b>	Town or City DUNS (Dunn & Bradstreet) #: <i>This must be the <b>city or town number</b>, not the Police Department, and not the Sewer or Water District.</i>  (visit <a href="http://fedgov.dnb.com/webform.if">http://fedgov.dnb.com/webform.if</a> applicant needs to obtain a number)
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**B. The Applicant Certifies That:**

**1. State Certifications**

- a. To the best of my knowledge and belief, the information in this Application is true and correct;
- b. the governing body of the applicant has duly endorsed the document;
- c. the proposed project has been reviewed and it complies with the Community's comprehensive plan and/or applicable state and local land use requirements;
- d. it will work with the Office of Community Development to develop a detailed project if it receives a conditional award; and
- e. it will comply with all applicable State laws and regulations.

**2. Federal Certifications**

- a. it will take actions to affirmatively further fair housing and implement CDBG activities in compliance with Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968;
- b. it will not attempt to recover capital costs for the construction of public improvements, assisted in whole or in part with CDBG funds, by charging special assessments or fees against

properties owned and occupied by persons of low and moderate income, including any fee, charge or assessment made as a condition of obtaining access to such public improvements, unless:

- (i) CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG funds; or
- (ii) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, and the applicant certifies that it lacks sufficient CDBG funds to comply with the requirements of clause (i) above.

c. prior to expenditure of CDBG funds, it will establish a local community development plan that identifies the Community's housing and community development needs, including the needs of low and moderate income, and the activities to be undertaken to meet them;

d. it will provide in a timely manner for citizen participation, public hearings, and access to information with respect to the Maine CDBG Program and the proposed local CDBG project/program. Indicate in public notices and at public hearings that the State program is competitive, the maximum grant amount that can be requested, and the general type of activities contained in the proposed local program. Also announce in public notices the availability of the local program plan/application, describe the Community's previous CDBG performance (if any), and how the Community will collect, consider and maintain all oral and written comments received on the proposal;

e. it will adopt and follow a residential anti-displacement and relocation assistance plan which complies with Section 104 (d) of the Housing and Community Development Act of 1974, as amended, that at a minimum provides for the replacement of all low/moderate income dwelling units that are demolished or converted to a non-LMI housing use as a direct result of CDBG assistance, and a relocation assistance component;

f. it is not listed on U. S. Dept of Labor's Debarred and Suspended Contractor's List and will not employ contractors or subcontractors on this list;

g. it will comply with the requirements of Section 319 of Public Law 101-121 regarding government-wide restrictions on lobbying; and

h. with the exception of administrative or personnel costs, it will verify that no person who is an employee, agent, consultant, officer, or elected official or appointed official of state or local government or of any designated public agencies, or subrecipients which are receiving CDBG funding may obtain a financial interest or benefit, have an interest in or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect to CDBG activities, per 24 CFR Part 570.611.

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Signature of Chief Executive Officer

Name of Community

Date: mm/dd/year

**MICRO-ENTERPRISE ASSISTANCE GRANT PROGRAM ACTIVITY DESIGNATION SHEET**

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**1. Activity Declaration**

a. List the activities you will be doing in your proposed project: façade improvements, small business assistance

**2. MEA Grant Funds Requested**

Micro-Enterprise Grant/Loan

**Amount Requested:\$50,000**

Business Façade Grants

**Amount Requested: \$100,000**

**Total Requested: \$150,000**

**2. Multi-Jurisdictional Declaration**

a. Is this a multi-jurisdictional project? \_\_\_ Yes   x   No

b. If yes, which local government has been designated as the lead applicant?

\_\_\_\_\_

c. If yes, list all participating or benefiting local governments. \_\_\_\_\_

\_\_\_\_\_

**NOTE: Remember all participating or benefiting local governments must sign the Cover Sheet Certification Form.**

## Public Hearing Notice to Comply with Title VI Requirements

**1. Impact (40 points)** describes the community problems or needs the applicant wishes to address with MEA assistance. The following rating criteria will be used:

State the problem and explain how it negatively impacts the local economy. – 30 points

The businesses needing assistance are located in three separate areas of town. Four of the buildings have evidence of spot blight and in one case has been a persistent vacancy but has a lot of potential if enhanced. All 4 are located in the Downtown area, although one is adjacent to the new/old train station. Of the two companies one wants to move their company from Missouri to Maine and will create at least three low and moderate income jobs and another requires equipment purchase; he is an eligible low income business owner whose business needs a significant upgrade to remain in competition. As in the past, each project cannot move forward and will result in dilapidated conditions, a continued vacancy or entrepreneur dreams not coming to fruition. Removal of spot blight and a filled vacancy demonstrates a return on investment of the Town's second and third infrastructure enhancements conducted in 2014 and 2015. Spot blight conditions fragment the pedestrian experience and leave a visitor with a negative impression. Gaps in aesthetics as well as the presence of a continuous vacancy particularly in an area where façade enhancements have taken place, discourages visitors from parking their cars and walking this part of Main Street. Continued visioning meetings have shown the importance of protecting "eye candy" properties which include most of these projects (the Joyal project, for example, is opposite our new train station and loading ramp to be constructed in 2017). Business/job creation means more employees will frequent local shops and eateries that rely on foot-traffic year round. The additional employees will be especially helpful during the shoulder season from October –April when there are fewer visitors and when our "shop local" concept is needed more than ever for existing businesses to survive until the next season. Without enhancements, the community misses out on having viable much needed retail and eating places from opening and staying open in Downtown. Currently, what would be ideal retail/eating spaces on Main Street are being occupied by financial and professional offices. The Town seeks to assist businesses that offer retail and eating opportunities in order to encourage a more diverse economy and a true one-stop shopping opportunity for the community. Without this, the community will seek out the malls in Biddeford and/or S. Portland to do their shopping (as recent surveys suggest they do because of lack of local choice) where they can get all their needs met at one location. Kennebunk is on an upswing but still needs financial support to provide the similar one stop experience as that of the malls. Not supporting these businesses also impacts the local economy by losing tax revenue The Town misses out on import dollars and the possibility of newcomers visiting again or encouraging their family/friends to visit Kennebunk. Enhancements also offer a chance to capture traffic off Route 1 and Route 9 which can swell from 15,000 to 30,000 cars a day.

Explain why MEA funds are necessary for the project; describe efforts to secure other grant or loan funds, and tell why they are not available locally to assist – 10 points

The Town cannot assist in business development because TIF revenue is only used for infrastructure (except in the downtown zone). Revolving loan funds are limited. Applicants have significant fund gaps that must be closed if they are to move forward. While recovery from the recession continues, financing has been increasingly restrictive. Other sources such as ME Efficiency or SBDA are minimal and cannot help applicants who have good business plans but lack the necessary equity to move forward (much of that equity lost in this recent recession). Applicants have some savings and/or loans but need the grant funds to close the gap.

**2. Development Strategy (40 points)** presents solutions to the problems identified in the Impact section. The following rating criteria will be used:

Provide Identification and description of potential business grant/loan applicants and their needs – 15 points

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**2016 CDBG Micro-Enterprise Assistance Grant Application draft 3/3/2016**

- **We Care Drycleaners:** The owners, Ed and Chong-Ye Arnold have wanted to enhance this building for five years now. The front portion houses their dry-cleaning business and is aesthetically pleasing however the side and rear portion is completely opposite. Its cinderblock façade, cracked windows, chipped paint, gathered debris and overall spot blight conditions do not entice anyone to rent/lease this space in Downtown and retail spaces are desperately needed in this part of Main Street. An enhanced façade will lead to someone renting/leasing the space and creating another viable business in Downtown, Several possible retail tenants are in discussion.
- **Tom Joyal at Old House Parts:** This is a rehab of the freight House structure in the downtown (spot blight). Request is \$25,000 for façade improvements. As pictures suggest, this is presently a very poor image for both Kennebunk and the Downeaster to portray to those disembarking from the train. Fortunately, Mr. Joyal is also a renovator of historic structures, so the improvements to the front and side façade will be very attractive.
- **Garden Street Market:** Conversion of a vacant (spot blight) building to a bowling alley/entertainment center, including a restaurant, 10 alleys, stage, and other amenities, there will be Low mod job creation. The \$25,000 CDBG request will be combined with bank financing, likely with a FAME or SBA 504 guarantees, a \$100,000 equity infusion by the three owners, investment by the leaseholders (Hannaford) and ultimately purchase of the building by the present owner for a total project cost of roughly \$2.3 million. The facility will become an important 4 season destination serving the local population and tourists visiting during the peak season.
- **Douglas Chancellor Meyers & Associates:** Relocation from St. Louis to here. \$25,000 for capital equipment and the creation of 3-4 low/moderate income jobs. This is a company now owned by the Douglass's, a husband and wife team (previous owners were bought out). The wife is originally from the northeast, so to move back, they are relocating their existing company from Missouri to Maine. This is a high end, internet based collection agency with a specialty in broadband based searches. They would leave a portion of the company in Missouri, but bring the headquarters here; they are presently looking at a vacant downtown, second story office space. At the outset, they will add 3-4 low to moderate income employees.
- **Fitness Nuthouse:** Downsizing of business and purchase of new capital equipment to upgrade Physical training facility will permit this business to remain open. The owner is low/Mod income, with one new employee possible. The \$25,000 investment, plus a private equity investment is intended to upgrade existing equipment and help them remain in their present location. No ongoing capital support is being requested.
- **Home Instead:** This will involve façade improvements to downtown business including siding, windows, and some structural improvements for ADA accessibility (spot blight). We are proposing \$25,000 grant with at least a \$25,000 in additional funds to come from the owner. While the focus is on windows and rear siding issues, we intend to make some ADA improvements to the side and rear of the building. This is critical, in that the primary service provided by the company is to seniors and their families. While there are no on-going visits to the building, there is often an initial meeting designed to develop a program for the family that is held at the building; access now is very difficult. Home Instead is one of several such assistance businesses in Kennebunk, one of the fastest growing sectors in the this and a major community development focus for Kennebunk.

Provide a project timeline; list activities or actions completed to date. – 10 points

- **March 8, 2015:** Public Hearing
- **March 29, 2015:** Grant application submission deadline
- **February 2015:** LMI business owners confirmed by CDBG Staff
- Spot Blight designations completed
- State Historic Preservation Office clearance
- **April 2015:** Grant announcement (hopefully in our favor)
- **May 2015/ June 2015:** Phase 2 (ERR, Ads etc...)
- **June 2015:** Go out to bid (when applicable)
- **June 2015:** Contracts established with applicants
- **Summer/ Fall 2015:** Projects commence
- **Winter 2015:** All projects completed

*(You must submit an attachment documenting cost estimates and projected program timeline.)*

**3. Citizen Participation (20 points)** describes how citizens, businesses, community groups and project beneficiaries participated in identifying the problems and solutions included in this application. **(to be completed after public hearing)**

Effective use of any media (newspapers, radio, TV, etc.). – 5 points

This grant application was discussed on public access channel and stories were published in the Kennebunk Post and the York County Coast Star. The concepts for the project were presented at public meetings before the EDC and the Board of Selectmen. The Town's EDC promotional brochures also mention CDBG. Presentations to Selectmen were conducted various times and all were publicized on the Town's public access channel. CDBG was prominent in all our posters at past MEREDA conferences catering to realtors, appraisers, other communities and investors.

Relevance of listed meeting/hearing activities/comments (not counting required public hearing) in application and project development. – 5 points

Businesses have seen the improvements made possible by CDBG grants so they asked the town to submit an application on their behalf. The community still has an additional three businesses in the queue, should any of these businesses falter. In other cases, community members came in and suggested buildings to consider and Staff contacted those directly. Staff met with Town Manager, EDC, Downtown Committee and Economic Development Director to verify which program would make the most impact. Staff took drives to see which areas could benefit from potential funding. After much discussion, a list was developed and all possible grants were reviewed, this program being the most appropriate for everyone's needs.

Involvement of downtown and local businesses, Chambers of Commerce, development groups or other business related organizations in development of the application and project. – 5 points

Staff created a list of grants available from State and Federal sources including amounts, eligible activities and deadlines. The Town's Economic Development Director shared the list with the Economic Development Committee while the Community Development Director shared the list with Town Manager followed by the Downtown Committee. During drives and walks, areas were identified. This was followed by site visits by either the Economic Development Director or the Community Dev. Director. Both were then able to determine who would qualify for this grant, work proposed, costs, and timelines. Once the list was confirmed, development of the application and projects commenced. This type of assistance is also identified on the Town's web site and through informational pieces developed by staff.

How other local resources (cash and in-kind) are directly related to the project. – 5 points

The Town just spent under \$1 million in Phase 2 of the Downtown revitalization which replaced bituminous sidewalk with granite curbing, brick paver, landscaped areas, improved lighting and streetscapes like furniture and trash receptacles. It is now working on phase 3 of the downtown (upped square), route 1 north (landscape and sidewalk improvements) and Route 1 south (buy local program, drainage studies prior to infrastructure rehab; sewer and water now in place through two previous CDBG grants). Most businesses in this application are in this area and will take advantage of previous and future local investments by the community. A significant outcome of these joint, concerted investments is a continued decline in vacancies since 2011—demonstrating ongoing investment in private resources by local business, new and old alike.

**Business Friendly Community Designation Bonus** – 3 bonus points will be assigned to each applicant community designated as a Business Friendly Community.

We were certified back in 2012.

7.c

# BID OPENING

**Bid Subject:** Town Hall Auditorium Solar Roller Window Shades

**Date & Time:** February 22, 2016 - 8:26 a.m.

**Location:** Town Manager's Outer Office

**In Attendance:**

Town Manager or Finance Director:

Barry Tibbetts

Department Head or Municipal Employee:

Kathy Nolette

**Bids Received:**

	<u>New Roller Shades</u>	<u>Clean Existing Swags</u>
• Solarize Window Insulators Arundel, ME 207-985-4438	\$7,000.00	included in price
• Well Dressed Interiors Kennebunk, ME 207-985-6393	\$8,900.00	included in price
• Budget Blinds of So. Maine Kennebunk, ME 207-985-0032	\$8,830.00	\$1,650.00
• Color Concepts Bangor, ME 207-942-9625	\$5,949.00	included in price
• Walker Specialties Braintree, MA 617-333-3220	\$5,600.00	included in price
• Statewide Specialties, LLC Braintree, MA 781-353-3696	\$3,810.00	Time/material at Davis Bacon wage scale

**Recommendation & Award:**

The Town Manager recommends awarding the bid to Walker Specialties at a price of \$5,600.00.

Award:

The Board of Selectmen will be reviewing the bids at their meeting on March 22, 2016.

# Town of Kennebunk, Maine



Barry A. Tibbetts  
Town Manager  
Tel: (207) 985-2102, ext. 1308  
Fax: (207) 985-4609

January 28, 2016

## INVITATION TO BID SOLAR ROLLER WINDOW SHADES

The Town of Kennebunk is requesting sealed proposals to contract with a Vendor to install roller shades at 1 Summer Street, Kennebunk in the Edward Winston Town Hall Auditorium. Proposal is to include all associated costs for said work.

