



# TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904  
Telephone: (207) 475-1329 Fax: (207) 439-6806

December 10, 2018

Council Chambers

**Workshop**  
**Town Council to discuss 2019 Goals and FY 20 Budget Goals**  
**5:30 p.m.**

Kittery Town Council  
Regular Meeting  
6:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes –
  - October 10<sup>th</sup>, 2018 – Regular Meeting
  - October 22<sup>nd</sup>, 2018 – Regular Meeting
  - October 22<sup>nd</sup>, 2018 – Special Meeting
8. Interviews for the Board of Appeals and Planning  
  
Board of Appeals **(two appointments until 12/31/21)**
  - Vern Gardner
  - Suzanne Dwyer-Jones
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.  
  
(120118-) The Kittery town council moves to accept the FY18 Audit Report
10. PUBLIC HEARINGS
  - a. (120118-1) The Kittery Town Council moves to hold a public hearing and ordain amendments to Title 16.8 - Signs.
  - b. (120118-2) The Kittery Town Council moves to hold a public hearing and ordain amendments to Title 16- Shoreland and Resource Protection Zones.
11. DISCUSSION
  - a. Discussion by members of the public (three minutes per person)
  - b. Response to public comment directed to a particular Councilor
  - c. Chairperson's response to public comments

12. UNFINISHED BUSINESS

13. NEW BUSINESS

- a. Donations/gifts received for Council disposition.
- b. (120118-) The Kittery Town Council moves to approve the disbursement warrants.
- c. (120118-) The Kittery Town Council moves to approve a renewal application from First Serve Hospitality Group, 326 US Route 1, Kittery for a Malt, Vinous and Spirituous Liquor License for Robert's Maine Grill, 326 US Route 1.
- d. (120118-) The Kittery Town Council moves to approve and sign the School Department policy on Disbursement Warrants for School Employee Wages and Benefits, designating three School Committee Members who may review, approve and sign such warrants, to expire on November 30, 2019.
- e. (120118-) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Conservation Commission to interview Karen Saltus for reappointment to that board until 12/31/21.
- f. (120118-) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Conservation Commission to interview Earldean Wells for reappointment to that board until 12/31/21.
- g. (120118-) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Trustees of Trust Funds to interview Jeffrey Thomson for reappointment to that board until 12/31/21.
- h. (120118-) The Kittery Town Council moves to appoint a representative to meet with the chair of the Economic Development Committee to interview Thomas Battcock-Emerson for reappointment to that board until 12/31/21.
- i. (120118-) The Kittery Town Council moves to appoint a representative to meet with the chair of the Board of Assessment Review to interview Joseph Afienko for reappointment to that board until 12/31/21.
- j. (120118-) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Shellfish Conservation Committee to interview Daniel Clapp for reappointment to the board until 12/31/21.
- k. (120118-) The Kittery Town Council moves to schedule a public hearing on Monday, January 14, 2019, to discuss proposed amendments to Title 8- Blasting Ordinance.
- l. (120118-) The Kittery Town Council moves to approve the amendment to the Town Manager's contract.
- m. (120118-) The Kittery Town Council moves to adopt the charge for the Comprehensive Plan Committee.

14. COUNCILOR ISSUES OR COMMENTS
15. COMMITTEE AND OTHER REPORTS
  - a. Communications from the Chairperson
  - b. Committee Reports
16. EXECUTIVE SESSION
17. ADJOURNMENT

Posted: December 06, 2018



# TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

kamaral@kitteryme.org

## Town Manager's Report to the Town Council December 10, 2018

- 1. Holiday Hours** – In recognition of the holidays, Town Hall will be closing at 1PM on December 24 and December 31. We wish all a safe and joyous holiday season.
- 2. Joint Land Use Study** – The Joint Land Use Study had its kick-off meeting with the Policy Committee and the Working Group on November 27. It was well attended, with representation from multiple regional planning agencies, Maine and New Hampshire DOTs, the towns of Eliot and York, the City of Portsmouth, and the offices of our Federal and State delegations. Stantec has been selected to conduct the study analysis and assist in identifying and evaluating options for addressing the impacts of the Shipyard on Kittery and the region. This effort is funded by the Office of Economic Development, with a grant of \$247,605.
- 3. Library Committees Update** – The Library Building Committee has reviewed the nine design proposals received and short-listed three firms. Interviews with the three firms will be conducted on December 11. The Committee plans to select a preferred design team following the interviews.

The Library Transition Committee has completed its inventory of assets and a detailed analysis of the staff benefit comparisons. A proposal for strategies to address differences in the staff benefits is being finalized. The Library Board will need to vote on the following as well as concur on various logistically items associated with the transition:

- Whether to become a town department
- Whether to retain a 501c3 Board or become a Town Board
- Whether to retain management of certain cash assets in trust, or to have the cash assets incorporated into the Town's "other funds" accounts (the cash assets allocated are still to be negotiated).

The Taylor Building Committee was instrumental in launching the Foreside Development survey and is awaiting the results, along with information from the Rice Building Committee to inform the development of next steps. Construction phasing will significantly impact the timing of their work.

- 4. Walker/Wentworth Street Project** – Town Staff have received the Preliminary Design Review plans for the Walker/Wentworth Street Project. Generally, the plans are consistent with the Town's goals and objectives including improving the sidewalks, adding crosswalks along Walker, improving the Walker/Government/Wentworth signalized intersection, preserving the cork tree, and adding sidewalks on both sides of Wentworth. This project is slated for 2021 and is 90% funded by state and federal funds.
- 5. Whipple Road** – Town Staff continue to work with MaineDOT, the utility companies, and the residents to finalize the utility easements for this sidewalk project. Two of the easements sought have been determined to no longer be needed due to a design modification, and two more are still in process. Once the easements are obtained, MaineDOT will begin the Right of Way process and design will be finalized. This project is 80% funded by state and federal funds.

**6. Bus Depot** – I have been informed by Attorney Dale that Mr. Dineen has been ordered to clear all motor vehicles from the site within 60 days or he will be found in contempt and likely see additional jail time. The status of the vehicle storage is being monitored by Kittery Police.

**Upcoming Dates:**

- Breakfast with Santa – December 15, 8:30AM, Kittery Community Center
- Town Hall Closes at 1PM – December 24, and December 31
- George Kathios Retirement Party – January 3, 6PM, Kittery Community Center

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Kendra', with a long horizontal flourish extending to the right.

Kendra Amaral  
Town Manager

1  
2  
3  
4  
5  
6

**Kittery Town Council  
October 10, 2018  
Regular Meeting – 6:00 p.m.  
Council Chambers**

7 1. Call to Order: Chairperson Lemont called the meeting to order at 6:00 p.m.

8  
9 2. Introductory: Chairperson Lemont read the introductory.

10  
11 3. Pledge of Allegiance: Chairperson Lemont led those present in the Pledge of Allegiance.

12  
13 4. Roll call: Answering the roll were Councilors Frank Dennett, Jeffrey Pelletier, Jeffrey  
14 Thomson, Matthew Brock, Gary Beers, Vice-Chairperson Charles Denault and Chairperson Kenneth  
15 Lemont.

16  
17 4. Agenda Amendment and Adoption: Chairperson Lemont asked if there were any adjustments to  
18 the agenda.

19  
20 Councilor Pelletier said he had one item, (i) “The Kittery Town Council moves to appoint Bradford  
21 Connolly to the Board of Assessment Review for a term that would extend from his appointment until  
22 12/31/21.”

23  
24 Chairperson Lemont said he would cast one vote to accept the agenda as amended.

25  
26 6. Town Manager’s Report:

27  
28 Town Manager Amaral reported that the Speed Reduction request for 25 mph on State Road has been  
29 received by MDOT and usually takes anywhere from 4 to 6 months for a response from them.

30  
31 Town Manager Amaral said the tax commitment has been completed and the bills were mailed out on  
32 Sept. 26<sup>th</sup>. She said they had approved 40 applicants for the Senior Tax credit, which provides \$1,000 in  
33 credit. She said that the income threshold has been met. She said they also approved two tax deferrals  
34 and one payment plan.

35  
36 Town Manager Amaral said that, as Councilor Brock discussed at the Sept. 24<sup>th</sup> meeting, we are working  
37 with the Workforce Housing Coalition of the Greater Seacoast and will be having a workshop on October  
38 24<sup>th</sup> and 26<sup>th</sup>. She said it starts with a site walk on the 24<sup>th</sup> and a “Community Listening Session” on the  
39 26<sup>th</sup>. She said volunteer teams of designers will be getting together to sketch out plans and will present  
40 them to the community that evening. She said the information will also be on the town’s website.

41  
42 Town Manager Amaral said that the Parks Commission is conducting a survey of visitors’ experiences at  
43 Fort Foster to guide them in the operational needs of the future and recommendations for what needs to  
44 be done to plan for the future. She said they have received 700 responses already. She said the survey  
45 is available online and forms are also available at the Town Hall, the Kittery Community Center and Rice  
46 Library.

47  
48 Town Manager Amaral announced that Steve Hamel retired on Sept. 28<sup>th</sup> and served with distinction for  
49 almost 30 years. She said he is an expert on drug enforcement and served on a number of regional drug  
50 enforcement agency projects and, for the past five years, has been involved with the Drug Enforcement  
51 Agency, helping remove illicit drugs from the distribution stream up and down this area in New England.

53 Town Manager Amaral said Detective Hamel is credited with helping with drug busts, arrests and  
54 prosecutions to reduce the access to illegal drugs. She wished him the best on his retirement.  
55

56 Town Manager Amaral stated upcoming dates: Absentee Ballots are still available three Nov. 1<sup>st</sup>;  
57 October 26<sup>th</sup> from 6-8 is Voter Registration, Trick or Treat is 5-8 on October 30<sup>th</sup> and November 6<sup>th</sup> and  
58 the polls will be open 8 am until 8 pm at the Kittery Community Center.  
59

60 Vice-Chairperson Denault said that Steve Hamel's service to this town has been outstanding. He said he  
61 has worked with him personally, as a former NH State trooper, when Detective Hamel started.  
62

63 Vice-Chairperson Denault addressed the Town Manager, through the Chair, and said perhaps, as a  
64 Town Council, they could look at drafting a resolution recognizing Detective Hamel's extraordinary  
65 service to the town. He said Detective Hamel has gone over and above what he had to do while working  
66 undercover, putting himself in harm's way in a lot of cases and is a testament to his dedication to this  
67 town.  
68

69 Chairperson Lemont asked for Council consensus and Council agreed.  
70

71 Councilor Thomson said he is amazed and dismayed at DOT's response to their speed reduction request  
72 on State Road that it will take six to eight months! He said he is sure that Councilor Denault shares his  
73 concern in that he hoped they could get somebody here to talk to them from DOT about this issue and  
74 invite the residents to attend. He asked, through the Chair, to the Town Manager, that this is not  
75 possible and wanted to know if that this is the only way DOT will deal with their request?  
76

77 Town Manager Amaral replied the way the DOT handles speed reduction requests, they follow MUTCD  
78 the Manual of Uniform Traffic Control Developments and public input is not part of the process. She said it truly  
79 is an engineering process.  
80

81 Councilor Thomson said they still have the summer traffic and he would like to talk to someone about it.  
82 He said there will be a change in administration in August. He said this doesn't have to happen within 60  
83 days, but shortly after the first of the year, they should have a discussion with DOT.  
84

85 Chairperson Lemont addressed the Town Manager and said he did not think it is inappropriate to reach  
86 out to DOT and see if that could be done.  
87

88 Chairperson Lemont said that the Kittery Affordable Workforce Housing Workshop target location  
89 currently is at the old Fire Station and wanted to know if the abutters have been notified?  
90

91 Councilor Brock responded he believed that the notice has gone out.  
92

93 7. Acceptance of Previous Minutes: none  
94

95 8. Interview for the Board of Appeals and Planning Board: none  
96

97 9. All items involving the town attorney, town engineers, town employees or other town consultants  
98 or requested officials: none  
99

100 10. PUBLIC HEARINGS:  
101

102 a. (100118-1) The Kittery Town Council moves to hold a public hearing and approve an  
103 application from Chuang Hua Weng for a new Victualer's License for Chun Ping Lau Chinese Restaurant  
104 at 435 U.S. Route 1, Suite 4, Kittery.  
105

106 Chairperson Lemont said that the Code Enforcement Officer has conducted the inspection and has  
107 found the business to be in compliance with the Kittery Town Code.  
108

109 Chairperson Lemont asked if anyone wished to speak to, for or against the application to do so, and to  
110 keep their comments within the three-minute timeframe. He opened the public hearing at 6:14 p.m.  
111 Seeing none, Chairperson Lemont closed the public hearing.  
112

113 **COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE**  
114 **APPLICATION FROM CHUANG HUA WENT FOR A NEW VICTUALER'S LICENSE FOR CHUN PING**  
115 **LAU CHINESE RESTAURANT AT 435 U.S. ROUTE ONE, SUITE 4, KITTERY. COUNCILOR**  
116 **PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN AND APPROVED 6-0-1,**  
117 **SIX IN FAVOR, NONE OPPOSED, ONE ABSTENTION (CHAIRPERSON LEMONT). MOTION**  
118 **CARRIES.**  
119

120 11. DISCUSSION:  
121 a. By members of the public  
122

123 Chairperson Lemont asked if anyone wished to speak to do so at this time and to respect the three-  
124 minute time frame.  
125

126 Filomena Knowles of 2 Estuary Drive, said she is a friend of Spinney Creek and asked the Town Council  
127 to help them. She said that Council is aware that the Spinney Creek Shellfish Company has applied for  
128 a lease permit to put in 800 oyster cages and take over four acres of the creek.  
129

130 Ms. Knowles said that Vice-Chairperson Denault has a photo on his website of what it will look like and it  
131 is awful, but it's too bad he doesn't have smell-o-vision so you can smell the odor. She said she  
132 understands the town has no jurisdiction over this, that the Dept. of Marine Resources grants leases, but  
133 Council is in a prime position to communicate to the Dept. of Marine Resources the concerns of the  
134 Kittery residents. She said 400 people signed a petition opposing this lease.  
135

136 Ms. Knowles said they are introducing a commercial enterprise in a residential zone and the size is  
137 significant – it is like the size of the Hindenburg falling out of the sky. She said actually the Hindenburg  
138 was wider. She said they are putting a commercial aquaculture factory in a residential zone with 60+  
139 homes.  
140

141 Ms. Knowles said she and other residents are trying to preserve the quiet, scenic Spinney Creek that  
142 they love and by the Town Council being silent, they will assume that Kittery residents are fine with this  
143 and that is incorrect. She wanted to know if the Town Council could contact the Dept. of Marine  
144 Resources with their concerns and opposition. She thought there should be another place for this large,  
145 commercial venture.  
146

147 Chairperson Lemont said he will address her concerns but he wants to give everyone a chance to speak.  
148

149 Ms. Knowles said they have 30 days from the hearing to reply, which was Sept. 27<sup>th</sup> and asked if wanted  
150 the e-mail.  
151

152 Chairperson Lemont asked if she would like to share that information with them, to give it to the Town  
153 Manager. Ms. Knowles gave the information to the Town Manager.  
154

155 Kathy Lamoine, One Saltwater Creek Way, wanted to update the Town Council on their adjudicated  
156 hearing with the Dept. of Marine Resources. She said some residents attended, but most of them went  
157 home by the time they were able to testify. She read her statement.  
158



159 Mrs. Lamoine said one issue is the Army Corps of Engineers definition of navigable water as the ebb and  
160 flow of the water, and since the tidal gate is closed, one cannot get to the open sea. She said they also  
161 had restricted guidelines on what they could speak about, ingress, egress, public enjoyment of land  
162 owned by the Federal government, fishing.

163  
164 Mrs. Lamoine said the Howells spoke for 45 minutes followed by a lengthy discussion by experts, and  
165 representatives from the Dept. of Marine Resources and Army Corps of Engineers. She said they finally  
166 were allowed to speak at 10:00 p.m., 4 hours later, when a lot of people had to go home. She said they  
167 were limited to speak for five minutes each.

168  
169 Mrs. Lamoine said the official from the DMR was standing there with a timer and they could not speak  
170 about the proposal that would unreasonably interfere with the area noted but not to property values, view  
171 and odor.

172  
173 Mrs. Lamoine said that Spinney Creek is unique and is a land-locked salt water pond. She said there is  
174 only one commercial business on Spinney Creek, and that is Spinney Creek Shellfish. She said over 60  
175 residents live there and have enjoyed the ambience of living on this body of water. She said they use  
176 the creek as an extension of their back yard where the swim, paddle and fish.