### BIDDING REQUIREMENTS, CONDITIONS AND INSTRUCTIONS

1. Bids shall include all manpower to install the roller shades.
2. Ten windows in the main auditorium will need to be addressed. It is the responsibility of the Vendor to measure each window. The approximate size per window is 65" x 148".
3. The Vendor will haul or arrange for all hauling and proper disposal of materials from the project.
4. The current curtains are to be removed, cleaned, appropriately fixed and rehung.
5. The bid specifications need to be met; any exceptions or equivalents must be noted in the bid submission.
6. The attached bid form (page four) for shall be utilized when submitting your bid.
7. Bids shall be stated in dollars and cents.
8. Questions and/or requests for clarification must be submitted to Barry Tibbetts, Town Manager, at [btibbetts@kennebunkmaine.us](mailto:btibbetts@kennebunkmaine.us) no later than 3:00 p.m., February 12, 2016.
9. Responses to questions/requests for clarification will be emailed to bidders no later than 3:00 p.m., February 16, 2016.
10. The successful bidder will submit material samples and literature of the product proposed. The Town Manager shall determine if the quality of the materials meets generally accepted standards.
11. The successful bidder will supply to the Town appropriate insurances (certificate of insurance stating general liability, automobile liability, excess liability, worker's compensation and employer's liability limits). The contract may be terminated at any time if the Town or its representative feels that the Vendor is not meeting the requirements and conditions of the bid award.



12. The project shall be complete by the end of May, 2016.
13. Sealed bids, clearly marked "Solar Rolling Window Shade" and addressed to the Town Manager, Town of Kennebunk, 1 Summer Street, Kennebunk, ME 04043 will be received until 2:30 p.m., Thursday, February 18, 2016.
14. The Town of Kennebunk reserves the right to accept or reject any and/or all bids.

### **BID SPECIFICATIONS**

#### **Manually Operated Shades With Single Rollers**

- A. Chain-and-Clutch Operating Mechanisms: With continuous-loop bead chain and clutch that stops shade movement when bead chain is released; permanently adjusted and lubricated.
  1. Bead Chains: #10 Stainless steel
    - a) Loop Length: As required to operate full height of window shade
    - b) Limit Stops: Provide upper and lower (round nickel-plated steel ball stops and clear plastic, cylindrical ball stop).
    - c) Chain-Retainer Type: Locking-style chain retainer restricts the operation of the chain unless the chain retainer is properly mounted to a fixed surface such as a window frame, sill, or wall. Compliant with American National Standard for Safety of Corded Window Covering Products ANSI A100.
    - d) Color: Vanilla
  2. Spring Lift-Assist Mechanisms: Manufacturer's standard for balancing roller-shade weight and lifting heavy roller shades -- provide 6 lb. lift assist for shades as recommended by manufacturer.
- B. Rollers: Extruded-aluminum tubes engineered with channel to accept fabric spline. The diameter and wall thickness to be determined by manufacturer based on fabric selection and shade size to provide minimal deflection and optimal performance.
  1. Clutch System: Consists of fiberglass filled nylon for wear resistance, smooth operation and corrosion resistance. The clutch is comprised internal spring arrangement for a smooth pulling force that locks the shade in any position when operating the control loop. The clutch mechanism is bi-directional and does not require adjustment or lubrication. Clutch to be inserted in roller tube at manufacturing. Clutch size to be selected by manufacturer based on fabric selection and shade size.
  2. Roller Drive-End Location: Right side of shade
  3. Direction of Shade Roll: Reverse, from front of roller
  4. Fabric-to-Roller Attachment: Removable spline system shall consist of a co-extruded PVC spline heat-welded to the shade fabric and inserted into an engineered channel on the roller tube. The spline system allows for adjustability on-site and ease in changing fabric bands in the field.
  5. Idler End: Constructed of high strength, fiberglass filled nylon with spring-loaded pin-end technology for wear resistance, smooth operation, and corrosion resistance.

- C. Mounting Hardware: Brackets, corrosion resistant and compatible with roller assembly, operating mechanism, installation accessories, and mounting location and conditions indicated.
  - 1. Thickness; 16 gauge.
  - 2. Material: Stamped steel.
  - 3. Description: Non-Fascia bracket, vanilla powder coated, Fascia bracket, vanilla powder coated
- D. Fabric Bands
  - 1. Fabric Band Bottom (Hem) Bar: Hem bars to be extruded aluminum in weight sufficient for proper shade operation. (Enclosed in heat sealed pocket of fabric band material OR Fabric wrapped with end caps)
    - a) Color and Finish: As selected by from manufacturer's full range
- E. Front Fascia: Aluminum extrusion that conceals front and underside of roller and operating mechanism and attaches to roller brackets without exposed fasteners.
  - 1. Shape: L-shaped.
  - 2. Height: Manufacturer's standard height required to conceal roller and shade when shade is fully open, but not less than 4 inches
  - 3. Color and Finish: Vanilla powder coated
  - 4. Fascia End Caps: Flat steel plate, adhered to fascia bracket to cover exposed ends.

#### **Fabric Band Materials**

- A. Color: As selected from manufacturer's full range of fabrics
- B. Openness Factor: 0 percent (blackout/opaque)
- C. Cleanable, stain and fade resistant.
- D. Bacteria and Fungal Resistance: ASTM G21-96, and AATCC 174-1998 Parts II and III
- E. Environmental Certification: GREENGUARD certified and GREENGUARD for Children and Schools Certified
- F. Fire Classification: California US Title 19 (small scale), NFPA 701-2004 TM#1 (small scale) BS 5867 2008 Part 2 Type B Performance
- G. Lead Free: RoHS/Directive 2002/95/EC, US Consumer Product Safety Commission Section 101 and ANSI/WCMA A 100.1-2007 for lead content

#### **Roller-Shade Fabrication**

- A. Obtain roller shades from single source from single manufacturer.
- B. Product Safety Standard: Fabricate roller shades to comply with requirements for flexible, chain-loop devices and warning labels.

#### **Installation**

- A. Installation: Install roller shades level, plumb, and aligned with adjacent units according to manufacturer's written instructions.
- B. Adjusting: Adjust and balance roller shades to operate smoothly, easily, safely, and free from binding or malfunction throughout entire operational range.
- C. Cleaning and Protection: Clean roller-shade surfaces after installation if necessary, according to manufacturer's written instructions. Provide final protection and maintain conditions, in a manner acceptable to manufacturer and Installer, ensuring that roller shades are without damage or deterioration at time of installation.
- D. Demonstration: Train Owner's maintenance personnel to adjust, operate, and maintain motor-operated roller shades.

**SOLAR ROLLER WINDOW SHADE  
Bid Form**

**Company** \_\_\_\_\_

**Address** \_\_\_\_\_

**Telephone Number** \_\_\_\_\_

**Email Address** \_\_\_\_\_

**Contact Person** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Price**                    \$ \_\_\_\_\_

<b>FOR TOWN USE ONLY</b>		
Bid Meets Bidding Requirements & Conditions	Yes _____	No _____
Notes: _____		
_____		
_____		

## **Bids sent to the following:**

Cathy Rowe  
Well Dressed Interiors  
Kennebunk, ME  
207-985-6393  
sent via email: [info@welldressedinteriors.com](mailto:info@welldressedinteriors.com)

Teri Cardinelli  
Cloth Interiors  
106 York Street  
Kennebunk, ME 04043  
shop (207) 985-0032  
cell (207) 332-8600  
sent via email: [tcardinelli@yahoo.com](mailto:tcardinelli@yahoo.com)

Frank Gagnon's Upholstery Inc.  
169 Port Road, Unit #1  
Kennebunk, ME 04043  
(207) 967-9777  
Email [gagnonsupholinc@yahoo.com](mailto:gagnonsupholinc@yahoo.com)

The Custom Shop  
Window Treatment Store  
155 Port Rd, Kennebunk, ME 04043  
Phone:(207) 967-4434  
Called and left voicemail (2/8) that our bid specs were posted on website

Solarize Window Insulators  
Phone: (207)-985-4438  
Toll-free: (800)-370-0163  
Fax: (207)-467-3644  
[lisag@solarizeinsulators.com](mailto:lisag@solarizeinsulators.com)

Budget Blinds Serving Southern Maine  
York ME, 03909  
[request@bbcommercialsolutions.com](mailto:request@bbcommercialsolutions.com)

8.a.

**Single-Use Plastic Carry Out Bag Ordinance**

**Town of Kennebunk, Maine**

**Draft: March 8, 2016**

## **SECTION 1. PURPOSE AND INTENT**

The production and use of single-use plastic carry-out bags have significant impacts on the marine and land environment of all coastal communities that outweigh their usefulness to the public. These impacts include, but are not limited to: contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land and marine environment; imposing an unnecessary burden on our solid waste management; clogging our storm water drainage systems; and requiring the use of non-renewable fossil fuels for manufacture.

Voluntary efforts to control the use of single-use plastic carry out bags have had minimal effect to date.

The Town of Kennebunk strives to conserve resources; reduce greenhouse gas emissions, waste and litter; and to protect the quality of life for the Town's residents and visitors.

The purpose of this ordinance is to eliminate the usage of single-use carry out plastic bags by all Retail Establishments in the Town of Kennebunk.

## **SECTION 2. AUTHORITY**

This Ordinance is adopted pursuant to the Town's Home Rule Authority granted under Art. VIII, Pt. 2, Sec. 1 of the Maine Constitution and Title 30-A M.R.S. §3001 of the general laws of Maine.

## **SECTION 3. DEFINITIONS**

Customer: Any person obtaining food or merchandise at or from a Retail Establishment.

Food: Any nutritious substance that is intended for eating and drinking either in its original form or that is prepared in any manner for the same; however, food does not include produce, meat, lobsters, fish or bulk foods to the extent those products are contained within handle-less plastic bags solely used for protection of the food or for containing potential contamination of those foods or other foods in contact therewith.

Merchandise: Goods or articles that are bought and sold between a retailer and a customer for use or consumption. Merchandise does not include dry cleaning, newspapers or wet items to the extent those items are contained within handle-less plastic bags solely used for protection of the items contained therein.

Recyclable Paper Bag: Paper bags that are accepted for recycling by the Town of Kennebunk's curbside recycling program.

Retail Establishment: Any commercial enterprise engaged in the sale of food or merchandise including, but not limited to, grocery and convenience stores, markets, pharmacies, restaurants, take-out food purveyors, seasonal and temporary businesses and other merchandise retailers. Nonprofit and religious organizations are not considered Retail Establishments.

Reusable Bag: A bag with handles that is specifically designed and manufactured to withstand repeated uses over a period of time, is made from a material that can be cleaned and disinfected regularly and is at least 3 mils thick if made from plastic.

Single-Use Plastic Carry Out Bag: Plastic bag with a thickness of less than 3 mils (3/1000 of an inch) with an integral handle provided at check-out for the purpose of transporting food or merchandise out of the Retail Establishment.

#### **SECTION 4. STANDARDS**

Every Retail Establishment located in the Town of Kennebunk shall comply with this Ordinance.

- A. No Single-Use Plastic Carry-Out Bag shall be distributed, either with or without charge, to a Customer, at any Retail Establishment located in the Town of Kennebunk.
- B. Customers are encouraged to bring their own Reusable Bags to Retail Establishments, which may choose to give customers a rebate, discount or other incentive for such.
- C. Retail Establishments may provide Customers with Recyclable Paper Bags or Reusable Bags, with or without a charge, as the Retail Establishments so desire.

#### **SECTION 5. EXCEPTIONS**

- A. Single use plastic bags, without handles, used to contain dry cleaning, newspapers, wet items, and to protect produce, meat, seafood and other bulk foods from damage or contaminating other items are permissible.
- B. Nonprofit organizations or religious institutions are exempt from the provisions of this Ordinance.

#### **SECTION 6. ADMINISTRATION AND ENFORCEMENT**

- A. The Town Manager or his designee shall have the authority to administer and enforce this Ordinance.
- B. If it is determined that a violation has occurred, the Town Manager or his designee shall issue a written warning to the Retail Establishment for the initial violation. If an additional violation occurs after a written warning has been issued, the Town Manager or his designee shall issue a written notice of violation (“NOV”) and shall impose a penalty against the Retail Establishment. The penalty associated with each written notice of violation shall be established by the Board of Selectmen annually and set forth in the Board’s Fine Schedule, available in the Town Clerk’s office and on the Town’s electronic web site.
- C. No more than one penalty shall be imposed upon a Retail Establishment within a 7-day period.
- D. A Retail Establishment shall have 15 days following receipt of a written notice of violation to pay the penalty.

#### **SECTION 7. APPEALS**

Any decision, action, or inaction pertaining to this Ordinance may be appealed to the Maine Superior Court (York Cty.). Any appeal must be filed within 30 days of the date of the written warning or NOV issued.

#### **SECTION 8. EFFECTIVE DATE**

This ordinance shall take effect four (4) months following the date of adoption by the voters to allow Retail Establishments time to make necessary adjustments to bring operations into compliance with the law.

## **SECTION 9. SEVERABILITY**

Should any portion of this Ordinance be held invalid by a court of competent jurisdiction, this shall not affect the validity of remaining portions of this Ordinance.

## **SECTION 10. AMENDMENTS**

The Board of Selectmen may, after public notice and hearing, amend this Ordinance and draft and adopt regulations implementing the terms of this Ordinance on any matter not expressly set forth herein or as otherwise provided by law.

# Maine Revised Statutes

## Title 38: WATERS AND NAVIGATION

### Chapter 16: SALE OF CONSUMER PRODUCTS AFFECTING THE ENVIRONMENT

#### **§1605. Plastic bags; recycling**

A retailer may use plastic bags to bag products at the point of retail sale only if the retailer: [1991, c. 475, §1 (RPR).]

**1. Location.** Locates inside the store or within 20 feet of the main entrance to the store a receptacle for collecting any used plastic bags; and

[ 1991, c. 475, §1 (NEW) .]

**2. Recycles.** Ensures that the plastic bags collected are recycled or delivered to a person engaged in recycling plastics.

[ 1991, c. 475, §1 (NEW) .]

#### SECTION HISTORY

1989, c. 585, §E35 (NEW). 1991, c. 475, §1 (RPR) .