177  
178 Mrs. Lamoine said in the nine years they have lived there, they have never been contacted by the  
179 Howells prior to their application and renewals to the Dept. of Marine Resources. She said this was  
180 supposed to be a scoping session, and we heard from witnesses for the Howells, but not the riparian  
181 owners. She said they sent a letter to the director of DMR, Patrick Kelleher and John Lewis, who was  
182 present at the hearing, with over 400 signatures requesting this application be denied until a scoping  
183 session is held and everyone is heard.

184  
185 Norman Lamoine, One Saltwater Creek Way, said they came to the Sept. 10<sup>th</sup> Town Council meeting  
186 and the Chair closed out the public discussion. He said he reached out to the owner and she was  
187 respectful and would answer questions. He said he wanted to clarify for the record that the Spinney  
188 Creek hearing on Sept. 27<sup>th</sup> which was required by the Dept. of Marine Resources, we each had five  
189 minutes to speak.

190  
191 Mr. Lamoine said they never shared any of the plans with the property owners and they avoided  
192 discussing their plans. He said they should maintain an open dialogue with the residents but this did not  
193 occur nor did it occur with each license renewal, and certainly not with this application. He said they did  
194 not have a scoping session and they never got the chance to voice their opinions. He said after-the-fact  
195 awareness is not the same.

196  
197 Mr. Lamoine felt the Howells should have sat down with the homeowners and arrived with a plan to  
198 satisfy the stakeholders. He requested the Town Council representatives and residents draft a letter to  
199 the DMR denying their request for the aquaculture lease on Spinney Creek.

200  
201 Robert Mercier, 20 Bayview Lane, said it was clear from the start that the aquaculture is viable to the  
202 State. He said they were supposed to have a discussion on the impact on property values, odor and  
203 views but we were restricted to addressing only the DMR guidelines.

204  
205 Mr. Mercier said the Howells have been there for 30 years and own 80 cages on the creek. He said this  
206 thing is huge and none of us want to see that going from 80 to 800 cages. He said he supports his  
207 neighbors and over 400 people signed the petition, which they gave to DMR. He said this is not  
208 benefitting Kittery in any way and the business is in Eliot, but the cages are on the Kittery side and they  
209 are not paying taxes to Kittery. He asked the Town Council to support the residents.

210  
211 c. Chairperson's response to public comments:

212

213 Chairperson Lemont closed the public comment section and thanked everyone who spoke tonight.  
214 He said he did have a conversation with Laurie Howell and was contacted by an individual who lives on  
215 Old Dennett Road, who brought this up in March.

216  
217 Chairperson Lemont said the Town Manager deserves a little bit of credit and asked the DMR for a public  
218 hearing in Kittery. He reiterated that the Town Council has no role in the licensing of aquaculture but  
219 each Councilor can contact DMR with their thoughts and opinions on this issue.

220  
221 Chairperson Lemont said he reached out to the Chair of Port Authority and was informed that the body of  
222 water does not have access to the Piscataqua River, thus, they do not have a role with that body of  
223 water. He said they could call the Dept. of Marine Resources at 624-6550 and people at home can call.  
224 Chairperson Lemont said what he heard is that the Dept. of Marine Resources did not hear you, but  
225 again, the Town Council has no role, it is a State licensing procedure.

226  
227 Councilor Brock had a question. He wanted to know – at the end of the hearing – how was it left? He  
228 asked if DMR had made a decision?

229  
230 Mrs. Knowles replied said it is her understanding they have 30-60 days from the hearing, but at the end,  
231 they have their rules, and they don't care. She said their rules were made in the 70's, back when it used  
232 to be two men and a rake, now it is 80-800 – a huge factory.

233  
234 Councilor Brock said his particular concern is that the Town of Kittery did ask for a public hearing, under  
235 their regulations, which they did. He said what he is hearing is that some people were not heard  
236 because it went on too late and people who wanted to express their views were not given a chance.

237  
238 Mrs. Lamoine said a hearing is different from an adjudicatory hearing and we could only talk about  
239 certain things, that would unreasonably interfere with navigation, and she read the criteria.

240  
241 Councilor Brock said he is not making light of that. He wanted to know were there people at the hearing  
242 who did not speak?

243  
244 Mr. Mercier replied the meeting went on until 11:30 pm and it was intimidating. He said the applicants  
245 were allowed to speak, along with their witnesses, but a lot of people who wanted to speak felt  
246 intimidated by the DMR official with the stopwatch. He said at 10 p.m., a lot of people got up and left.  
247 He said where it was intentional or accidental, it had the effect of eliminating the public to speak.

248  
249 Councilor Brock said if it is the opinion of the riparian owners that not everyone got a fair chance to  
250 speak he would bring this to the attention of the Dept. of Marine Resources and request a full hearing.  
251 He said that does not mean that the Town of Kittery has jurisdiction over this matter. He said the DMR  
252 has regulations but the fact is the Town of Kittery did request a public hearing and we meant it.

253  
254 Councilor Brock said that is why he is pushing this, because residents have not been given a full hearing  
255 before DMR as requested.

256  
257 Chairperson Lemont said he wanted to follow up on Councilor Brock's idea. He said they have a 30-day  
258 window to decide.

259  
260 Mrs. Knowles said they are deciding now.

261  
262 Chairperson Lemont asked if it would be unusual if they had a second hearing?

263  
264 Mrs. Knowles replied that the DMR is not fair and that they had their meeting the week before. She said  
265 her sister flew in from Washington and her brother drove up from New York City and her nephew flew up  
266 from Maryland and the meeting was cancelled. She said her sister asked if they could submit their

267 information but was told by Amanda Ellis, the moderator, that her information will be part of the record  
268 but it will not be seen. She said her sister asked about video-streaming that is done in Washington, but  
269 was told that it was not allowed.

270  
271 Councilor Thomson suggested a course of action could be, and he would ask for consensus from  
272 Council, to ask the Town Manager to write a letter to Commissioner Kelleher indicating that a number of  
273 residents appeared at the October 10<sup>th</sup> Council meeting expressing their concerns on how the meeting  
274 was held on Sept. 27<sup>th</sup> and they did not get the chance to speak to application, that the applicants were  
275 allowed to testify but far exceeded the time allowed. He said that the letter could state that on behalf of  
276 the Town Council, they would like the DMR members to come down and hold a second public hearing to  
277 allow the residents time to express their concerns and it could be held within the 30-day period.  
278 Councilor Thomson said then the decision period could begin again after the second hearing.

279  
280 Vice-Chairperson Denault said he concurred with Councilor Thomson. He said that he went to both  
281 hearings, the first in the ridiculous location of the Rice Public Library, where 400 people were crammed in  
282 a room that, by code, permitted 200 and the second, at Traip Academy where he witnessed the  
283 aberration of the State representatives which made up their minds and had no intention of listening to the  
284 people. He said they represent the citizens of Kittery and they should do whatever it takes to help them.  
285 He said they may not be allowed, but at least they tried.

286  
287 Councilor Thomson said if they were able to do this, the Dept. of Marine Resources could very well tell  
288 the Town Manager and the Town of Kittery to “take a hike” and there is nothing more they need and we  
289 would have no say in the matter but we should make an effort.

290  
291 Chairperson Lemont asked Mr. Lamoine to come to the podium. He said that he had mentioned three  
292 concerns that were not heard: views, odor and impact on property values and asked if they were allowed  
293 to address them at the public hearing.

294  
295 Mr. Lamoine replied no, they could only speak to the DMR conditions and we could not speak about what  
296 we would have liked to, those three issues. He showed Chairperson Lemont the list and asked if he  
297 wanted a copy.

298  
299 Chairperson Lemont replied that he did and Mr. Lamoine gave him a copy of the DMR rules.

300  
301 Chairperson Lemont said he is concerned that they did not have an opportunity to raise their concerns at  
302 the public hearing.

303  
304 Councilor Beers reminded them that this is the public discussion and their remarks are limited to three  
305 minutes. He said he can appreciate the Chairperson empathizing with the residents and giving them the  
306 generous opportunity to speak, but this could have been an agenda item with a recommendation in  
307 advance communicated to the Chair or the Town Manager and they would have the opportunity to  
308 discuss a formal action.

309  
310 Councilor Beers said if they wish such to happen in the future the Council is meeting on Oct. 24<sup>th</sup> in  
311 which case, they would have an agenda item and the residents could express their concerns in an  
312 unlimited amount of time.

313  
314 Councilor Brock said he appreciated Councilor Beers outlining the appropriate procedure under normal  
315 circumstances, but they need to act quickly. He said the town did ask for a hearing but as one of the  
316 regular requestors, they meant with a full hearing, which did not happen. He said the other thing is they  
317 cannot change the factors and the DMR has to consider a series of factors. He suggested that the  
318 residents tie in their concerns with one of those factors stated by the Dept. of Marine Resources. He  
319 said it is DMR's game and they have the rules, but residents need to talk to them in that context.

320

321 Mr. Lamoine said their concern is that the rules change and have shifted throughout the process, like  
322 moving the goal post.

323  
324 Chairperson Lemont asked if he has a consensus to request the Town Manager to send the letter to  
325 DMR.

326  
327 The Town Council agreed.

328  
329 Councilor Dennett said he had a brief comment. He said he was not sure how many of the residents  
330 read the Portland paper, but there is a similar situation going on in Brunswick, and was curious if anyone  
331 contacted someone in Brunswick to perhaps borrow from one of their strategies?

332  
333 Councilor Pelletier said it might make sense to join them and invite them to join us, since it is a State  
334 issue.

335  
336 Chairperson Lemont suggested they reach out to their Legislative delegates.

337  
338 Vice-Chairperson Denault said that Dean Rykerson was there.

339  
340 Chairperson Lemont asked if there were any other comments? There were none.

341  
342 12. UNFINISHED BUSINESS: none

343  
344 13. NEW BUSINESS:

345  
346 a. Donations/gifts received for Council disposition: none

347  
348 b. The Kittery Town Council moves to approve the disbursement warrants.

349  
350 Chairperson Lemont asked Councilor Beers if the Town and Sewer payables were in due form and he  
351 replied yes, they are.

352  
353 Chairperson Lemont asked Councilor Pelletier if the School payable was in due form and he replied that  
354 it is.

355  
356 Chairperson Lemont read the amounts: Town: \$203,042.72; Sewer: \$41,802.80 and School:  
357 \$188,299.79 for a total of \$433,145.31.

358  
359 **COUNCILOR THOMSON MOVED THAT THE DISBURSEMENT WARRANTS BE PAID AS**  
360 **PRESENTED, SECONDED BY COUNCILOR PELLETIER. ALL WERE IN FAVOR BY A VOICE**  
361 **VOTE, AYE, 7-0. MOTION CARRIES.**

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363 c. (100118-2) The Kittery Town Council moves to schedule a public hearing on Title 10.3:  
364 Stopping, Standing and Parking to discuss Foreside parking amendments on October 22, 2018.

365  
366 **COUNCIL THOMSON MOVED TO SCHEDULE THE PUBLIC HEARING AS PRESENTED,**  
367 **SECONDED BY VICE-CHAIRPERSON DENAULT. ALL WERE IN FAVOR BY A VOICE VOTE, 7-0.**  
368 **MOTION CARRIES.**

369  
370 d. (100118-3) The Kittery Town Council moves to schedule a public hearing on Land Use and  
371 Development Code amendments, Title 16.8.10: Signs on November 14, 2018.

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373 **COUNCILOR THOMSON MOVED TO SCHEDULE THE PUBLIC HEARING ON NOVEMBER 14<sup>TH</sup>,**  
374 **SECONDED BY VICE-CHAIRPERSON DENAULT.**

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Councilor Beers said that he will not be here when this is considered and wanted to know if it was vetted through the Board of Appeals since it significantly applies to enforcement consideration and interpretations?

Chairperson Lemont asked Town Manager Amaral if she would respond.

Town Manager Amaral replied no, it did not go through the Board of Appeals. She said they are looking to change what is allowed in the administrative process.

Councilor Beers said that enforcement actions are appealable and there could be unintended consequences. He said on page 7, line 232, under "Signs in the Shoreland Overlay zone and Resource Protection Overlay zones" they are adding "no signs permitted in the public right-of-way"; however, that would be in conflict and questionable regarding election and campaign signs, common in the months of October and November and found in public ways as well as the Shoreland Protection zone.

Councilor Beers said on page 9, line 292 states: "*An extension to the one-year time period may be granted by the Board of Appeals as a miscellaneous variance.*" He said "miscellaneous variance" does not exist in the Town Code and he suspects it means a reference to "miscellaneous variation" and would probably be more appropriate. He said it should not be scheduled for a public hearing until it has been vetted by the Board of Appeals and he will vote no.

Vice-Chairperson Denault said on this report, one of the things when he talked to business owners which was brought to his attention is that flags are prohibited. He said the Federal flag should be moved and put under "permitted areas." He said when he spoke with the Business owners, they wanted to have signs at the traffic circle and the Route 1 Bypass that were eye-catching. He said they told him that having a sign that reflects the business was open is critical and they wanted them all the time. He said he would like to move those signs under "permitted signs", that the town could have control over.

Chairperson Lemont asked him what line item number was he on.

Vice-Chairperson Denault replied number 150 on the Manager's report.

Councilor Dennett said there seems to be a problem.

**COUNCILOR DENNETT MOVED THAT THIS ITEM BE POSTPONED UNTIL THE DECEMBER 10<sup>th</sup> MEETING SO THAT VARIOUS AREAS CAN BE ADDRESSED. COUNCILOR BEERS SECONDED THE MOTION.**

Chairperson Lemont asked if that was for the public hearing?

Councilor Dennett replied for everything and that as far as he knows, they will only be having one meeting in December, the 10<sup>th</sup>.

Councilor Thomson wanted to know if they were postponing the hearing date or scheduling a hearing date to December?

Councilor Dennett responded the public hearing and any action is being postponed to the December meeting.

Councilor Thomson said the action to schedule the public hearing will be at the December 10<sup>th</sup> meeting. He said as the maker of the original motion he is fine with changing his motion to that.

Chairperson Lemont asked Councilors to share their concerns with the Town Manager.

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**ALL IN FAVOR BY A VOICE VOTE, AYE, 7-0. MOTION CARRIES.**

e. (100118-4) The Kittery Town Council moves to transfer \$450,00 from unassigned funds (unencumbered surplus) to Account #2088 – Government Street Wharf, for the replacement of the Government Street Wharf.

**COUNCILOR BEERS MOVED THAT TO TRANSFER \$450,00 FROM UNASSIGNED FUNDS TO ACCOUNT NUMBER 2088, GOVERNMENT STREET WHARF FOR THE REPLACEMENT OF THE GOVERNMENT STREET WHARF, SECONDED BY COUNCILOR THOMSON.**

Councilor Dennett asked when they finish could they go back to the previous item?

Councilor Thomson said it is not included in the motion. He said this was a ballot question in June and the vote to transfer was approved by electorate to follow up\_\_\_\_\_

**ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0, NONE OPPOSED, MOTION CARRIES.**

f. (100118-5) The Kittery Town Council moves to approve a renewal application from Kittery Foreside, LLC, 60 Wallingford Square, for a Malt, Vinous and Spirituous Liquor License for Anneke Jans at 60 Wallingford Square, Kittery.

Chairperson Lemont said that the Code Enforcement Officer has inspected the premises and found that the establishment is in compliance with the Kittery Town Code.

**COUNCILOR THOMSON MOVED THAT THE KITTEY TOWN COUNCIL APPROVE THE RENEWAL APPLICATION FROM KITTEY FORESIDE, LLC, 60 WALLINGFORD SQUARE, FOR A MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE FOR ANNEKE JANS, 60 WALLINGFORD SQUARE. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0, NONE OPPOSED, MOTION CARRIES.**

g. (100118-6) The Kittery Town Council moves to approve a renewal application from RollinG In The Mud LLC, 460 US Route 1, for a Malt, Vinous and Spirituous Liquor License for “When Pigs Fly Pizzeria” at 460 U.S. Route 1, Kittery.

Chairperson Lemont said that the Code Enforcement Officer has inspected the premises and found that the establishment is in compliance with the Kittery Town Code.

**COUNCILOR BEERS MOVED THAT THE TOWN COUNCIL APPROVE A RENEWAL APPLICATION FROM ROLLING IN THE MUD LLC, 460 US ROUTE 1, FOR A MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE FOR “WHEN PIGS FLY PIZZERIA” AT 460 U.S. ROUTE 1, KITTEY. COUNCILOR THOMSON SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0, NONE OPPOSED, MOTION CARRIES.**

h. (100118-7) The Kittery Town Council moves to consider the Town Manager’s compensation.

Vice-Chairperson Denault said he would like to add one item, that they offer an extension of two years to her contact for a three-year approval.

Chairperson Lemont said that is inappropriate at this time and should be discussed in Executive Session.