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.  
If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes (mailto:webmaster\_ros@legislature.maine.gov) • 7 State House Station •  
State House Room 108 • Augusta, Maine 04333-0007

PLEASE NOTE: Legislative Information *cannot* perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **Resolve, To Convene a Work Group To Design and Implement a Statewide Disposable Checkout Bag Reduction Campaign, with Benchmarks**

**Whereas**, the State has adopted a solid waste management hierarchy that places waste reduction and reuse above recycling as preferred management systems for solid waste; and

**Whereas**, the State has been an advocate of policies that reduce litter and enhance the natural beauty of the State; and

**Whereas**, the use of disposable checkout bags consumes valuable natural resources in their production, increases waste generation and contributes to litter; and

**Whereas**, state law designates recycling requirements for retail establishments that distribute plastic bags; and

**Whereas**, grocers and retailers in the State recognize resource limitations and they understand the leadership role they play in participating in public awareness programs and adopting programs that can generate environmental benefits; and

**Whereas**, grocers and retailers in the State have been promoting and encouraging the use of reusable checkout bags for the transport of products and goods from their stores; and

**Whereas**, this legislation establishes a process to review current law and recycling practices and to establish effective and innovative approaches to reduce the use and increase the recycling of disposable checkout bags; now, therefore, be it

**Sec. 1 Convene work group. Resolved:** That the Executive Department, State Planning Office shall establish a work group, through a partnership with state agencies and other appropriate entities, to work together towards a viable solution to the checkout bag issue to achieve environmental benefits, maintain financial viability for manufacturers and retailers and avoid cost impacts for consumers; and be it further

**Sec. 2 Participants. Resolved:** That the Executive Department, State Planning Office shall invite representatives of the following agencies, organizations and businesses to participate in the work group:

1. Department of Environmental Protection;
2. Maine Grocers Association;
3. Maine Merchants Association;
4. Maine Oil Dealers Association;
5. Maine State Chamber of Commerce;
6. Natural Resources Council of Maine;

RESOLVE Chapter 54 LD 367, item 1, 124th Maine State Legislature  
Resolve, To Convene a Work Group To Design and Implement a Statewide  
Disposable Checkout Bag Reduction Campaign, with Benchmarks

7. American Chemistry Council;
8. A grocery chain with a large number of stores in the State;
9. A retail store chain with a large number of stores in the State; and
10. Other entities as appropriate; and be it further

**Sec. 3 Duties. Resolved:** That the work group shall:

1. Assess existing recycling infrastructure capacities within the State;
2. Design a regional pilot program that includes an assessment of current state law governing waste reduction, including, in particular, an assessment of technical assistance available to municipalities and businesses in those municipalities;
3. Create a memorandum of understanding with guiding principles, recycling goals and benchmarks for the overall reduction of disposable checkout bag distribution and waste;
4. Design a statewide promotional media campaign; and
5. Identify funding needs, resources and partners; and be it further

**Sec. 4 Existing resources. Resolved:** That the duties described in section 3 must be completed within existing resources of the Executive Department, State Planning Office; and be it further

**Sec. 5 Report; authority to submit legislation. Resolved:** That, by January 15, 2010, the work group shall submit a report relating to the subject matter of this resolve to the Joint Standing Committee on Natural Resources. The report must include findings, recommendations and draft legislation to implement the recommendations. The Joint Standing Committee on Natural Resources may report out legislation relating to the report to the Second Regular Session of the 124th Legislature.

**124th Maine Legislature, First Regular Session**  
**An Act To Promote the Accessibility and Use of Reusable Bags**

LD 622, HP 436

Fiscal Status No Fiscal Impact

Final Disposition Ought Not to Pass Pursuant To Joint Rule 310, Mar 26, 2009

**Amendments to LD 622**

**Status In Committee**

Referred to Committee on Business, Research and Economic Development on Feb 17, 2009.

Latest Committee Action: Reported Out, Mar 20, 2009, ONTP

Latest Committee Report: Mar 20, 2009

**Public Hearings**

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Tuesday, March 10, 2009 2:30 PM, Room 208, Cross Office Building

**Work Sessions**

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Thursday, March 19, 2009 9:00 AM, Room 208, Cross Office Building

**Committee Docket**

Date	Action	Result
Mar 19, 2009	Work Session Held	
Mar 19, 2009	Voted	ONTP
Mar 20, 2009	Reported Out	ONTP

**Divided Reports**

No Divided Reports.

**Bill Sponsors**

Presented by Representative Knapp of Gorham.

Cosponsored by Senator Simpson of Androscoggin and

Representative Bolduc of Auburn, Representatives Duchesne of Hudson, Sanborn of Gorham, Tilton of Harrington, Welsh of Rockport.

**Affected Statute Titles and Sections**

Title	Section	Subsection	Paragraph	Effect	Law Type	Chapter
	38	1611		NEW	Public Law	0

**House Docket**

Date	Action	Result	Roll Call	Debate	Yea	Nay	Abs
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Feb 17, 2009	Introduced	INTRODUCED - PREVAILS
Feb 17, 2009	Referred to Committee	REFERRED TO COMMITTEE BRED - PREVAILS
Mar 26, 2009	Pursuant to Joint Rule 310	PURSUANT TO JOINT RULE 310 ONTP - PREVAILS

**Senate Docket**

<b>Date</b>	<b>Action</b>	<b>Result</b>	<b>Roll Call</b>	<b>Debate</b>	<b>Yea</b>	<b>Nay</b>	<b>Abs</b>
Feb 17, 2009	Referred in Concurrence	REFERRED IN CONCURRENCE BRED - PREVAILS					
Mar 26, 2009	Pursuant to Joint Rule 310	PURSUANT TO JOINT RULE 310 ONTP - PREVAILS					

Need a paper copy? Contact the Document Room at 287-1408 or send an e-mail with the LD or Paper number, Item number and a mailing address to [webmaster\\_house@legislature.maine.gov](mailto:webmaster_house@legislature.maine.gov).

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Augusta, ME 04333	tty: (207) 287-6826

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## **An Act To Promote the Accessibility and Use of Reusable Bags**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 38 MRSA §1611** is enacted to read:

### **§ 1611. Cloth bags**

A retailer who has 30,000 square feet or more of retail sales area shall provide a bag made out of cloth or other durable fabric to bag products at the point of retail sale to a customer at the request of that customer and at no charge to the customer at least twice a year.

### **SUMMARY**

This bill requires a retailer who has 30,000 square feet or more of retail sales area to provide a bag made out of cloth or other durable fabric to bag products at the point of retail sale to a customer at the request of that customer and at no charge to the customer at least twice a year.

# State Plastic and Paper Bag Legislation

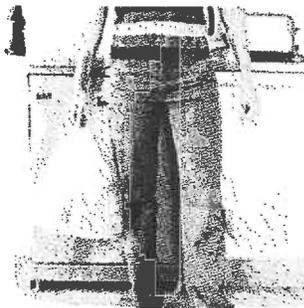
1/22/2015

## Fees, Taxes and Bans | Recycling and Reuse

States are continuing to consider strategies to reduce the number of plastic carry-out bags from grocery store retail outlets. Some states are targeting paper bags as well. Regulating bags can mitigate harmful impacts on rivers, lakes and the wildlife that inhabit them. Reducing bag use can also relieve pressure on landfills and management.

## Bans and Fees

In August 2014, California became the first state legislature to enact legislation imposing a statewide ban on plastic bags at large retail stores. Governor Jerry Brown signed the bill into law on September 30. The ban took effect on July 1, 2015.



In addition, there will be a 10 cent minimum charge for recycled paper bags, reusable bags, and compostable bags at certain locations. A detailed summary of the law is below. In addition to California, a de facto statewide ban exists in Hawaii as all populous counties in the state prohibit non-biodegradable plastic bags at check-out. Paper bags containing less than 40 percent recycled material. Bans in Kauai, Maui, and Hawaii counties took effect between 2011 and 2013. Retailers in Honolulu County took effect on July 1, 2015, to make the change.

In 2009, the District of Columbia enacted a law to ban the distribution of disposable plastic carry-out bags and set a fee of 5 cents for distribution of all other disposable bags.

In 2009, North Carolina banned plastic bags for the Outer Banks region, a chain of barrier islands off its coast. In 2011, the state passed legislation to temporarily suspend that ban due to a tornado that hit Dunn, North Carolina, which is the major distribution center for paper bags in the area. The ban has yet to be restored.

## 2014 Legislation Summary

As mentioned above, California lawmakers passed the first statewide plastic bag ban in the United States. Senate Bill 270 was signed by the governor on September 30, 2014. Legislation is pending in New Jersey and Puerto Rico that would also ban single-use bags. New Jersey legislators are also considering a \$0.05 fee on disposable bags offered at the point of sale.

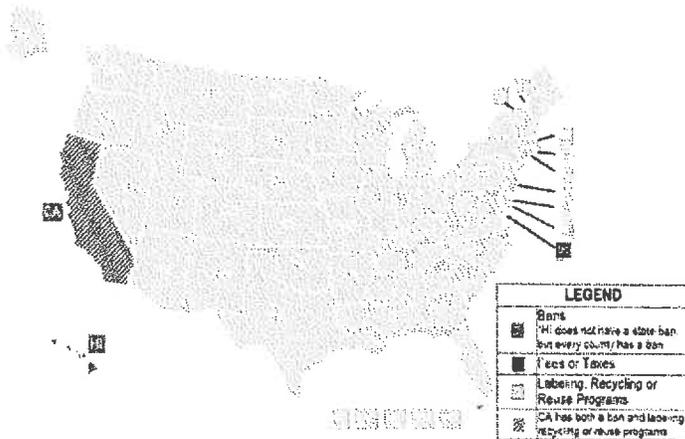
## Recycling Programs and Requirements

States have continued to propose and enact legislation relating to labeling, recycling, and reusing plastic bags. California passed legislation that requires manufacturers of compostable plastic bags to ensure that the bags are easily identifiable from other bags. That same year, Delaware enacted an At-Store Recycling Program. Legislation encourages the use of reusable bags, requires stores to establish an at-store recycling program, provides an opportunity for customers of the store to return clean plastic bags, requires that plastic carry-out bags be

recycling message and provides fines and penalties for noncompliance. Illinois passed similar legislation, the Plastic and Film Recycling Act, in 2012, but it was vetoed by the Governor.

## Energy and Environment Legislation Tracking Database

### Enacted Plastic and Paper Bag Legislation



### Enacted Plastic Bag State Legislation Summaries

#### California

#### Statewide Ban on Single-Use Carryout Bags (2014 CA S 270)

Prohibits certain large stores, as of July 1, 2015, from providing a single-use plastic carryout bag to a customer, with certain exceptions. Prohibits a store from selling or distributing a recycled paper bag, reusable plastic bag, or compostable bag at the point of sale unless the store makes that bag available for purchase for at least \$0.10 if certain conditions are met. The ban does not apply to handle-less plastic bags used to protect meat and produce or to contain or contaminating other purchased items. After July 1, 2016, these prohibitions and requirements will take effect for smaller stores such as convenience food stores. Revenue will be retained by the store to offset costs associated with providing recycled or reusable bags and complying with other provisions of the law. Persons or entities that violate the law may be subject to civil penalties imposed by the city, county or state of California.

Requires reusable grocery bags sold to customers at the point of sale to be made by a certified producer and to meet certain criteria with regard to the bag's durability, material, labeling and heavy metal content. In addition to these requirements, a reusable bag made from plastic film, as opposed to other natural or synthetic fibers, must meet certain benchmarks for recycled material content by 2016 and 2020. Beginning July 1, 2015, bags made from plastic film must not be sold or distributed unless certified by a third party entity. Applications for certification must include information that verifies, among other things, the incorporation of clean postconsumer recycled material.

Declares that it occupies the whole field of regulation of reusable grocery bags, single-use carryout bags, paper bags and prohibits a local public agency from enforcing or implementing an ordinance, resolution, or rule adopted on or after September 1, 2014, relating to those bags, against a store unless expressly authorized by a local public agency that has adopted such an ordinance prior to September 1, 2014, to continue to enforce or implement that ordinance or other type of regulation, but preempts any amendments other than to increase the charge at covered stores.

A sum of \$2,000,000 is appropriated from the Recycling Market Development Revolving Loan Subaccount of the Department of Resources Recycling and Recovery to provide loans for the creation and retention of jobs and economic activity in California for the manufacture and recycling of plastic reusable grocery bags that use recycled content. (09/30/2014 - Enacted)

**Compostable or Marine Degradable Plastic Bags (2010 CA S 228)**

Requires a manufacturer of a compostable plastic bag to ensure that the bag is readily and easily identifiable. Prohibits a compostable plastic bag sold in the state from displaying a chasing arrow resin identification recycling type of symbol in any form. Requires a manufacturer to comply with these requirements only to the extent that labeling requirements do not conflict with federal requirements. (09/28/2010 - Enacted)

**Recycling: Plastic Products (2012 CA S 567)**

Prohibits the sale of a plastic product labeled as compostable, home compostable, or marine degradable unless the product meets standard specifications or a specified standard, or the plastic product is labeled with a qualified claim and the product meets that standard. Prohibits the sale of a plastic product that is labeled as biodegradable, degradable, decomposable, or as otherwise specified. Provides for a civil penalty for a violation. Provides for the continuation of plastic bag labeling provisions. (10/08/2011 - Enacted)

**At-Store Recycling Program (2006 CA A 2449)**

Retail stores must adopt an at-store recycling program. Plastic bags used at retailers must have clearly printed "Return to a Participating Store for Recycling" on the bag. Retailers must also make reusable bags available to the customer, in lieu of plastic bags. (Repealed January 1, 2020)

**Delaware**

**At Store Recycling Program (2009 DE H 15; Amended by 2014 DE H 198)**

Encourages the use of reusable bags by consumers and retailers, requires a store to establish an at-store recycling program that provides an opportunity for a customer of the store to return clean plastic bags, requires all participating stores to display a recycling message, requires stores to maintain records of collection and recycling of plastic bags, prohibits imposition of a plastic bag fee upon a compliant store, provides for fines and penalties. (08/17/2011 - Enacted)

**Recycling Program (2012 DE SCR 24)**

Requests a report and suggestions for improvement on the at-store recycling program of plastic carryout bags for the purpose of improving the program and bettering the environment. (06/29/2011 - Enacted)

**District of Columbia**

**Anacostia River Clean Up and Protection Act (2010 DC B 150)**

Protects the aquatic and environmental assets of the District of Columbia, to ban the use of disposable non-recycled plastic carryout bags, to establish a fee on all other disposable carryout bags provided by grocery stores, convenience stores, liquor stores, restaurants, and food vendors, to give the Mayor the authority to implement rules and procedures.

the fee, to establish a non-lapsing recurring Anacostia River Cleanup and Protection Fund. (09/23/2009 - f

## Maine

### **Checkout Bags (2010 ME S 131)**

Convenes a work group, through a partnership with state agencies and other appropriate entities, to work towards a viable solution to the checkout bag issue to achieve environmental benefits, maintain financial v manufacturers and retailers and avoid cost impacts for consumers, provides for a report to the legislature. Enacted)

### **Recycling Plastic Bags (1991 ME LD 1166)**

Retailers may only provide customers with plastic bags if there is a receptacle to collect used plastic bags feet of the entrance and all the plastic bags collected are then recycled.