481 Councilor Beers said he is not prepared to address this item tonight. He said it is understanding that  
482 would have an Executive Session this evening to discuss various factors and then would have this item  
483 on the October 22<sup>nd</sup> agenda.  
484

485 Chairperson Lemont said they could schedule an Executive Session on October 22<sup>nd</sup>, if Councilor Beers  
486 would like.  
487

488 Councilor Beers said it needs to come earlier than the last item so it will be on the agenda.  
489

490 Councilor Pelletier wanted to know if Councilor Beers would be doing research for them?  
491

492 i. (100118-8) The Kittery Town Council moves to appoint Bradford Connolly to the Board of  
493 Assessment Review for a term that would extend from his appointment until 12/31/21.”  
494

495 **COUNCILOR PELLETIER MOVED THAT THE TOWN COUNCIL APPOINT BRADFORD CONNOLLY**  
496 **TO THE BOARD OF ASSESSMENT REVIEW AS AN ALTERNATE MEMBER, FOR A TERM THAT**  
497 **WOULD EXTEND FROM HIS APPOINTMENT UNTIL 12/31/21. COUNCILOR THOMSON SECONDED**  
498 **THE MOTION.**  
499

500 Councilor Pelletier said he met with the Chair of the Board of Assessment Review and in the Chair's  
501 opinion, the Board would be fine with Mr. Connolly's addition to the team as an alternate member.  
502 He said he endorsed Mr. Connolly's appointment.  
503

504 **ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0, NONE OPPOSED, MOTION**  
505 **CARRIES.**  
506

#### 507 14. COUNCILOR ISSUES OR COMMENTS 508

509 Councilor Thomson said that a motion was made and endorsed by the Town Council at the last meeting  
510 regarding an opportunity for citizens to seek further information and clarification on the change of the  
511 Business Park zone to the Mixed-Use zone. He said he would add that, it is his hope, when this is  
512 scheduled, it may involve two evenings if a sufficient number of people cannot attend. He said people  
513 can get questions answered. He said individuals can come and are willing to listen and ask questions,  
514 look at visuals and hear an explanation in an environment of acceptance and willingness to meaningful  
515 dialogue.  
516

517 Councilor Thomson said that the minds are like parachutes – they only work when they are open. He  
518 said he did not want the Town Council to make a decision when there is so much misinformation. He  
519 hoped, when this evening happens between now and the second meeting in November, there will be an  
520 atmosphere that night so we can sort this out and have questions answered in a respectful manner.  
521

522 Councilor Brock said time is running out on setting a date to this discussion that Councilor Thomson is  
523 talking about. He said the second week in November is the zone change. He asked that they can sit  
524 down now or soon.  
525

526 Councilor Brock said the lack of transparency is another concern and they need to get the date and the  
527 time out to the public in as many ways as possible so they know. He said other than the Town Council,  
528 who will attend the public hearing.  
529

530 Councilor Brock directed his question to the Town Manager through the Chair, and wanted to know if  
531 town staff would be present and how will it be structured.  
532

533 Chairperson Lemont said he will follow up with the Town Manager. He said he listened intently to  
534 everyone's concerns and wrote down questions that need to be answered.

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Vice-Chairperson Denault said he had a few things to talk about. He said he was talking with residents on Stevenson Road, which was recently re-paved and already they are cutting into it and fixing sinkholes. He doesn't know what the warranty is for people who did the roadwork, but he thought they should talk to the residents before the warranty expires.

Vice-Chairperson Denault said residents have been complaining about squealing tires – which seems to be a “right of passage” for some people, but there are night sports at the school and it is happening when people are leaving the school.

Vice-Chairperson Denault said New Hampshire plates! He said he does not know what else he can do and is beside himself with New Hampshire plates. He said this is money coming out of the town's pockets and hopes to get the Chief on board.

Vice-Chairperson Denault said he is still hearing from residents who want to know why aren't the football games on Channel 22? He said there is a link on the site.

Vice-Chairperson Denault said he spoke with Scott Moffat and he is looking for help with the cats on Pocahontas Road. He said that Dr. Moffat signed up for a few, but 30 were brought in and they expect another 30. He said Dr. Moffat would like this to turn into a Kittery community cat project, which is a standard that is being done throughout the United States and the system works long-term.

Vice-Chairperson Denault said Dr. Moffat would like to trap, neuter/spay and remove them and some have been adopted. He said cats would be released back to the area as people are feeding them. He thought they should look at this and he sent a link and shared it with the Town Manager.

Vice-Chairperson Denault reminded the citizens to vote! He said he won by one vote, so it does make a difference.

Vice-Chairperson Denault said following Councilor Pelletier's lead last year, he likes to keep the public informed. He said he was able to get Councilor Thomson's yearbook and read one of his quotes.

Chairperson Lemont asked if Councilor Thomson wished to respond?

Councilor Thomson replied no, it was one of the few times in his life he was speechless.

Chairperson Lemont said he attended Candidates' Forum and he is very impressed with the Town Council candidates. He said they are working very hard and all five of them are aware of the issues. He shared the same concerns that they all want to make the Town of Kittery a wonderful place to live.

#### 15. COMMITTEE AND OTHER REPORTS:

Chairperson Lemont asked the Town Manager to give them an update on the Library committees.

Town Manager Amaral said that all three committees are meeting, that the Transition Committee met in September and are working through additional details of personnel and making the Trustees of the Library Board a 501 c3; the design project is being finalized for the Rice Library and the Taylor Building has made progress to give residents a better understanding of what is going on and developed a plan for getting public input on what folks want to see on that site in the future.

#### 16. EXECUTIVE SESSION:

Chairperson Lemont said they do not have an Executive Session this evening.



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17. ADJOURNMENT:

**COUNCILOR BEERS MOVED TO ADJOURN THE MEETING AT 7:14 P.M., SECONDED BY COUNCILOR PELLETIER. ALL WERE IN FAVOR BY A VOICE VOTE, AYE, 7-0, NONE OPPOSED, MOTION CARRIES. MEETING ADJOURNED.**

Respectfully submitted,

Barbara Boggiano  
Recording Secretary

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2  
3 **Kittery Town Council**  
4 **October 22, 2018 – 6:00 pm**  
5 **Regular Meeting**  
6 **Council Chambers**

7 1. Call to Order: Chairperson Lemont called the meeting to order at 6:00 p.m.

8  
9 2. Introductory: Chairperson Lemont read the introductory.

10  
11 3. Pledge of Allegiance: Chairperson Lemont said that Councilor Beers will lead those present in  
12 the Pledge of Allegiance.

13  
14 4. Roll call: Answering the roll were Councilors Frank Dennett, Jeffrey Pelletier, Jeffrey  
15 Thomson, Matthew Brock, Gary Beers, Vice-Chairperson Charles Denault and Chairperson Kenneth  
16 Lemont.

17  
18 5. Agenda Amendment and Adoption: Chairperson Lemont cast one vote to accept the agenda as  
19 presented.

20  
21 6. Town Manager’s Report:

22  
23 Town Manager Amaral wanted to give Council an update on the energy and sustainability opportunities  
24 for the town. She said they have been working on avenues to save the town money, one of them being  
25 converting the street lights to LED street lights.

26  
27 Town Manager Amaral said that Fire Chief O’Brien took the lead on this project and worked through the  
28 RFP proposal process, and in the end, received six, which ranged in price from \$237,839 to \$342,112 for  
29 the base project, including the cost of buying the lights from Central Maine Power. She said the return  
30 on the investment is between 2 ½ to 5 years.

31  
32 Town Manager Amaral said they are going through the due diligence process with the most  
33 advantageous proposal, and if it comes out successful, she would be seeking funding through the CIP in  
34 2020.

35  
36 Town Manager Amaral said she is working with the Kittery Energy Advisory Committee and the KCC  
37 Board of Directors regarding solar panels. She said through the Chair of the KCC Board, we were able  
38 to get a free shade analysis for the municipal buildings, which includes the Town Hall, Transfer Station,  
39 Wastewater Treatment Facility and the Rice Public Library. She said the analysis did not come in  
40 favorably for solar panels and the cost is very high. She said the lifetime savings of \$217,000 would be  
41 25 years. She said they could go in with a power purchase agreement, but the savings would be less.  
42 She said they are less likely to pursue this project and are looking at One Off projects for cost savings  
43 that will be implemented. She said if a project comes out of this, she will bring it forward in the next  
44 couple of years.

45  
46 Town Manager Amaral said she sent a letter to the Dept. of Marine Resources asking them to postpone  
47 their decision on the experimental aquaculture lease to hold a scoping session or to at least get an  
48 opinion to see if the town had any authority to approve the lease request. She said she did receive a  
49 response from DMR which she included in Council’s packet which stated that they declined to pursue the  
50 public scoping session because they received testimony and since the project is not in inter-tidal waters,  
51 the town does not have jurisdiction to approve the lease. She said there is nothing she can do to impact  
52 the process any further.

54 Town Manager Amaral said, as per Councilor Denault's request regarding the cats on Pocahontas Road,  
55 she did reach out to the organizations working with feral cats as well as Kittery Animal Hospital. She  
56 said she spoke with Dr. Moffat and scheduled a stakeholder meeting this Thursday at 5:00 p.m. at the  
57 Kittery Community Center. She reached out to the residents who live on Pocahontas Road and they can  
58 talk about a "Community Cat Management" program to see what makes sense moving forward. She  
59 said she found out about this program through ICMA. She said she will bring this forward to Council if  
60 they would like to go with this program.

61  
62 Town Manager Amaral said they will be starting the Title 16 recodification project on Nov. 1<sup>st</sup> and it will  
63 take about 18 months to complete. She said they will be working with the Board of Appeals and  
64 Planning Board to set up a working group as this is a significant part of the code. She said they are  
65 trying to find a way to recode Title 16 to make it easier to follow for staff, Board members and residents.

66  
67 Important dates: Absentee ballots are still available through Nov. 1<sup>st</sup>; Workforce Affordable Housing  
68 Workshop is Weds. Oct. 24<sup>th</sup> with a Site Walk at the Walker St. station at 3:15 pm and at 6:00 p.m. at the  
69 Community Center there will be a public input session. She said on Friday the Design Team will be  
70 meeting at 6:00 pm at the KCC; Voter Registration is Oct. 24<sup>th</sup>, from 6 – 8 pm, and the Mixed-Use Public  
71 Forum will be Monday, October 29<sup>th</sup>. She said Trick or Treat is Oct. 30<sup>th</sup> and the election will be on Nov.  
72 6<sup>th</sup> from 8 am to 8 pm at the Kittery Community Center.

73  
74 Chairperson Lemont asked if Council had any questions.

75  
76 Vice-Chairperson Denault said to the Town Manager, through the Chair, that when he was signing the  
77 warrants, he noticed that the bill for the lights was \$9,000 and he wanted to know if that was the average  
78 cost for the streetlights every month.

79  
80 Town Manager Amaral said they will be taking a look at it.

81  
82 Vice-Chairperson Denault said he hoped they look at it during the "due diligence phase" because that  
83 would be an annual figure of \$108,000 and even if it's \$100,000 that would be a significant savings, after  
84 that initial thing is paid off.

85  
86 Councilor Thomson said to follow-up on Councilor Denault's comments, the FY'19 budget had \$120,000  
87 appropriate for Street Lights which is the annual figure used in the budget.

88  
89 Councilor Thomson said, through the Chair to the Town Manager, regarding the Pocahontas Road Cat  
90 situation, when he was dropping off their cats at the Kitty Hotel last week, he had a conversation with Dr.  
91 Moffat but obviously her conversation happened after he spoke with Dr. Moffat because he had voiced  
92 the very things she had said would happen.

93  
94 7. Acceptance of Previous Minutes: 8/27/18 and 9/10/18 – Regular Meetings

95  
96 August 27, 2018: Chairperson Lemont cast one vote to accept the minutes as amended.

97  
98 September 10, 2018: Chairperson Lemont cast one vote to accept the minutes as amended.

99  
100 8. Interviews for the Board of Appeals and Planning Board: none

101  
102 9. All items involving the town attorney, town engineers, town employees or other town consultants  
103 or requested officials. {none}

104  
105 10. PUBLIC HEARINGS:

106

107 (100318-1) The Kittery Town Council moves to hold a public hearing and ordains amendments  
108 to Title 10.3 – Stopping, Standing and Parking.  
109

110 Chairperson Lemont asked if anyone would like clarification before he opened the public hearing and  
111 addressed the Town Manager for her input.  
112

113 Town Manager Amaral said the recommended changes are strictly regarding the Foreside parking. She  
114 said, to give a little history, prior to her arrival, the previous Town Managers had held Foreside Forums  
115 on how to improve the parking and transportation situation in the Foreside. She said they had the  
116 Foreside Land Use Parking Study completed, which gave them more detail and direction.  
117

118 Town Manager Amaral said she, along with staff, have met with business owners on a regular basis to  
119 brainstorm solutions, and out of those discussion came this proposal with a more concentric approach.  
120 She said there will be a single 15-minute spot in the heart of Wallingford Square where someone can run  
121 in and out, so it is a quick turn-over spot. She said everything will be 2-hour parking within a couple of  
122 blocks and 4-hour parking as you head out toward State Road. She said the long-term parking is further  
123 away and employees can leave their cars there if they are working in the Foreside.  
124

125 Town Manager Amaral said they are not addressing parking on residential streets and the changes are  
126 only to correct the current enforcement and signage down there.  
127

128 Chairperson Lemont asked if anyone wanted to speak, they may do so at this time, and that they state  
129 their name and address.  
130

131 Paul Bonnaci said he is an architect and has an office in the Foreside. He said he and his wife own a  
132 small building downtown. He said they have been part of many groups and are ecstatic that they are  
133 finally starting to see things happening. He thanked Town Manager Amaral and said he has been part of  
134 the informal groups. He really appreciated getting feedback from the Town Manager, Planner and  
135 especially Dave Rich, the Public Works Director, who has done an incredible job downtown.  
136

137 Mr. Bonnaci wanted to add to what the Town Manager had said about the 2-hour parking on Walker and  
138 Government Streets. He said what they are finding is that, during the day, parking is not as it was 7  
139 years ago when people could park in front of the business they wanted to go to. He said they are getting  
140 a lot more tourists and they are finding that it is more for the businesses' employees parking, which  
141 becomes a problem. He said during the day a lot of parking is not used on Walker Street as you head  
142 toward State Road.  
143

144 Mr. Bonnaci said when he attended the Foreside Fuel & More event and was asked if the Police are  
145 active downtown and he said they are and it is good there is some oversight on what is happening during  
146 the day regarding parking. He thought they agree with the idea and should try it and see how it works.  
147

148 Shannon Hill said she lives in Kittery and owns the Mainly Meat Butcher Shop in the Foreside. She  
149 said that Paul hit it on the head for her. She felt thankful that the town can come together, listen and  
150 discuss the issues and make decisions that are important to residents, customers and business owners  
151 and work together cohesively.  
152

153 Ms. Hill said personally, the 15-minute parking spot is important for her business because people do not  
154 stay a long time in her shop. She said she has had to incur expenses renting spaces for her staff and  
155 some employees have had their cars towed. She said that enforcement will be a key factor in trying this  
156 out. She said she would also like to figure out a way to monitor the parking on Walker Street. She said  
157 when she moved her car to Government Street, she still got a ticket, even though it was within the 2-hour  
158 limit, because it was still considered the Foreside. She thought it will be great and thanked them for  
159 listening.  
160

161 Cyrus Clark, 4 Bicknell Street, wanted to add something that they can think about down the road. He  
162 said they clearly have a problem with people parking more than 8 hours, who work at the Shipyard,  
163 parking downtown. He said they may want to consider a permit program for parking in designated areas  
164 first for employees working in the Foreside. He said this way they can stay and work downtown for 8  
165 hours rather than someone who works at the Shipyard and is just trying to beat the traffic.  
166

167 Jennifer Brewer said she lives in the Foreside and wanted to thank Council and the Town Manager for  
168 considering and developing this proposal. She said she knows they hear a lot of complaints but she  
169 appreciates the Council finding a different array of options to address this issue.  
170

171 Chairperson Lemont asked if there was anyone else who wished to speak, and seeing none, closed the  
172 public hearing at 6:19 p.m.  
173

174 **COUNCILOR BEERS MOVED, IN ACCORDANCE WITH TITLE 30-A, M.R.S. 36 SEC. 3001, SEC.**  
175 **62.72 AND 62.71 AND SEC. 2.14 OF THE TOWN CHARTER, THE KITTELY TOWN COUNCIL**  
176 **HEREBY ORDAINS AMENDMENTS TO TITLE 10 OF THE TOWN CODE AS PRESENTED. VICE-**  
177 **CHAIRPERSON DENAULT SECONDED THE MOTION.**  
178