## New York

### **Plastic Bag Reduction, Reuse and Recycling Act (2008 NY A 11725)**

Retailers of stores are to establish in-store recycling programs that provide an opportunity for the custome clean plastic carryout bags to be recycled. The plastic carryout bags provided by the store must have print "Please return to a Participating Store for Recycling."

## North Carolina

### **Plastic Bag Use (2010 NC S 1018)**

Reduces plastic and non-recycled paper bag use on North Carolina's outer banks (a sea turtle nesting are subject to G.S. 130A-309.102 shall display a sign in a location viewable by customers containing the follow [county name] County discourages the use of single-use plastic and paper bags to protect our environmen litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you are not a recycled paper bag will be furnished for your use." Please see additional NC bills for identical language req of plastic bags and fines. (06/24/2009 - Enacted)

### **Plastic Bag Management (2011 NC S 146)**

Suspends the ban on plastic bags in certain coastal areas due to a disruption in the supply of paper bags l severe tornados. The major distribution center for paper bags used by retailers in the areas subject to the located in Dunn, NC, but was severely damaged and rendered unusable by the tornados of April 16, 2011. Assembly finds that the suspension of the requirement until the supply chain for paper bags is restored is i interest. This act becomes effective April 16, 2011. (04/20/2011 - Enacted)

\*\*Suspends the above bill.

## Rhode Island

### **Promotion of Paper Bag Usage (2008 RI S 2565)**

To decrease use of plastic bags, this legislation promotes the use of paper bags by retailers. Retail establ offer the use of a paper bag to the consumer. Every retail establishment that provides customers with plas provide conveniently located receptacles where customers can return their clean and dry plastic bags to b Failure to comply with these laws is punishable with fines up to \$500.

*The box allows you to conduct a full text search or use the dropdown menu option to select a state.*

Reset

Select a State

## 2014-15 PENDING STATE LEGISLATION SUMMARIES

State	Bill and Author	Summary
New Jersey	SB 563 – Turner  01/14/2014	Requires stores to impose a \$0.05 fee for each disposable carryout bag offered at the point of sale. The store would retain the remaining \$0.04 to the Department of Environmental Protection for programs to improve water quality. Allows stores voluntary carryout bag credit program, where a customer would receive a \$0.05 credit for each bag provided. These provisions apply to convenience stores, bakeries, drugstores, supermarkets, liquor stores and restaurants. Beginning in 2015, stores would be required to provide a disposable carryout bag unless the carryout bag is recyclable.
	AB 1367 – Stender  01/16/2014	
	AB 1345 – Stender  01/16/2014	Requires retail store operators to establish in-store recycling programs that provide opportunities for customers to return bags.
	SB 1462 – Greenstein  02/27/2014	
	AB 2670 – McKeon  02/20/2014	Requires retail stores to restrict the use of non-compostable plastic bags by 50 percent of the current volume by November 1, 2015. Requires all non-compostable plastic bags from use in the state by December 31, 2016.
Puerto Rico	SB 144 - Rivera Schatz 1/14/2013	This bill would prohibit the use, manufacture, importation, distribution and sale of disposable plastic bags starting in January 2014 if they are manufactured to be biodegradable.

**Source: NCSL**

### NCSL Member Toolbox

#### Members Resources

[Get Involved With NCSL](#)  
[Info Classification](#)  
[Legislative Careers](#)  
[NCSL Staff Directory](#)  
[Staff Directories](#)  
[Press/Contact Directory](#)

#### Policy & Procedure Resources

[Bill Information Portal](#)  
[Legislative Websites](#)  
[NCSL Executive](#)  
[State Legislative Manual](#)

#### Accessibility Support

Toll-free 800-541-9911

#### Meeting Resources

[Calendar](#)  
[Online Registration](#)

#### Press Room

[Media Contact](#)  
[NCSL in the News](#)  
[Press Releases](#)

#### Director

2740 East Flinn  
 Denver, CO 80230  
 Tel: 303.404.7200

#### Washington

144 North Capitol St  
 Washington, D.C. 20540

9.a

Rec'd  
1/22/14

## Proposal for a new **Kennebunk Committee on Aging**

In the last decade, Kennebunk has created improvements in virtually every aspect of its infrastructure. These projects have benefited every citizen, from the youngest to the oldest.

Now a group of issues is becoming more pressing as the population ages. Kennebunk has one of the largest senior populations 65 years of age and over in Maine; in the next decade, not only will this cohort age further, but more senior citizens will certainly relocate to Southern Maine from other areas of the country, seeking the comfortable lifestyle which has attracted so many of us.

Kennebunk is now listed, as of the past year, on the World Health Organization Guide to Age-Friendly Cities. Additionally, AARP is working with communities to help them establish age-friendly towns and cities across the U.S., and has produced a Tool Kit to aid them in this effort.

I and many acquaintances feel that a town committee would be well-placed to coordinate and aid efforts within town government, and to include outside groups, in communicating with various senior constituencies. We feel that certain areas will need attention in the near term and mid-term, and well as in the future:

Mass transportation and specialized transportation

Affordable housing

At-home elder care

In addition, there are eight areas of concern for age-friendly towns which have been enumerated by AARP and others in their studies:

1. Outdoor buildings and spaces
2. Transportation
3. Housing
4. Social participation
5. Respect and social inclusion
6. Civic participation and employment
7. Communication and information
8. Community support and health services

These are all complex and multifaceted issues, requiring attention across many different disciplines. To larger or lesser degrees, Kennebunk has a start on addressing many of these issues. Nevertheless, within a very short time, certainly the next decade or less, we will be confronted by many far more urgent problems of housing, transportation and elder care. We should be ready.

Bevan Davies  
24 Port Road  
Kennebunk, ME 04043  
(207) 710-0819

Mr. Barry Tibbetts  
Kennebunk Town Hall  
Kennebunk, ME 04043

I hope that we might be able to arrange a meeting to discuss my proposal.

Sincerely,

Bevan Davies

January 21, 2016

A handwritten signature in cursive script that reads "Bevan Davies". The signature is written in dark ink and is positioned below the typed name.



53 Baxter Blvd, Suite 202 | Portland, ME 04101  
1-866-554-5380 | Fax: 207-775-5727 | TTY: 1-877-434-7598  
aarp.org/me | aarpme@aarp.org | twitter: @aarpmaine  
facebook.com/AARPMaine

June 2, 2015

Kevin Donovan, Chairman of the Board of Selectmen  
Kennebunk Town Hall  
1 Summer Street  
Kennebunk ME 04043

Dear Chairman Donovan,

I am writing to inform you that the Town of Kennebunk's application to become part of the AARP's Network of Age Friendly Communities has been approved. This is recognition that the town and the citizens group called No Place Like Home have begun an important project which will identify and address the issues of concern to older residents.

Kennebunk joins four other Maine communities and 50 U.S. communities using the age friendly methodology to address these issues. Special mention should be made of resident Molly Hoadley whose vision began the process in Kennebunk, and Judy Bernstein, who has supported the effort for the town.

I am sending a certificate of recognition with Judy Bernstein's copy of this letter so that it can be on file at town hall. We would be pleased to cooperate in any presentation if that is appropriate.

Sincerely,

A handwritten signature in black ink that reads 'Peter F. Morelli'. The signature is written in a cursive style.

Peter F. Morelli  
AARP Age Friendly Coordinator

cc. Judith Bernstein, town planner

Real Possibilities



Real Possibilities

## The AARP Network of Age-Friendly Communities

*an institutional affiliate of the World Health Organization's  
Global Network of Age-Friendly Cities & Communities®*

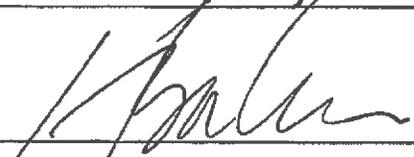
THIS IS TO CERTIFY THAT

***Kennebunk, Maine***

has committed to becoming more age-friendly  
under the criteria established by AARP and the World Health Organization  
and has been accepted as a member of the AARP Network of Age-Friendly Communities.

THIS CERTIFICATION IS VALID UNTIL

***March 25, 2017***

  
Hartoll "Hop" Backus, Executive Vice President

OFFICE OF STATES & COMMUNITIES  
AARP, WASHINGTON, D.C.

9.b.



**To:** Barry Tibbets, Town Manager  
Mathew Eddy, Economic Development Director

**From:** Paul Schumacher, Executive Director  
Lee Jay Feldman, Director of Planning

**Date:** 3/16/2016

**Re:** Comprehensive Plan update

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### **Memorandum of Understanding Comprehensive Plan Update Services**

The following document constitutes the scope of planning services which SMPDC will provide to the Town of Kennebunk in order to develop a new Comprehensive Plan and amendment to the existing Zoning Ordinance for the community. This scope of services reflects your request for assistance, State statutes, regulations, and guidelines for a Comprehensive Plan.

#### ***Services***

We will make every effort to provide all services and products to the Town of Kennebunk according to the Budget and Work plan, and as attached. This assumes timely participation and response by the Kennebunk Long Range Planning Committee or (any other Committee appointed by the Select board), Select board and others as outlined below. SMPDC will not be held responsible for delays accruing from meeting cancellations or postponements by the town. The appointed Committee is responsible for supervising and approving work products of SMPDC.

#### ***Notice to Proceed***

The signing of this memorandum of understanding shall constitute our notice to proceed.

#### ***Copies and Mailing for Committee Business***

The Town's Committee will be responsible for calling all meetings, preparation and or mailing of meeting agendas, meeting minutes, note taking at meetings, copying and distribution of materials prior

to or at meetings, and public notices. Both SMPDC and the Committee will be responsible for providing drafts to the town of updated plan text, both in paper and in electronic form, for the town staff to print out, copy and distribute to the Committee. SMPDC will handle all correspondence, telephone, and email correspondence regarding reviews of work product.

SMPDC plans on attending meetings once a month with the Committee to review the draft Inventory sections of the plan and Goals Policies & Strategies as they are developed. SMPDC will prepare for and attend three public meetings and other meetings as may be deemed necessary.

The town has a series of maps that were developed for the 2003 plan. SMPDC will make changes to the maps if needed unless there has been no change to the data.

***Payment Schedule***

SMPDC is recommending a payment schedule as follows:

- \$5,000.00 upon execution of the Memorandum of Understanding
- \$15,000.00 upon completion of the Draft Inventory but no later than July 5<sup>th</sup> 2016
- \$12,500.00 with the delivery of the Draft Goals, Policies and Strategies but no later than October 3rd 2016
- \$10,000.00 upon deliverable of the draft plan for public presentation and no later than February 6<sup>th</sup> 2017
- \$7,500 upon completion of the Ordinance re-write and no later than June 30, 2017

Signed:

\_\_\_\_\_

Printed Name, Title

For Town of Kennebunk: \_\_\_\_\_

Date: \_\_\_\_\_

Signed:

For SMPDC

\_\_\_\_\_

Printed Name, Title: \_\_\_\_\_

For SMPDC

Date: \_\_\_\_\_

# Work Plan

Survey administered by others compilation of the survey available to the committee with a presentation on the results.

## **Deliverable and Presentation to the Committee May 11**

Committee Meeting March 23<sup>rd</sup> Economic Development/TIF 101

Committee Meeting April 13 Budgeting 101

Committee Meeting April 27 Land Use 101

Committee Meeting May 11 Sustain Southern Maine Presentation

## **Meeting Attendance \$4,000**

Draft Inventory sections as outlined below will be provided to the committee as available with discussion at the ongoing meetings.

## **Deliverable June 15 \$15,000**

### **Public Presentation on the Inventory Data June 15**

Section 1: Public Input-This information is needed to update

Section 2: Introduction-Clean-up needed to bring up to date

Section 2.A: Population-Revised figures and narrative as needed to evaluate town growth

Section 2.B: Housing-Yes and we propose to add Aging in Place information

Section 2.C: Local Economy-We will work with Matt who has done a lot of work on this to expand the discussion into Economic Development

Section 2.D: Natural Resources-Update Beginning with Habitat data

Section 2.E: Public Utilities-Yes mapping of this is critical as well as new narrative to identify opportunities and pitfalls

Section 2.F: Traffic & Transportation-Yes, this will be revised

Section 2.G: Municipal Facilities-Updated as needed

Section 2.H: Historic, Archaeological and Cultural Resources-Updated as needed Expand Cultural Resources if so desired

Section 2.I: Marine Resources-Update as needed and include Climate Change/Sea-Level Rise issues

Section 2.J: Open Space Resources-Only as needed

Section 2.K: Land Use Patterns-Critical update both mapping and narrative

Section 2.L: Fiscal Resources-We will work with Matt on this. It is critical to the development of a Capital Investment Strategy

Section 3: Goals, Policies and Strategies-This is the most critical aspect to the development of the plan. We will revise as needed.

Updated Maps as needed and discuss at a presentation

## **Deliverable September 14 \$5,000**

Goals Policies & Strategies Draft

## **Deliverable September 28 \$7,500**

**Public Meeting for Land Use Scenarios October 12 \$6500**

Future Land Use Map and narrative based on scenario Workshop and previous data input  
**Deliverable October 26 \$4,500**

**Draft Document Provided to the Committee November 9**

**Public Presentation on the Draft Plan January 25<sup>th</sup> 2017 \$2,000**

**Leaving \$6,000 for Ordinance Amendments**

**Section 3-14 – Solid Waste,  
Pay As You Throw,  
Recycling and  
Residential Compost  
Ordinance**

3-14 SOLID WASTE, **PAY-AS-YOU-THROW**, RECYCLING AND RESIDENTIAL COMPOST ORDINANCE

Section I: Title

This Ordinance shall be known as the Town of Kennebunk, Maine, Solid Waste, **Pay-as-you-throw**, Recycling and Residential Compost Ordinance.

Section II: Enabling Legislation

This Ordinance is enacted pursuant to the authority granted in 30-A M.R.S.A. Sections 3001 and 3002 and 38 M.R.S.A. Sections 1304-B and 1305.

Section III: Purpose

The purpose of this Ordinance is to protect the health, safety and welfare of the citizens of Kennebunk through the management of the collection, transportation and disposal of residential solid waste and recycling in accordance with the provisions of Title 38 M.R.S.A. § 1305, as amended .

**Solid Waste Disposal:**

The Town of Kennebunk has a statutory obligation to provide solid waste disposal services for domestic and commercial solid waste generated within the municipality and is authorized to provide such services for industrial waste and sewage treatment plant sludge, pursuant to 38 M.R.S.A Section 1305, Subsection 1.

**Recycling:**

To allow the Town to mandate the recycling of solid waste materials that do not require incineration or burial through its curbside collection service, to ensure that State goals regarding recycling are met and lessen degradation to the environment by reducing the volume of waste placed in the long-term disposal sites.

Section IV: Definitions

All terms not specifically defined herein shall have their ordinary meaning; words used in the present tense include the future and the plural includes the singular.

A) Acceptable Solid Waste: All solid wastes generated within the Town, including ordinary household, municipal, institutional and commercial wastes, as designated by the Municipal Officers in accordance with current disposal agreements, with the following exceptions:

1) Demolition or construction debris from building and roadway projects or locations;

- 2) Liquid wastes or sludges;
- 3) Abandoned or junk vehicles or parts or accessories from vehicles;
- 4) Hazardous waste, that is waste with inherent properties that make it dangerous to manage by ordinary means, including but not limited to: chemicals, explosives, pathological wastes, radioactive wastes, toxic wastes and other wastes defined as hazardous by the State of Maine or the Resource Conservation and Recovery Act of 1976, as amended, or other federal, state or local laws, regulations, orders or other actions promulgated or taken with respect thereto.
- 5) Dead animals or portions thereof;
- 6) Pathological wastes, surgical and medical dressings;
- 7) Water treatment residues;
- 8) Tree stumps;
- 9) Tannery sludge;
- 10) Waste oil;
- 11) Ashes; and
- 12) Discarded 'white goods' including, but not limited to: freezers, stoves, refrigerators and washing machines.

B) Collection Facility: A building, container or designated area in which Acceptable Waste and Recyclables are deposited and temporarily stored for transshipment to the Town's designated Transfer/Recycling facilities.

C) Collection Unit: A single residential dwelling, or single commercial, industrial, institutional or municipal establishment, which produces Acceptable Waste and Recyclables within the Town of Kennebunk.

D) Commercial Waste: Acceptable waste that is non-residential and is picked up and disposed of by a private contractor.

E) Designated Disposal Facility: The facility designated by this Ordinance as the disposal facility for residential Solid Waste collected in a curbside collection program and pursuant to an existing agreement for collection and disposal services.

F) Disposal Facility: The facility designated by the Municipality as the storage and/or disposal site(s) for Unacceptable Waste and Recyclables.

G) Residential Compost: Acceptable Solid Waste generated by residential Collection Units that generally consists of decayed organic materials and has been designated by the Municipal Officers as acceptable pursuant to current agreements for collection and disposal of the same.

H) Large household furnishings: All large and/or bulky articles other than white goods actually used in the home and which equip it for living (chairs, sofas, tables, beds, carpets).

I) Municipality/Town: The Town of Kennebunk, Maine. J) Municipal Officers/Board: The Board of Selectmen.

~~K) Pay as you throw: A user fee system for disposal of municipal solid waste; also known as "pay per bag." The user fee plan promotes equity and fairness by linking the cost of waste disposal to the amount of waste actually generated by a person or household.~~

L) Recyclables: Solid Waste that is designated by the Municipal Officers pursuant to current disposal agreements as suitable for collection and disposal under this Ordinance, including, but not limited to, certain paper, cardboard, glass, plastics, aluminum, tin and steel products.

~~M) Refuse bags: Bags designed for the collection and storage of residential solid waste and approved by the Municipal Officers for such use.~~

N) Refuse containers: Containers designed for the collection and storage of Refuse Bags and Recyclables, as approved by the Municipal Officers and provided to residential Collection Units for such use. All containers shall be closed for pickup.

O) Solid Waste: Useless, unwanted or discarded solid material with insufficient liquid content to be free-flowing, including, but not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse. Solid waste shall not include septic tank sludge or agricultural or hazardous wastes. Collection and disposal of Solid Waste pursuant to this Ordinance shall be limited to Acceptable Solid Waste as defined herein and as determined by the Municipal Officers.

P) Transfer Station: The facility designated in Town Ordinance 3-16 that processes Acceptable Waste and Recyclables generated and collected in the municipality, but not collected as part of a curbside collection program or pursuant to an existing collection and disposal agreement.

Q) Unacceptable Solid Waste: All solid waste of the type municipalities are required to regulate by 38 M.R.S.A. Section 1305, as amended, that are excepted from the definition of Acceptable Waste and any other items as determined by the Board of Selectmen.

R) White goods (major appliances): Any large and/or bulky household mechanism (as a refrigerator, washer, dryer, stove, etc.) ordinarily operated by gas or electric current.

#### Section V: Designation

In accordance with the provisions of 38 M.R.S.A. Section 1304-B, the Municipal Officers hereby designate the Casella Waste facility located at 590 County Road in Westbrook, Maine as the facility for disposal of the Town's Solid Waste for the purposes cited in Section III of this Ordinance.

#### Section VI: Regulation of Acceptable Waste, Recyclables and Residential Compost

The accumulation, collection, transportation and disposal of Acceptable Waste, Recyclables and Residential Compost generated within the Municipality shall be regulated in the following manner:

##### A) Acceptable Solid Waste and Recycling Collection Provided

The Town of Kennebunk shall establish a system of regular curbside collection of Acceptable Solid Waste and single stream recycling materials for transportation to and disposal at the Designated Disposal Facility. Collection shall consist of once per week curbside collection of all Acceptable Solid Wastes and Recyclable Materials, from Collection Units as determined by the Board of Selectmen and pursuant to the requirements of this Ordinance.

##### B) Acceptable Residential Compost

The Town will authorize one licensed vendor for Residential Compost to be collected. Collection shall consist of once per week curbside collection of acceptable composting items in approved containers. The authorized vendor will provide a subscription service to residents as approved by the Board of Selectmen. Said subscription service shall be optional and paid for solely by residents who elect to use the service.

##### C) Solid Waste Disposal

The Town of Kennebunk shall control the collection of residential acceptable wastes, its transportation and its delivery to the Designated Disposal Facility to gain management control over acceptable wastes. Collection Units shall provide acceptable wastes generated within the Town of Kennebunk in accordance with the collection schedule, as established by the Board of Selectmen, in order to ensure a supply of such wastes to the Designated Disposal Facility.

##### D) Solid Waste, Recycling and Residential Compost Containers

It shall be the responsibility of each and every Collection Unit to use those containers made available through the Town and its vendors as approved by the Board of Selectmen.

The Town will provide Refuse Containers for the collection and disposal of Acceptable Solid Waste and Recycling as determined necessary and appropriate by the Municipal Officers pursuant to existing agreements for curbside collection and disposal of the same.

The designated vendor will provide Containers for the collection and disposal of Residential Compost to those who subscribe to its paid service.

#### E) Specification for Refuse Bags and Containers

Acceptable Solid Waste set out for curbside collection by the Town's designated vendor shall be placed in Town-approved ~~Refuse Bags in Town-approved Refuse~~ Containers as determined by the Board of Selectmen.

Recyclable Materials set out for curbside collection by the Town's designated vendor shall be placed in Town-approved Refuse Containers as determined by the Board of Selectmen.

No Refuse Containers shall be filled to a weight in excess of that determined by the Board of Selectmen. In no case shall the Town pick up any garbage or rubbish placed in paper bags, unapproved bags or containers, or any other container such as corrugated cardboard or paperboard boxes.

Town of Kennebunk public trash receptacles shall not be subject to the size and weight limitations of this subsection.

Residential Compost set out for subscription curbside collection shall be placed in Town-approved containers as provided by the Town's designated vendor and determined by the Board of Selectmen.

#### F) Limitation on Quantity of Refuse Containers

There is ~~no~~ a limit to the number of Town-authorized ~~Refuse bags containers~~ that can be collected. Each resident will be assigned a ~~one~~ Refuse Container for the disposal of Acceptable Solid Waste materials and a ~~one~~ Refuse Container for Recyclable Materials. ~~The resident may request one additional recycling container.~~ These containers are the property of the Town. Each participant in the Residential Compost subscription service will be provided a container by the vendor and shall be subject to the vendor's rules and regulations regarding use of that container.

Each resident should exercise care in maintaining and using their container. The container is the property of the Town and cannot be sold, misused or taken out of Kennebunk. Residents are responsible for any misuse. Should a container be destroyed by natural causes or by the Town's snow plow operations, it will be repaired or replaced.

G) Time for Setting Out Solid Waste, Recyclable Materials and Residential Compost Containers shall be allowed to be put out for collection 24 hours preceding collection. Collection begins at 6:00 a.m. each collection day and the town will not make return trips for containers not put out prior to the actual pick up time. Containers must be removed from the curb or town right of way the same day as collection. Non-compliance may result in a fine/penalty authorized by the Board of Selectmen.

Residential compost containers shall be set out only on the day of collection and removed as soon as possible following collection, but not later than the end of the same day.

H) Collection Refused

The Town may refuse to collect any Solid Waste and/or Recyclable Materials not placed in approved Refuse Containers, which have been put out for collection in a manner that does not comply with the requirements of this Ordinance. Any Solid Waste or Recyclable Materials that have spilled from containers or have been pulled from containers by animals will not be picked up by the Town or its vendor and the person placing such items out shall clean up and dispose of the items properly, within eight (8) hours of the time of collection.

The vendor may refuse to collect any Residential Compost items not placed in an approved container, which has been put out for collection in a manner that does not comply with the requirements of this ordinance **or exceeding the weight limit for picking up the container.**

I) Containers to be Properly Located for Collection

Containers placed for collection shall be located as close to the curb or paved portion of the street as practicable but shall not be placed within the paved street portion of any street or right-of-way. All containers must have the front (serial #) of the container facing the street.

J) Authority of Municipal Officers

The Municipal Officers may establish such further rules and regulations governing the collection of Solid Waste, Recyclable Materials and Residential Compost not inconsistent with the provisions of this Ordinance.

K) Holidays

If a holiday falls on the scheduled collection day for a collection route/zone, the Solid Waste, Recyclable Materials or Residential Compost of such route/zone will be collected on the holiday or a make-up day as designated by the Public Services

Director.

L) No person shall place commercial or household Solid Waste, Recyclable Materials or Residential Compost in or around public trash receptacles. The Owner(s) of the business or residence where the solid waste originated shall be deemed responsible for illegal placement of solid waste items. (06-09-2004)

Section VII: Regulation of Unacceptable Waste

The accumulation, collection, transportation and disposal of unacceptable waste generated within the municipality shall be regulated in the following manner:

A) To be collected, transported and disposed of at generator's expense:

1) Demolition or construction debris from building and roadway projects or

locations;

2) Liquid wastes or sludges;

3) Abandoned or junk vehicles or parts or accessories from vehicles; 4)

Hazardous waste;

5) Dead animals or portions thereof;

6) Pathological wastes and medical and surgical dressings;

7) Water treatment residues;

8) Tree stumps;

9) Tannery sludge;

10) Ashes; and

11) any other items as determined by the Board of Selectmen.

B) Transfer and recycling shall also take place at the Transfer Station located next to the Town garage and identified in Ordinance 3-16, unless an alternate transfer station is designated by the Board of Selectmen.

The following shall be received for recycling at the Transfer Station and at curbside collection, if indicated: (some items may be subject to a fee):

1) Newspapers, magazines, junk mail, telephone books, books, glossy paper, mixed paper, or any item made from a paper fiber derivate (curbside collection also);

2) Corrugated cardboard (curbside collection also);

- 3) White, green and brown glass (no caps) (curbside collection also);
  - 4) Aluminum and tin containers (curbside collection also);
  - 5) #1 - #7 HDPE and PET plastic containers (curbside collection also);
  - 6) 'White goods' subject to a fee set by the Board of Selectmen;
  - 7) Demolition or construction debris from building and roadway projects or locations;
  - 8) Waste oil;
  - 9) Scrap metal; and
  - 10) Any item designated by the Board of Selectmen.
- 11) A swap table (or designated area) as determined by the Selectmen shall be available under the supervision of the vendor managing the Transfer/Recycling Facility.
- C) There shall be a designated area for leaf and yard waste, subject to a fee set by order of the Board of Selectmen
- D) Brush not exceeding 4" in diameter, subject to a fee set by order of the Board of Selectmen.
- E) Operating hours for the Transfer Station will be set by order of the Board of Selectmen and posted.
- F) The Board of Selectmen may modify this list as needed.
- G) The Board of Selectmen shall set fees for the items listed above and any other items that it may designate in the future.

#### Section VIII: Exempted Waste

The following categories of waste shall be exempted from regulation by the Ordinance:

- 1) Materials from manufacturing, processing or packaging operations which are segregated from solid waste and salvaged for alternate use or reuse by the generator or sold to third parties.
- 2) Glass, metal or other noncombustible materials which are separated from Acceptable Waste by the generator as part of a recycling program.

3) Cardboard, paper or other combustible materials which are separated from Acceptable Waste by the generator as part of a recycling program.

#### Section IX: Administration

This Ordinance shall be administered by the Municipal Officers. Their powers and duties are as follows:

- 1) To adopt reasonable rules and regulations as needed to enforce this Ordinance.
- 2) To consider all license applications pursuant to Section X of this Ordinance and to grant or deny each application within thirty (30) days after receipt of a completed application at the Municipal Offices or within such other time, as the Municipal Officers and the applicant shall agree is reasonable.
- 3) To review any alleged violation of this ordinance, and to impose appropriate penalties therefore after notice and hearing as required by this ordinance.
- 4) To institute necessary proceedings, either legal or equitable, to enforce this ordinance.
- 5) To approve reasonable fees for waste accepted at the Town's Transfer Station. Said fees to be established by the Town's designated vendor responsible for operating the Transfer Station based on the cost of staffing the facility, storing, handling, transporting and disposal of the waste. (ADDED 11-21-1989)

#### Section X: Licensing

1) No person, firm or corporation shall accumulate, collect, store, transport or dispose of Acceptable Waste or Unacceptable Waste generated within the Municipality without obtaining a license from the Municipal Officers, except that a person, firm or corporation that accumulates, collects, stores, transports or disposes of less than 8 tons per month of its own waste shall not be required by this section to obtain such a license.

2) Any person, firm or corporation required by this ordinance to obtain a license shall make application to the Municipal Officers, providing the information required. Each

initial application shall be accompanied by an annual, non-refundable application fee as set by the Board of Selectmen's fee schedule.

3) The application shall contain all information required by Municipal Officers, including but not limited to a description of the activity(ies) engaged in, e.g.,

collection, transporting, or disposal of Acceptable and/or Unacceptable Waste; type and amount of waste handled in each service area; description of the facility(ies) operated and used; and equipment inventory, including for vehicles a description - the make, model and year of each vehicle used for the collection or transportation of solid waste. All information provided shall be revised annually upon application for license renewal. If the Municipal Officers determine the application is incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The Municipal Officers shall be informed immediately in writing of any changes in or additions to equipment, including vehicles.

4) An applicant for a license under this section shall demonstrate that it meets the following criteria:

a) Financial capacity to perform as proposed in the application.

b) Technical capacity (including vehicles and other equipment) to perform as

proposed in the application and as required under this ordinance.

c) Adequate liability, collision and workers' compensation insurance coverage.

d) Safety record (including compliance with state and local motor vehicle laws, ordinances and regulations) so as not to be a danger to public health, safety and welfare.