179 Chairperson Lemont asked if there was any discussion.  
180

181 Councilor Thomson said he appreciates all the work that has been done, but had questions involving  
182 parts of it, whether it can be successfully enforced, for example, the 15-minute parking. He said not that  
183 he is advocating parking meters, but in Portsmouth they have 15-minute parking meters.  
184

185 Councilor Thomson asked the Town Manager, through the Chair, how will this be handled?  
186

187 Town Manager Amaral replied that it will not be enforced 24 hours, but will be during times that are the  
188 most challenging. She said currently, Officer Hackett chalks the tires of the vehicle, then goes back  
189 before the two hours to see if the vehicles are still there. She said if it is only 15 minutes, he will be able  
190 to grab someone going back to their car.  
191

192 Councilor Thomson said okay, but the cars he sees on a regular basis, every weekday morning, are  
193 parked closest to Loco Coco's on Walker Street. He said none of them have Maine plates, most are  
194 Virginia, Connecticut or New York and he wanted to know who are they?  
195

196 Town Manager Amaral said that P.D. does not run plates on people like that.  
197

198 Councilor Thomson asked if there has been any effort made by police officers, starting at 5:30 a.m.,  
199 where someone gets out of their car, wearing a backpack, and heads down towards the Shipyard?  
200

201 Town Manager Amaral replied she would be happy to speak to the Police Chief about that, but they  
202 cannot prevent someone from legally parking in a space.  
203

204 Town Manager Amaral said as they know, they received a grant and had a joint Land Use study done  
205 with the Shipyard – with the key focus on Gates 1 and 2 – to see how that affected the impact on parking  
206 in the Foreside and the areas around it. She said they hope to have better solutions and to have the  
207 Shipyard manage their own parking issues so as not to have it negatively impact the downtown area.  
208

209 Councilor Thomson wanted to address the Badger's Island parking situation, that a resident had  
210 contacted them about a couple of months ago, and he knew that the Town Manager is working on that.  
211 He said he wants to make sure it does not continually spread to other streets in the area like Rice  
212 Avenue and Walker Street.  
213

214 Councilor Thomson said that there is unrestricted parking on Rice Avenue and Stimson Street after 6  
215 p.m., isn't that correct.

216  
217 Town Manager Amaral responded they did not get into those sections of the ordinance when they were  
218 looking at this.

219  
220 Councilor Thomson said the way he interprets the ordinance, there is one-hour parking between 7 am  
221 and 6 pm, but after 6:00 pm, it is unlimited.

222  
223 Town Manager Amaral read Sec. 10.31.6 except November through April, between 6 and 8 pm.

224  
225 Councilor Thomson said there is nothing stopping someone, who is going to Prescott Park for a concert,  
226 from parking at 5:30 pm and will be covered until 6:00 pm and staying there a few hours. He said he  
227 feels they may re-visit this sooner than what we want.

228  
229 Town Manager Amaral agreed.

230  
231 Vice-Chairperson Denault said he shared the same concern as Councilor Thomson that he has for  
232 residential streets. He said they are not properly marked and he would support anything that comes  
233 forward changing that. He asked the Town Manager, through the Chair, when was the last time the town  
234 increased the fees on parking tickets?

235  
236 Town Manager Amaral replied they increased the fees when they did Title 10 last year.

237  
238 Vice-Chairperson Denault said residents do not want people parking in front of their house all day and  
239 wanted to know if they could make it more of a deterrent so people are not parking there in perpetuity.  
240 He asked if they could re-address the fees?

241  
242 Town Manager Amaral said they can look at this, in terms of number of tickets and look for repetitive  
243 patterns.

244  
245 Vice-Chairperson Denault wanted to know if the town has violators stacking up and is the town still  
246 keeping a track record?

247  
248 Town Manager Amaral replied yes, they are going to Phase 4 on their online program, and they can pay  
249 online. She said it provides the dispatcher with real time data when officers call in checking for prior  
250 violations.

251  
252 Councilor Brock said enforcement is key. He said they can pass all the ordinance changes and it is not  
253 going to matter, particularly when there is a change. He said enforcement indicates an on-going  
254 Shipyard problem.

255  
256 Councilor Brock said there is an on-going problem with Shipyard traffic and it might strengthen our hand  
257 during negotiations with the Shipyard if we can come up with a long-term plan.

258  
259 Chairperson Lemont asked if this is new or a change from Otis to Walker to Route 1? He said it is 4  
260 hours, but asked if it was two hours previously? He said he was referring to line 121 on page 6.

261  
262 Town Manager Amaral responded yes, that it creates four.

263  
264 Chairperson Lemont wanted to know if it was two?

265  
266 Town Manager Amaral replied yes.

267

268 Chairperson Lemont said he owns property and has been told people park in front of their house in the  
269 afternoon and the Shipyard is changing shifts from 2:00 pm until 4:00 pm. He said the change in parking  
270 hours will make the afternoon regular day shift, whose lunch ends at 12, stick with four hours and they  
271 will be lined up, ready to head home. He said from his personal experience, and those residents who  
272 called him, when the workers are parked in front of their businesses, they will now have no recourse and  
273 they will be parked from 12 noon until 5:00 p.m. He said they will probably have to fine-tune this once  
274 again.

275

276 **ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0, NONE OPPOSED, MOTION**  
277 **CARRIES.**

278

279

280 11. DISCUSSION:

281 a. Discussion by members of the public:

282

283 Chairperson Lemont opened the floor to members of the public who wished to speak and asked they  
284 state their name and address and respect the three-minute timeframe.

285

286 Russell White, 59 Goodwin Road, Kittery Point wanted to show off this beautiful poster prepared by town  
287 staff to remind the voters that the Comprehensive Plan is on the ballot November 6<sup>th</sup>. He personally  
288 urged everyone vote to adopt the plan.

289

290 Jennifer Brewer wanted to affirm Councilor Denault's comment about residential areas in the Foreside  
291 and there are streets that are not posted. She said that renters, and guests of renters, park there  
292 overnight when there are spaces available. She thanked the Town Council.

293

294 Tom Hibschan, 188 Brave Boat Harbor Road, said it would not hurt to ask the Water District if their  
295 employees can park in the employee parking lot and not in the Foreside.

296

297 Mr. Hibschan commented about the new LED lighting. He said he is interested in the Kelvin  
298 temperature of the lighting. He said what they find, typically, is when there is a dark sky, townspeople  
299 over-illuminate with LED light that flood up rather than down. He said as an example, pointing to the  
300 overhead fluorescent lights, there is one temperature here and one here, but sometimes the lights get  
301 tooty-fruity and the temperature should be looked at.

302

303 Chairperson Lemont asked if anyone else wished to speak, and, seeing none, closed the public  
304 comment portion at 6:45 p.m.

305

306 Chairperson Lemont thanked Russell White and said he knew they spent a lot of time and work on the  
307 Comprehensive Plan.

308

309 Chairperson Lemont said to Ms. Brewer he knows that parking is an ongoing issue in the Foreside and  
310 will try to resolve the specific point she made about renters' guests parking there. He thanked her.

311

312 Chairperson Lemont told Mr. Hibschan he will get him the answer to the temperature of the lights. He  
313 said in his business, one requirement he had was a light survey to illuminate the area. He thanked Mr.  
314 Hibschan.

315

316 12. UNFINISHED BUSINESS:

317

318 (100218-2) The Kittery Town Council moves to consider the Town Manager's compensation.

319

320 **COUNCILOR THOMSON MOVED THAT THE TOWN COUNCIL INCREASE THE TOWN MANAGER'S**  
321 **ANNUAL COMPENSATION BY 3% EFFECTIVE TOMORROW, HER EMPLOYMENT ANNIVERSARY**

322 **DATE AND TO REQUEST THE CHAIR MEET WITH THE MANAGER TO DISCUSS THEIR DESIRE**  
 323 **FOR A TWO-YEAR EMPLOYMENT EXTENSION TO HER CONTRACT, SECONDED BY VICE-**  
 324 **CHAIRPERSON DENAULT. ROLL CALL VOTE WAS TAKEN, 7-0, NONE OPPOSED, MOTION**  
 325 **CARRIES.**

326  
 327 13. NEW BUSINESS:

328  
 329 a. Donations /gifts received for Council disposition:

330  
 331 (100318-2) The Kittery Town Council moves to accept a check in the amount of \$130.30 from  
 332 the Kittery Maine Improvement Foundation to be deposited into the Thresher Memorial Fund: account  
 333 #5007.