5) Licenses shall not be transferable. In the event of an emergency or vehicle breakdown, a licensee shall be issued a special license for a satisfactory replacement vehicle, upon furnishing of all information required for a licensed vehicle.

6) All licenses shall expire one (1) year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provisions of this ordinance.

7) The annual license fee for each vehicle licensed or for each applicant licensed for activities not involving the transport of solid waste shall be as set by the Board of Selectmen' fee schedule. License fees shall not be refunded in the event that a license is suspended or revoked. (06-12-2002)

8) In the event the Municipal Officers deny a license application, they shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in Section XII.

9) Cover and secure all loads for transportation.

Section XI: Suspension or Revocation

Any license issued may be suspended or revoked by order of the Municipal Officers after benefit of a hearing in accordance with the procedures in Section XII, for the following causes:

- 1) Violation of this ordinance.
- 2) Violation of any provision of any state or local law, ordinance, code or regulation,

which relates directly to the provisions of this ordinance.

- 3) Violation of any license condition(s).
- 4) Falsehoods, misrepresentations or omissions in the license application.

#### Section XII: Hearings

1) Anyone denied a license pursuant to Section X or whose license is suspended or revoked pursuant to Section XI shall be entitled to a hearing before the Kennebunk Zoning Board of Appeals, if such request is made in writing within ten (10) days of the denial, suspension or revocation.

2) Such hearings shall be held within thirty (30) days after receipt of the written request for a hearing.

3) The licensee or applicant shall be notified, in writing, as to the time and place of the hearing at least ten (10) days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.

4) A determination shall be made by the Zoning Board of Appeals within ten (10) days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant or licensee by registered mail, return receipt requested.

5) The Zoning Board of Appeals' final determination relative to the denial or suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice but no later than ten (10) days after the date notice of such final determination has been mailed by registered mail, return receipt requested, to the applicant and shall be conclusive. Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof together with a statement that such decision may be appealed as provided in this ordinance.

6) Any controversy or claim arising out of or relating to the Zoning Board of Appeals' determination shall be directly reviewable by Superior Court pursuant to M. R. Civ. P., Rule 80B.

### Section XIII: Enforcement

1) All provisions of this ordinance are enforceable by duly authorized police officers or

the Municipal Officers.

2) Any person who violates any provision of this ordinance is subject to arrest and if convicted, to punishment as provided in Section XIV.

3) Whenever the Municipal Officers determine that there has been a violation by virtue of noncompliance, they shall give notice of such violation to the person(s) responsible by personal service or by registered mail, return receipt requested.

a) The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires.

b) The citation may contain an outline of remedial action, which, if taken, will effect compliance.

c) The citation shall state that unless corrections are made within the allotted time, the violation is subject to prosecution and/or to license revocation or suspension pursuant to the provisions of this ordinance.

### Section XIV: Penalties

1) Criminal penalties: any person who violates this ordinance shall be guilty of a Class E crime for each violation.

2) Civil penalties: any person, firm or corporation who violates this ordinance shall be subject to a civil penalty, payable to the Municipality, as set by the Board of Selectmen's fee schedule for each violation. Each day of violation shall be considered a separate violation. Such person, firm or corporation shall also be liable for court costs and reasonable attorney fees incurred by the Municipality.

### Section XV: Conflict and Severability

1) The provisions of this law shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary thereto, or in conflict therewith.

2) The provisions of this ordinance shall be severable and if any phrase, clause, sentence or provision, or the application thereof to any person or circumstances shall

be held invalid, the remainder of this ordinance and the application thereof shall not be affected thereby.

Section XVI: Amendment

This ordinance may be amended in the same manner as any other ordinance of the Municipality, subject to the contractual obligations outlined in the contract between the Municipality and the solid waste facility.

The Board of Selectmen may, after public notice and hearing, amend this Ordinance and draft and adopt regulations implementing the terms of this Ordinance on any matter not expressly set forth herein or as otherwise provided by law.

Section XVII: Effective Date

This Ordinance shall become effective on the date of adoption by Town vote. Any person, firm or corporation required to obtain a license hereunder shall have sixty (60) days from the date of adoption of this ordinance to secure such license, which shall become effective on the date specified therein.

Section XVIII: Fees

Fees shall be as shown on a fee schedule set by vote of the Board of Selectmen each year, after notice and hearing. (06-12-2002)

ADOPTED 06-23-1987; AMENDED 06-12-2002; 06-09-2004; 06-16-2005; 06-21-2011; 03- 24-2015

# **Section 4-7 – Property Tax Assistance Ordinance**

## 4-7 PROPERTY TAX ASSISTANCE ORDINANCE

### 4-7.1 Purpose

The purpose of this Ordinance is to establish a program (the “Program”) to provide property tax assistance to persons 62 years of age and over who reside in the Town of Kennebunk. Under this Program, the Town of Kennebunk will provide supplemental tax credit to those individuals who qualify as Kennebunk resident beneficiaries of the State of Maine Residents Property Tax Program pursuant to 36 M.R.S.A. 5219-KK of the Maine Revised Statutes and who meet the criteria established by this Ordinance.

### 4-7.2 Definitions

**Homestead:** A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person and that person’s dependents as a home.

**Income:** Is the previous year’s U.S. form 1040 tax return “adjusted gross income”.

**Owners of Record:** Shall be as of April 1 preceding the July 1 deadline application.

**Qualifying applicant:** A qualifying applicant is a person who is determined by the Town Manager or designee, after review of a complete application under Section 4 of this Ordinance, to be eligible for a property tax credit payment under the terms of this Ordinance.

### 4-7.3 Criteria for Participation

In order to participate in the Program, an applicant shall demonstrate all of the following:

- a. The applicant shall be 62 years of age or more at the time of application.
- b. The applicant shall have a homestead in the Town of Kennebunk at the time of the application and for the entire year prior to the date of application.
- c. The applicant has received a refund under the provisions of 36 M.R.S.A. 5219-KK State (“Property Tax Fairness Credit”).
- d. The applicant shall have applied for the Maine Homestead Exemption.

#### 4-7.4 Application and Payment Procedures

Any person seeking to participate in the Program shall submit a written request to the Town Manager no later than July 1<sup>st</sup>. Applications are required every year to participate in this Program. The Town Manager or designee shall provide an application form for the Program, which shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof and dollar amount (copy of check) of State Refund under 36 M.R.S.A. 5219-KK State ("Property Tax Fairness Credit"). The Town Manager or designee shall review and determine if the application is complete and accurate, and if the applicant is otherwise eligible to participate in the Program. The Town Manager or designee shall notify an applicant if an application is determined to be incomplete and identify any missing information. The Town Manager's or designee's decision on eligibility to participate in the Program shall be final.

#### 4-7.5 Determination of Eligibility and Amount of Assistance

If the Town Manager or designee determines that the applicant is eligible to participate in the Program, he shall determine the total amount of such assistance to be provided. Eligibility shall be the lesser of the following amounts:

- a. 25% of the amount of the refund awarded by the State to the applicant under 36 M.R.S.A. 5219-KK State ("Property Tax Fairness Credit");
- b. \$300.00; or
- c. A prorated amount of the available monies in the Program fund established under Section 6 of this Ordinance. If funds are not available in the Program fund to fully fund eligible applications under subsection a or b above, the Town Manager or designee shall reduce payments in accordance with Section 6 of this Ordinance. .

Under no circumstances shall the refund from the Maine State's "Property Tax Fairness Credit" combined with the Town's assistance under this ordinance exceed the taxes for the property.

The Town Manager or designee shall report to the Board of Selectmen at its first meeting after September 30<sup>th</sup> each year the projected payments and number of eligible applicants requesting assistance for the Program fund.

#### 4-7.6 Program Fund – Limitations Upon Payments

Payments under the Ordinance shall be conditioned upon the existence of sufficient monies in the Program Fund the year in which participation is sought. If there are not sufficient monies in the Program Fund to pay all qualifying

applicants under this Ordinance, payments shall be limited to the amounts available in the Fund and applied proportionately. In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request will not carry over to the next year.

#### **4-7.7 Creation of the Program Fund**

The Program Fund from which payments shall be made under the terms of this Ordinance shall be created as follows:

As funds are available, the Board of Selectmen shall request the annual town meeting to appropriate monies from the general fund or other sources to support this Program. Any surplus monies available after all payments have been made shall remain in the dedicated account hereby established for this Program and shall not lapse into the Town's undesignated fund balance.

#### **4-7.8 Timing of Payments**

A person who qualifies for payment under this Program shall have the full amount (or pro-rated amount if inadequate funds are available) applied to the tax bill no later than the October payment for the year in which participation is sought.

#### **4-7-9 Limitations upon payments**

Only one qualifying applicant per household shall be entitled to payment under the Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney in fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Town Manager or designee shall be disbursed to another member of the household as determined by the Town Manager or designee. If the applicant was the only member of a household, then no payment shall be made under this Ordinance.

#### **4-7-10 Amendments**

The Board of Selectmen may, after public notice and hearing, amend this Ordinance and draft and adopt regulations implementing the terms of this Ordinance on any matter not expressly set forth herein or as otherwise provided by law.

ADOPTED 06-13-2007  
AMENDED 06-11-2008  
AMENDED 06-21-2011  
AMENDED \_\_\_\_-2016

# **Section 6-1 – Street Vendors and Peddlers**

## 6-1 STREET VENDORS AND PEDDLERS

### 6-1.1: Definitions

1. *“Eating Establishment”* as used herein shall include any place where food or drink is prepared and served, or served to the public for consumption on the premises, or catering establishments, or establishments preparing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, take-out restaurants, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, industrial feeding establishments, retail frozen dairy product establishments, airports, parks, theaters, recreational camps, youth camps or any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for sale other than in original sealed packages.
2. *“Mobile Vending Unit”* as used herein shall mean a mobile vehicle, cart or stand designed and constructed to transport, prepare, sell or serve food at a number of sites and capable of being moved from its serving site at any time.
3. *“Non-profit Street Vendor”* as used herein shall mean a Street Vendor who operates solely on behalf of bonafide charitable, service, religious, municipal organizations or agencies, or youth sports or similar school booster groups or agencies located within Kennebunk, as well as any person, firm, corporation, association, club, partnership or society operating as part of or associated with an event sponsored by the Town of Kennebunk such as the Kennebunk Farmers’ Market.
4. *“Peddler”* as used herein shall include any person, having no established or fixed place of business in Kennebunk, selling or offering for sale tangible commodities other than food products from any public street, other publicly owned or controlled space within Kennebunk, and where delivery is made at the time of sale.
5. *“Person”* as used herein shall include the singular and the plural, and shall also mean and include any person, firm or corporation, association, club, partnership or society.
6. *“Resident”* as used herein shall mean a person whose domicile is in Kennebunk, Maine.
7. *“Street Vendor”* as used herein shall mean a seller of any foods or non-alcoholic beverages for immediate consumption from a cart, stand, display

or vehicle stationed at a specified and approved location on a public street, sidewalk or public place. Such location shall be established and approved as provided by this Section.

8. "*Town*" as used herein shall mean Kennebunk, Maine.
9. "*Victualer*" as used herein shall mean a person who serves food or drink prepared for consumption on the premises by the public, either as a Street Vendor or at an Eating Establishment.
10. "*Waterhouse Center Zone*" as used herein shall include all privately owned property, public streets, sidewalks, parking lots and other publicly owned or controlled spaces within 300 feet from any property line of 51 Main Street, the Waterhouse Center Pavilion property.

### **6-1.2: License Required**

It shall be unlawful for any person to engage in the business of Peddler or Street Vendor as defined in Section 6-2.1 of this Ordinance within the corporate limits of Kennebunk without first obtaining a license therefor from the Town Clerk, Town Manager or other designee appointed by the Municipal Officers as provided herein. Street Vendors licenses shall be issued for the sale of food items only, and those food items shall be primarily intended to be consumed at the time of purchase. Any distribution of free product samples shall be limited to samples of food for sale at that cart. Peddlers' licenses shall be issued for the sale of all other tangible goods.

The requirements of this Ordinance shall not apply to participation by a Street Vendor or Peddler in any Town-sponsored event including, but not limited to, the "Harvest Fest," "Winter Fest," "May Day," and "Old Home Week." Participation by Street Vendors and Peddlers in Town-sponsored events shall be reviewed and approved annually by a committee appointed by the Board of Selectmen. The requirements of this Ordinance shall also not apply to participation in the Kennebunk Farmers' Market or the Kennebunk Downtown Artisans' and Crafters' Market; provided, however that a Street Vendor or Peddler licensed to operate pursuant to this Ordinance shall not be precluded by these events.

### **6-1.3: Application Requirements and Licensing Procedures**

1. Applications for licenses under this Ordinance must be made by the Street Vendor or Peddler each calendar year in which the Street Vendor or Peddler desires to operate. Applications for Street Vendor's and Peddler's licenses in the Waterhouse Center Zone must be submitted on or before

January 31 of each calendar year, or as otherwise required and duly noticed by the Board of Selectmen for the license year immediately following the adoption of this Ordinance. The applicant shall file with the Town Clerk a sworn or affirmed application in writing on a form to be furnished by the Town Clerk, which shall require the following information:

- a. Name of the applicant including company, corporation, d/b/a, and the name of all persons associated with or who will be conducting business with the applicant pursuant to the license;
- b. Address of the applicant and any related business entities. There must be a local and legal address for receipt of notices. In the event of change of either address, the applicant is obligated to notify the Town Clerk immediately;
- c. A brief description of the types of goods or food and/or beverages to be sold by the applicant;
- d. Evidence of current licenses and registrations held by the applicant as may be required by the State of Maine in connection with applicant's sales;
- e. A description of the proposed location of the applicant's sales. The inclusion of this information on an application shall not be deemed a guarantee of that location and all locations of Street Vendors and Peddlers shall be subject to the approval of the Board of Selectmen;
- f. If a vehicle is to be used in connection with the Street Vendor's or Peddler's sales, a description of the same, together with license number or other means of identification;
- g. A statement as to whether the applicant has been convicted of any crime or violation of any municipal ordinance, including the denial, suspension or revocation of a Street Vendor's or Peddler's license within the last five years and details of the same;
- h. A photograph of any vehicle, Mobile Vending Unit or other display to be used in the operation of the business and a description of materials, measurements, appurtenances, signs, awnings, umbrellas, fuel, refrigeration, water supply and colors associated with the vehicle or display to indicate compliance with the performance standards listed in Section 6-2.7 below. Specific measurements, designs and locations

of the vehicle, Mobile Vending Unit and all appurtenances, including detached items, shall be submitted.

- i. A sketch showing the proposed location of a Street Vendor or Peddler other than those located within the Waterhouse Center Zone or as otherwise assigned by the Selectmen, its measurements and all appurtenances, and the relationship of all of the above features to all site features of the immediate area including, but not limited to, sidewalks, driveways, buildings, landscaping, paths, signs and utilities.
  - j. Any other information, as may be required by the Town Clerk, Town Manager or other designee appointed by the Municipal Officers, which directly relates to the safe and healthy operation of the licensed Street Vendor or Peddler.
2. A non-refundable application fee in an amount set forth in the fee schedule set by vote of the Municipal Officers shall accompany each application and a license fee in an amount set forth in the fee schedule set by the vote of the Municipal Officers shall be paid to the Town Clerk upon approval of the license.
3. The Town Clerk, Town Manager or other designee appointed by the Municipal Officers shall approve a license as provided in this Ordinance based on review of the application and related materials, unless he or she finds that any or all of the following apply:
  - a. The application was not complete or contains false or misleading information; or
  - b. The application and/or requested license are not fully in compliance with the requirements of this Ordinance or any other applicable laws.
4. After the approval of licenses by the Town Clerk, Town Manager, or other designee, licenses shall be issued subject to the lottery provisions outlined in Section 6-2.4 below, where applicable, and upon submission of the following:
  - a. A copy of the certificate of insurance required by Section 6-2.6.1;
  - b. The location desired by the Street Vendor or Peddler;
  - c. For Street Vendors only, a valid victualer's license. In the event a victualer's license is not approved or renewed by the State of Maine or the Town, then the

Street Vendor's license shall not be issued or, if previously issued, shall no longer be valid; and

- d. For Street Vendors only, a valid license issued by the State of Maine Department of Human Services for food service.
5. Street Vendor and Peddler licenses shall be valid for one year and shall be renewed annually upon application of the license holder, subject to the application and review requirements of Section 6-2.3. The location of Street Vendors and Peddlers shall be assigned and/or approved by the Municipal Officers upon renewal each year and may be subject to a rotation.
6. Any person who has held a Street Vendor or Peddler license under this Ordinance for seven (7) consecutive renewal terms shall not be issued an eighth renewal license, but may apply as a new applicant.
7. Street Vendor and Peddler licenses shall not be subleased or assigned to any party and shall only be valid for use for the location and operations approved by the Town Clerk or Town Manager for that applicant; provided, however, that employees or alternate operators of the applicant's business may conduct the applicant's business in the same location and under the same conditions as approved by the license on behalf of the applicant.

#### **6-1.4: Annual Lottery for Street Vendors in the Waterhouse Center Zone**

1. After the Town Clerk, Town Manager or other designee has approved the license applications for Street Vendors and Peddlers in the Waterhouse Center Zone, the Town Clerk, Town Manager or other designee shall conduct a public lottery to assign Street Vendor and Peddler licenses and locations in the Waterhouse Center Zone no later than the first meeting of the Board of Selectmen in February of each calendar year, or as otherwise scheduled and duly noticed by the Board of Selectmen for the license year immediately following the adoption of this Ordinance. At least 14 days before the lottery, the Town Clerk shall mail written notice of the time and place of the lottery to each approved Street Vendor and Peddler applicant and shall post and publish public notice of the same.
2. The Town shall issue no more than four (4) Street Vendor licenses each year within the Waterhouse Center Zone, but may issue less than four (4) Street Vendor licenses in that zone if the Municipal Officers

determine by majority vote when establishing the designated locations pursuant to Section 6-2.5.4 prior to the timeframe specified therein that it is in the best interest of public health and safety. For any year in which Street Vendor licenses are available, the public lottery process as outlined in Section 6-2.4 above shall apply.

3. The Town shall issue a number of Peddler licenses each year within the Waterhouse Center Zone to be determined by majority vote of the Board of Selectmen on or before the first meeting of the Board of Selectmen in February of each year pursuant to the requirements of Section 6-2.5.4 in addition to the consideration of approved Street Vendor locations within the Waterhouse Center Zone.

4. One additional Street Vendor or Peddler license shall be reserved each year for use by Non-profit Street Vendors or Peddlers within the Waterhouse Center Zone. Non-profit Street Vendors or Peddlers may apply to the Town Clerk, Town Manager or other designee on an application form to be provided by the Town Clerk for the use of the designated Non-profit Street Vendor or Peddler space once per calendar year or more frequently as permitted by majority vote of the Board of Selectmen upon request of the Non-profit Street Vendor or Peddler. All Non-profit Street Vendors and Peddlers using the designated location shall provide the Town Clerk's Office with a report of activities conducted at these locations within 30 days after the event. Failure to comply with this provision may result in forfeiture of the right to use the location again during the calendar year and following.

5. Those approved Street Vendor and Peddler applicants who are present at the lottery in person or by agent acting under written authority may select their own locations from the pre-approved locations provided in the order in which their names are drawn. Approved Street Vendor and Peddler applicants who are not present will be assigned locations at random by the Municipal Officers or its designee.

6. Issued licenses shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the kind of goods to be sold thereunder, the date of issuance, and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling. The Town Clerk shall keep a permanent record of all licenses issued.

7. In the event that Street Vendor and/or Peddler locations in the Waterhouse Center Zone remain unassigned after the lottery is held, or in the event that assigned Street Vendor and/or Peddler locations are subsequently abandoned or relinquished during the applicable calendar

year, the Town Clerk may accept additional applications for Street Vendor and/or Peddler licenses on a first come, first served basis and may forward qualified applications to the Municipal Officers for final action. The Municipal Officers or the Town Clerk shall grant new or renewal licenses to qualified applicants who have satisfied the requirements set forth in Section 6-2.3.

#### **6-1.5: Location**

1. Peddlers and Street Vendors may establish a location on a private lot, or request a location on a publicly owned or controlled space only within the following Districts: Downtown Business District (DB); Lower Village Business District (LVB); Suburban Commercial (SC); Business Park (BP); Industrial District (I); York Street Mixed Residential and Commercial Use District (MRCU); West Kennebunk Village Mixed Use District (WKV); Upper Square (US), Village Residential (VR).
2. Street Vendors shall be prohibited within the Coastal Residential Zoning District and the Resource Protection Zone abutting Beach Ave. and Great Hill Road.
3. An applicant for a Street Vendors or Peddlers license shall specify the location where he or she proposes to locate. All locations shall be subject to the approval of the Town Clerk, Town Manager or other designee appointed by the Municipal Officers.
4. The Municipal Officers shall designate all Street Vendor locations within the Waterhouse Center Zone for each license year no later than February 1 of the license year or at such other time as may be necessary and appropriate by the Board of Selectmen prior to issuing licenses for the license year immediately following the adoption of this Ordinance. Street Vendors shall not be permitted in any location other than those approved by the Municipal Officers for that year. When determining Street Vendor locations, the Municipal Officers shall consider whether the Street Vendor would create a nuisance, blight, safety, or public health hazard; significantly impede or interfere with the free and reasonable movement of motor vehicles, bicyclists, or pedestrians upon Town ways, crosswalks, pathways, or sidewalks; or impair safe sight distances for turning vehicles from such Town ways or sidewalks in and out of private ways and parking areas.
5. The Municipal Officers shall have the authority to relocate existing Street Vendor and Peddler locations at any time if the Police Chief determines that they create safety hazards or as determined necessary by the Municipal Officers for Town-sponsored events such as "Harvest

Fest,” “Winter Fest,” “May Day,” and “Old Home Week.” The Municipal Officers reserve the right to relocate and/or prohibit Street Vendors and Peddlers during any regularly-scheduled, annual Town-sponsored event or other Town-sponsored or private events to be held in the Waterhouse Center Zone when the proposed location would create a nuisance, blight, safety, or public health hazard; significantly impede or interfere with the free and reasonable movement of motor vehicles, bicyclists, or pedestrians upon Town ways, crosswalks, pathways, or sidewalks; or impair safe sight distances for turning vehicles from such Town ways or sidewalks in and out of private ways and parking areas. The Town Clerk shall provide approved Street Vendors and Peddlers with a list of these events and any corresponding blackout dates each year; provided, however, that this list is subject to change.

6. Locations of Street Vendors and Peddlers may be denied if:
  - a. The proposed location would create a nuisance, blight, safety, or public health hazard;
  - b. The proposed location would significantly impede or interfere with the free and reasonable movement of motor vehicles, bicyclists, or pedestrians upon Town ways, crosswalks, pathways, or sidewalks, or impair safe sight distances for turning vehicles from such Town ways or sidewalks in and out of private ways and parking areas;
  - c. The proposed location does not meet ADA standards or sidewalk clearance; or
  - d. The requested location is within the Historic District and a certificate of appropriateness from the Historic Preservation Committee has not been issued
  - e. Applicant shall comply with all local ordinances by permit of the Code Enforcement Officer.

7. The Municipal Officers shall have the authority to issue one additional license to a Street Vendor or Peddler that desires to participate in an event sponsored by a non-profit or charitable organization; provided that the Street Vendor or Peddler submit a proposal to the Municipal Officers which designates a portion of the Street Vendor’s or Peddler’s sales to the organization sponsoring that event. Applications shall be submitted in accordance with this Ordinance; provided, however, that applications may be submitted at any time during the year and the associated fees shall be established by the Municipal Officers as set forth in the fee schedule.

### **6-1.6: General Provisions**

1. Street Vendors and Peddlers shall maintain in full force and effect at all times a policy of comprehensive public liability insurance with limits of not less than one million dollars (\$1,000,000), naming the Town of Kennebunk as additional named insured. A certificate of insurance must be provided before a Street Vendors or Peddlers license is issued.
2. Street Vendors and Peddlers may operate on publicly owned or controlled property in the Waterhouse Center Zone within the hours of 7:00 am – 10:00 pm Monday – Saturday and 9:00 am – 10:00 pm Sunday, local prevailing time, in conformance with all provisions of the Town's Noise Control Ordinance, Section 3-19. Street Vendors and Peddlers may operate on private property within the Waterhouse Center Zone only after 10:30 pm. Street Vendors and Peddlers in all other approved locations shall not be limited by the hours of operation set forth in this paragraph.

### **6-1.7: Performance Standards**

1. A Street Vendor or Peddler shall not operate in a way that would restrict or interfere with ingress to or egress from any building, abutting parcel or public place or obstruct adequate access by fire, police or sanitation vehicles, and shall not interfere with pedestrian flow on the sidewalk.
2. All utilities shall be provided through a service area as designated by the Town, and all connections shall be determined secured and safe by inspection of the Town's designated official. Street Vendors and Peddlers in the Waterhouse Center Zone shall not be permitted to utilize generators unless expressly permitted and approved by the Municipal Officers on the basis that they will not create a noise nuisance.
3. The operations area shall be kept clean and free of litter. Public trash receptacles on the street shall not be used by Street Vendors or Peddlers. All trash shall be disposed of in conformance with the Town's Rubbish Ordinance, Section 3-2.

### **6-1.8: Mobile Vending Units**

1. The design and appearance of all Mobile Vending Units shall conform to the following specifications:
  - a. **Materials:** Mobile Vending Units may be commercial construction or individually constructed. All carts shall be made of solid, durable materials.

- b. Color: Neon and fluorescent as predominant colors are prohibited.
  - c. Shape: "Theme" carts or stands, such as one in the shape of hot dogs, are prohibited.
  - d. Size: Maximum dimensions of a Mobile Vending Unit located in certain designated spaces within the Waterhouse Center Zone shall cover no greater than 80 square feet. Maximum height of the Mobile Vending Unit located in certain spaces within the Waterhouse Center Zone as designated by the Municipal Officers shall be ten (10) feet from the top of the Mobile Vending Unit to the bottom of the Mobile Vending Unit where it (or its wheels) touches the ground. No signs, awnings or canopies shall be permitted to protrude from the Mobile Vending Unit in excess of two feet of these dimensions in any direction. All other Mobile Vending Units shall be limited in size only as required for the purposes of public safety pursuant to their approved locations.
- 2. Awnings and umbrellas shall be free standing without the use of poles, constructed of a non-rigid, flame retardant fabric such as, but not limited to, canvas, rip stop nylon or soft plastic.
- 3. The hitch shall be visually identified for safety purposes with a wrapper, bicycle type flag or other similar unobtrusive identifying device such as a cone which does not obstruct the clear area and which meets the requirements of the federal Americans with Disabilities Act.
- 4. Mobile Vending Units are allowed the following signs subject to the following requirements.
  - a. No more than two (2) signs, including lettering on an umbrella or awning, are permitted on each Mobile Vending Unit. In addition, one menu board is permitted and shall be no larger than six (6) square feet.
  - b. Each sign shall be secured to the cart and shall not extend in any direction beyond the maximum measurements of the cart as outlined in Section 6-2.7.1(d) above.
  - c. Each sign face shall be counted as one sign.

- d. Free standing signs are allowed per the sign ordinance (sandwich boards limited to 12 square feet).
  - e. Sign design shall be in accordance with Article 10, Section 7 of the Town's Zoning Ordinance.
  - f. Digital signage shall be prohibited.
5. Mobile Vending Unit lighting shall conform to the following requirements:
- a. Lighting shall not increase the light level at the perimeter of the operations area by more than 5 foot candles above the ambient light level. However, total maximum lighting at the perimeter of the operations area shall not exceed fifteen (15) foot candles.
  - b. Light sources shall be aimed or shielded so that the light projects downward and in no case shall the angle be less than 20 degrees below horizontal.
6. Items, except for those located on the Mobile Vending Unit, are limited to the following: one trash receptacle and one recycling receptacle. These items shall be located immediately adjacent to or under the Mobile Vending Unit. An unobstructed walkable path around the Mobile Vending Unit and a sufficient area in which customers may safely queue when ordering and waiting for food must be provided.
7. No animals shall be attached to the cart except for guide animals.
8. No amplified sound, such as music, shall be permitted from any Mobile Vending Unit. Street Vendors and Peddlers shall not shout, call out or hail motorists or passersby in a loud voice or by approaching or otherwise hawking goods.
9. The Mobile Vending Unit shall meet all local, state and national fire, safety and health codes.
10. Each Mobile Vending Unit shall display its valid State and local food service, victualer's and Street Vendors licenses in a visible location.
11. Mobile Vending Units located within the Waterhouse Center Zone under the canopy of the Waterhouse Center may be subject to additional regulations as determined necessary and appropriate generally for such units by the Board of Selectmen for the public health and safety including, but not limited to, a prohibition on the use of propane, charcoal or other

fuel sources for cooking under the canopy or certain provisions to prevent units from leaking on the floor of the Waterhouse Center.

#### **6-1.9: Revocation of License**

1. Licenses issued under the provisions of this Ordinance may be revoked by the Municipal Officers after notice and hearing for any of the following causes:
  - a. Fraud, misrepresentation or false statement contained in the application for license;
  - b. Fraud, misrepresentation, or false statement made in the course of carrying on his or her business as a peddler;
  - c. Any violation of this Ordinance;
  - d. Conviction of any crime or misdemeanor involving moral turpitude;  
or
  - e. Conducting the business of peddling in any unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.
2. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at the licensee's legal address at least five (5) days prior to the date set for hearing.

#### **Section 6-1.10: Expiration of License**

All licenses issued under this Ordinance shall expire one year from the date of issuance. Licenses issued in the first year following adoption of this Ordinance shall be valid from the date of issuance through January 31, 2016.

#### **Section 6-1.11: Appeal**

Any person aggrieved by the action of the Town Clerk or Town Manager in the disapproval of an application or location as provided in Section 6-2.3 and 6-2.4 of this Ordinance shall have the right of appeal to the Municipal Officers.

Such appeal shall be taken by filing with the Board of Selectmen within fourteen (14) days after notice of the action complained of has been mailed to such person's legal address, a written statement setting forth fully the grounds for the appeal. The Board of Selectmen shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in Section 6-2.4 of this Ordinance for notice of hearing on revocation. The decision and order of the Board of Selectmen on such appeal shall be final and conclusive. Any person aggrieved by the action of the Municipal Officers shall have the right to appeal to Superior Court within 30 days of said action.

### **Section 6-1.12: Enforcement & Penalties**

1. This Ordinance shall be enforced by the Town's Code Enforcement Officer or his or her designee.
2. Any person aggrieved by a decision of the Code Enforcement Officer shall have the right to appeal that decision to the Board of Appeals. An appeal must be filed in writing with the CEO within ten (10) days after the "date of issuance" inscribed by the Code Enforcement Officer on a written notice of decision sent to the alleged violator.
3. Any person violating this ordinance shall commit a civil violation, punished by:
  - a. For the first offense, a civil penalty of \$100 per day per occurrence;
  - b. For the second violation, revocation of the license by the Municipal Officers.

### **Section 6-1.13: Amendments**

The Board of Selectmen may, after public notice and hearing, amend this Ordinance and draft and adopt regulations implementing the terms of this Ordinance on any matter not expressly set forth herein or as otherwise provided by law.

PASSED 03-05-1923; AMENDED 06-12-2002; AMENDED 06-21-2011;  
AMENDED 12-09-2014

# **6-3 Victualer & Lodging Licenses**

## 6-3 VICTUALER & LODGING LICENSES

### 6-3.1 Definitions

The following definitions (as found in Title 22 M.R.S.A., Section 2491) shall have the following meanings for use in this Ordinance.

**Camping Area** - "Camping area" means, in addition to the general accepted interpretations, seashore resorts, lakeshore places, picnic and lunch grounds or other premises where tents or recreational vehicles are permitted to be parked for compensation either directly or indirectly.

**Catering Establishments** - "Catering establishments" means any kitchen or similar place in which food or drink is prepared for sale or service elsewhere or for service on the premises during special catered events.

**Cottage** - "Cottage" means a single structure where sleeping accommodations are furnished to the public as a business for a day, week, or month, but not for more than the entire summer season.

**Culinary Tasting Event** – "Culinary tasting event" means an activity in which food and/or drink is prepared for on-site consumption in a very limited amount by any one individual for sampling and/or comparison purposes only and not meant as a full meal.

**Eating And Lodging Places Or Lodging Place** - "Eating and lodging place" or "lodging place" means every building or structure or any part thereof kept, used as, maintained as, advertised as or held out to the public to be a place where eating and sleeping or sleeping accommodations are furnished to the public as a business, such as hotels, motels, guest homes, bed and breakfasts and cottages.

**Eating Establishment** - "Eating establishment" means any place where food or drink is prepared and served or served to the public for consumption on the premises or catering establishments, or establishments dispensing food from vending machines, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments, private or public institutions routinely serving food, retail frozen dairy product establishments, airports, parks, theaters, vacation camps or any other catering or non-alcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or

where foods are prepared for vending machines dispensing food other than in original sealed packages.

**Farm and Food products** – Any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits and fruit products, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, maple products, apple cider, fruit juice, wine, ornamental or vegetable plants, nursery products, firewood and Christmas trees. (06-21-2011)

**Farmers' Market** – A building, structure or place used by two (2) or more farmers for the direct sale of farm and food products to consumers. A person may not sell farm and food products at a market labeled "farmers' market" unless at least 75% of the product offered by that person was grown or processed by that person or under that person's direction. A product not grown or processed by that person must have been purchased directly from another farmer. (06-21-2011)

**Mobile Eating Place** - "Mobile eating place" means a mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and capable of being moved from its serving site at any time.

**Vending Machine Establishment** - "Vending machine establishment" means any establishment preparing foods for vending machines dispensing foods other than in original sealed packages.

**Vending Machine** - "Vending machine" shall mean any self-service device offered for public use, which, upon insertion of a coin, coins, or token by other similar means, dispenses unit servings of food without the necessity of replenishing the device between vending operations.

**Retail Frozen Dairy Product Establishment** - "Retail frozen dairy product establishment" means any place, premise or establishment and any part thereof where frozen dairy products, such as ice cream, frozen custard, ice milk, sherbet, ices and related food products are prepared for consumption on or off premises.

### 6-3.2

Any person, corporation, firm or co-partnership operating or managing any eating establishment or lodging place in the Town must be licensed to do so by the Maine Department of Health and Human Services. (06-21-2011)

### 6-3.3

No person, corporation, firm or co-partnership shall operate as an eating establishment without first obtaining a victualer license from the Municipal Officers of the Town of Kennebunk. Said victualer license shall not be granted without proof that the applicant possesses or is in the process of obtaining an applicable state license.

A copy of said license or approved document by a state inspector must be submitted for all renewals with the application for a victualer license before a victualer license will be issued. (2-24-2010)

Victualer licenses will set forth the maximum number of seats permitted for each licensee. Licensees must comply with the seating capacity requirements contained in the Town victualer license, regardless of whether a conflicting number exists in state license applications, approvals or other documents. Failure to comply with the seating capacity limitations contained in the victualer license shall be grounds for license revocation under this Ordinance. (06-21-2011)

#### **6-3.4**

No person, corporation, firm or co-partnership shall operate as an innkeeper, tavernkeeper or lodging house without first obtaining a lodging license to do so from the Lodging Licensing Board of Kennebunk, in accordance with Title 30-A, M.R.S.A., Sections 3811-3812, as well as any applicable state licenses.

All victualer and lodging licenses are site-specific. Each site requires a separate license. Any change in site location requires a new application by the owner of said business from the Town Clerk's office.

#### **The Fees for victualer and lodging licenses are in the Fee Schedule:**

- 1.) Victualer License \* \*\*
  - a) Culinary Tasting Event
  - b) Mobile Eating Place
  - c) All other Eating Establishments
  
- 2.) Lodging (Innkeeper) License \* \*\*

\* Fees shall be as shown on a fee schedule set by vote of the Board of Selectmen each year, after notice and hearing. (06-12-2002)

\*\* For new applications the fee may be set by the Board of Selectmen. (2-24-2010)

#### **6-3.5 Issuance and Revocation/Suspension of Licenses**

A) Victualer Licenses. The Municipal Officers shall hold a Public Hearing within thirty (30) days following the Town Clerk's receipt of a completed application and payment of appropriate fee(s). The Municipal Officers, called the "Victualer Licensing Board," shall meet on a date and at a time and place in said Town, which they shall appoint, by posting notices in at least two (2) public places, at least seven (7) days prior to the meeting, stating the purpose for the meeting. Notwithstanding any contrary provision of this Ordinance, the Town Clerk or designee, and the Town Manager or designee shall have the authority to issue renewal licenses under this Ordinance, provided that a license has not been suspended or revoked during the prior license year. If a license has been suspended or revoked during the prior license year, the renewal license application shall be reviewed by the Licensing Board. (06-14-06; 2-24-2010; 06-21-2011)

A victualer license shall be granted if the property in question complies with all federal, State, and local laws and the applicant demonstrates that the victualer's premises will be conducted in a healthful and sanitary manner so as not to jeopardize the public health, safety or welfare. (06-21-2011)

All victualer licenses shall expire on May 31 annually; provided however, that any license issued after March 1 shall be valid until May 31 of the following year. The Town Clerk shall notify all currently licensed establishments of the need to renew. Victualer licenses must be displayed for the public on the premises. (06-21-2011)

A victualer's license may, after notice and public hearing, be suspended or revoked by the Victualer Licensing Board for non-compliance with local and state laws and regulations. (06-21-2011)

When the Town Manager or designee believes a victualer license should be suspended or revoked, he shall notify the Victualer Licensing Board and it shall give notice of a public hearing in the same manner as set forth above to decide whether such suspension or revocation shall be ordered. (2-24-2010; 06-21-2011)

Whenever, upon inspection, conditions are found that violate this Ordinance or regulations adopted thereunder, or which may endanger the life, health or safety of persons patronizing any victualer established under this Ordinance, the Code Enforcement Officer or designee may request an emergency suspension of the victualer license issued and shall provide a copy of the notice in the same or faster means to the licensee. The Victualer Licensing Board may grant such an emergency suspension subject to reinstatement following a public hearing before the Board if cause is not shown by the Code Enforcement Officer or designee. (06-21-2011)

A licensed victualer may, at any time after the suspension of the license, make application in writing for the reinstatement of the license to the Town Clerk and such application shall be submitted to the victualer Licensing Board for action. (06-21-2011)

B) Lodging Licenses. The Municipal Officers shall act as the Town's Lodging Licensing Board and shall have the authority to grant, deny, suspend or revoke any lodging license in accordance with state law, as set forth in Title 30-A M.R.S.A., Sections 3811-3814. The Lodging Licensing Board shall meet annually during the month of May on a date and at a time and place in the Town that they determine or at any other time if necessary. At least seven (7) days before the meeting, the Board must post notices stating the purpose of the meeting in at least two (2) public places in the Town. The Lodging Licensing Board shall license as many persons of "good moral character" as will not adversely affect the public and general welfare. A lodging license shall be granted if the property in question complies with all federal, state, and local laws and the applicant demonstrates that the premises will be conducted in a healthful and sanitary manner so as not to jeopardize the public health, safety and welfare. The license must specify the building in which the business will be conducted and any licensing restrictions and regulations that the Lodging Licensing Board considers necessary. (06-21-2011)

The Lodging Licensing Board may revoke or suspend any lodging license in accordance with state law. A lodging license may not be revoked or suspended until an investigation and hearing have taken place and the licensee has been afforded his/her due process under the law. (06-21-2011)

All lodging licenses must be displayed for the public on premises and shall expire one year after issuance. The Town Clerk shall notify all currently licensed establishments of the need to renew. (06-21-2011)

C) No license shall be transferred or assigned by the business operator. The business operator must be the licensee. (06-21-2011)

D) The issuance of the licenses provided for in this section of the ordinance does not provide exemption from other local laws, ordinances or regulations. (2-24-2010)

E) A temporary victualer license may be approved by the Town Manager or designee, provided that the applicant has no prior safety violations. Such a temporary license shall be valid for no more than thirty (30) days and shall be reviewed by the Board of Selectmen before the expiration of that time period at a duly noticed public hearing held in accordance with the licensing procedures set forth above. (06-21-2011)

### **6-3.6 Right to Enter Premises**

The Town Manager or designee has the right, without an administrative inspection warrant, to enter upon and into the premises of any establishment licensed pursuant to this section of the Town Ordinances where he or she has reason to believe there is an immediate threat to the health, safety or general welfare of the public at large. (2-24-2010)

### **6-3.7 Fines and Penalties**

Any person, corporation, firm or co-partnership that operates any eating establishment, eating and lodging place, lodging place or camping area without first obtaining a license as required by this Ordinance shall be punished, upon adjudication, by a fine as set by the Board of Selectmen's fee schedule, and upon a second or subsequent adjudication, shall be punished by a fine as set by the Board of Selectmen's fee schedule. Each day any such person, corporation, firm or co-partnership operates without obtaining a license constitutes a separate offense.

### **6-3.8 Exemptions**

Private homes shall not be deemed or considered lodging places and subject to a license where not more than 3 rooms are let. A license shall not be required from any boarding care facilities or children's homes, which are licensed by the state.

Stores or other establishments, where food or drink is sold for consumption from the original containers, and which are not classified as an eating establishment, do not have tables, chairs, glasses or other utensils provided in connection with such sale, shall not be considered eating establishments within the meaning of this Ordinance. At such establishments, straws or spoons may be provided to aid in the consumption of such food and drink, provided they shall be supplied in original individual single service sterile packages. (2-24-2010; 06-21-2011)

Nonprofit organizations including, but not limited to, churches, 4-H clubs, scouts, schools and agricultural societies shall be exempt from this Ordinance's rules and regulations relating to dispensing foods and non-alcoholic beverages at not more than 12 public events or meals within one calendar year.

Businesses participating in ~~the Kennebunk~~ a farmers' market located in ~~a Town approved location~~ ~~the Town parking lot~~ are exempt from the requirements of this Ordinance during the hours the farmers' market is in operation. (06-21-2011)

### **6-3.9 Special Events**

Businesses that currently hold appropriate licenses from the state Department of Health and Human Services may apply for a Town victualer license to sell at

special events for example, but not limited to: May Day, Concert in the Park, August Sidewalk Sales Days, Christmas Prelude, or any other public event on public or town owned property.

Applicants must provide their valid state licenses to the Town Clerk's Office in advance of the event. The application submitted to the Town Clerk's Office must include a copy of the current, valid state licenses (if not on file with the Clerk's Office) and payment of the fee as set by the Board of Selectmen.

A) For currently licensed Kennebunk businesses:

See the Fee Schedule for a 1 or 2 day event.

See the Fee Schedule for 3 days or more, but no more than 30 day event

A business is allowed up to two (2) remote locations within the designated event area, provided the vendor has an existing Kennebunk victualer license.

B) For all other businesses not holding a Kennebunk victualer license:

See the Fee Schedule for the Fee, per event

All other applicable provisions of the Victualer & Lodging License Ordinance govern the issuance of any license. (2-24-2010; 06-21-2011)

### **6-3.10 Outdoor Dining Permits**

The outdoor expansion of any eating establishment onto a street, way or public place in the Town shall require an outdoor dining permit issued pursuant to rules and regulations established by the Board of Selectmen. Among other requirements, outdoor dining permit applicants shall provide proof of insurance and ensure ADA compliance. (06-21-2011)

### **6-3.11 Fees**

Fees shall be as shown on a fee schedule set by vote of the Board of Selectmen each year, after notice and hearing. (06-12-2002)

### **6-3.12 Administrative / Housekeeping Adjustments**

The Board of Selectmen shall have the authority, after public notice and hearing, to draft and adopt regulations implementing the terms of this ordinance on any matter not otherwise expressly provided for herein or otherwise by law. (2-24-2010)

ADOPTED JUNE 15, 1994; AMENDED 06-12-2002; 06-09-2004, 06-14-06;  
AMENDED 02-24-2010; AMENDED 06-21-2011