334  
 335 **COUNCILOR BEERS MOVED THAT THE TOWN COUNCIL ACCEPT A CHECK IN THE AMOUNT OF**  
 336 **\$130.30 FROM THE KITTERY MAINE IMPROVEMENT FOUNDATION TO BE DEPOSITED INTO THE**  
 337 **THRESHER MEMORIAL FUND, ACCT. NUMBER 5007.**

338  
 339 b. The Kittery Town Council moves to approve the disbursement warrants.

340  
 341 Chairperson Lemont asked Councilor Beers if the Municipal and Sewer warrants are in due form and  
 342 Councilor Beers replied they were. He said in all his years of consecutively reviewing the warrants he  
 343 only found one error in the amount of \$12, which was immediately corrected.

344  
 345 Chairperson Lemont asked if the School Payables are in due form and Councilor Pelletier responded that  
 346 they are.

347  
 348 Chairperson Lemont read the amounts: Town = \$1,665,460.19; Sewer = \$9,080.07 and School =  
 349 \$388,821.72 for a total of \$2,063,361.98.

350  
 351 **COUNCILOR THOMSON MOVED THAT THE DISBURSEMENT WARRANTS BE PAID AS**  
 352 **PRESENTED, SECONDED BY COUNCILOR PELLETIER. ALL WERE IN FAVOR BY A VOICE**  
 353 **VOTE, AYE. MOTION CARRIES.**

354  
 355 c. (100318-4) The Kittery Town Council moves to accept the resignation of Herbert Kingsbury  
 356 from the Kittery Conservation Commission.

357  
 358 **VICE-CHAIRPERSON DENAULT MOVED THE TOWN COUNCIL ACCEPT THE RESIGNATION OF**  
 359 **HERBERT KINGSBURY FROM THE KITTERY CONSERVATION COMMISSION WITH THANKS,**  
 360 **SECONDED BY COUNCILOR PELLETIER.**

361  
 362 Chairperson Lemont asked if there was any discussion.

363  
 364 Councilor Thomson said that his letter indicates that Mr. Kingsbury has served on the Board of Appeals  
 365 and the Conservation Commission for more than 20 years. He said he appreciates his long service as a  
 366 volunteer on those boards.

367  
 368 Councilor Brock said he wanted to support those comments and added that Mr. Kingsbury has done an  
 369 excellent job.

370  
 371 **ROLL CALL VOTE WAS TAKEN, WITH SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

372  
 373 d. (100318-5) The Kittery Town Council moves to accept the resignation of Dorothy Avery from  
 374 the Kittery Community Center Board of Directors.

375



376 **COUNCILOR THOMSON MOVED THE TOWN COUNCIL ACCEPT THE RESIGNATION OF**  
377 **DOROTHY AVERY FROM THE KITTERY COMMUNITY CENTER BOARD OF DIRECTORS WITH**  
378 **THEIR GRATITUDE FOR HER SERVICE, SECONDED BY COUNCILOR PELLETIER.**  
379

380 Chairperson Lemont asked if there was any discussion.

381  
382 Councilor Thomson said among other things, Dot joined the Board when he was on it and was very  
383 instrumental in taking the lead and getting the Community Farmers' Market at the Post Office parking lot.  
384 He said it was one of her long-term contributions in her KCC Board efforts.  
385

386 **ROLL CALL VOTE WAS TAKEN WITH SEVEN VOTING IN FAVOR, NONE OPPOSED, MOTION**  
387 **CARRIES.**  
388

389 e. (100318-6) The Kittery Town Council moves to schedule an interview with the Chair of the  
390 Kittery Community Center Board of Directors to interview Brian Kilroy.  
391

392 Chairperson Lemont said he will give Councilor Beers a break and recommend Councilor Brock.  
393

394 **COUNCILOR THOMSON MOVED COUNCILOR BROCK AS COUNCIL'S DESIGNEE TO MEET WITH**  
395 **THE CHAIR OF THE KCC BOARD OF DIRECTORS TO INTERVIEW BRIAN KILROY, SECONDED**  
396 **BY VICE-CHAIRPERSON DENAULT.**  
397

398 Chairperson Lemont asked if there was any discussion.

399  
400 Councilor Dennett said he does not object to the motion but Councilor Beers did the last interview for this  
401 particular body several years ago.  
402

403 **VOICE VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, AYE. MOTION CARRIES.**  
404

405 f. (100318-7) The Kittery Town Council moves to consider Cemetery Perpetual Care Funds.  
406

407 Chairperson Lemont said, since it was placed on the agenda by Councilor Beers, he will let him speak  
408 first.  
409

410 Councilor Beers said there are 144 cemeteries including the Isles of Shoals and the Shipyard. He said  
411 going back to 1923 through 1986 there are 196 sites that have been addressed with Perpetual Care  
412 funds. He said, regrettably, the funds have been exhausted and there are about 135 of them that pre-  
413 date 1880 and are classified as ancient burying grounds.  
414

415 Councilor Beers said he attempted to structure a recommendation on how to deal with the perpetual care  
416 funds. He said that the Public Works Dept. addresses 23 of them, and there are 12 that Public Works  
417 takes care of that have no perpetual care funds. He said there are 11 other private cemeteries not  
418 addressed by Public Works, but have funds. He said there are a number of large graveyards, i.e. First  
419 Christian, First Baptist, Highland, that have funds for maintenance.  
420

421 Councilor Beers said in structuring a recommendation he would consider the location of the private  
422 cemeteries, where they are, and are they on private property and many are on town land. He said his  
423 recommendation is to ask the Town Manager to have it examined from a legal perspective as to what the  
424 town's obligation may be in handling perpetual care funds.  
425

426 Councilor Beers said that it may be a good idea, since the history of the town goes back a few hundred  
427 years, to start an "Adopt-A-Grave" program similar to the "Adopt-A-Road" program where people can  
428 take care of those cemeteries that are on their properties, or adjacent to it.  
429

430 Councilor Thomson said for his own information, the most prominent cemetery in Town is Orchard  
431 Grove. He said driving by during the growing season, it sometimes appears that it is not very well looked  
432 after. He wanted to know, since it is not town property, does the town have any responsibility for  
433 maintenance?  
434

435 Councilor Beers replied Orchard Grove is like First Christian, First Congregational, Highland or First  
436 Baptist, they have their own funds for maintenance. He said that Orchard Grove has approximately  
437 \$100,000 for maintenance.  
438

439 Vice-Chairperson Denault said he was a member of the Board and they used to have someone who  
440 mowed the lawn and Joyce Tobey assisted, but he is not doing it anymore. He said they have reached  
441 out to a couple of organizations to see if they can get someone to mow. He said it is being addressed.  
442

443 Councilor Thomson wanted to know if a private landscaping company would be an option?  
444

445 Vice-Chairperson Denault said they are looking into options and he will get an update.  
446

447 Chairperson Lemont asked Councilor Beers if he expected Council to take any action on this.  
448

449 Councilor Beers replied no, he will not be on the Town Council but there should be a consensus to  
450 discuss this on November 14<sup>th</sup>. He said there is some urgency because the last two years the Public  
451 Works Dept. has been maintaining this as part of their budget.  
452

453 Councilor Thomson wanted to know, to follow up on Councilor Beers' question, could the town attorney  
454 perhaps look at this and offer some thoughts or a course of action available to the municipality?  
455

456 Councilor Beers said there is a Perpetual Care Trust but he did not find any documentation or a legal  
457 agreement in the town records. He said they should find out what are their current obligations.  
458

459 Councilor Thomson asked if the information would be available in the Town Manager's records over the  
460 years?  
461

462 Councilor Beers responded there maybe some, but he used the records that were made available to him.  
463

464 There was Council consensus to move forward with this issue on November 14<sup>th</sup> and he thanked  
465 Councilor Beers.  
466

#### 467 14. COUNCILOR ISSUES OR COMMENTS: 468

469 Chairperson Lemont said he will use this opportunity to recognize Councilor Beers as he is not running  
470 for reelection. He said that he has helped him long before he was on the Council. He said he and  
471 Councilor Beers served on the School Committee together. He said that he is an expert at quoting titles  
472 and sections of statutes.  
473

474 Chairperson Lemont said Councilor Beers served on the Traip Boosters, Planning Board, Board of  
475 Appeals, Comprehensive Plan and obviously the Town Council and every one of the committees he has  
476 served on, he has done an incredible job.  
477

478 Chairperson Lemont said that one Committee he was on was the Thresher Memorial project and that  
479 one person does make a difference. He said that would never have happened without Councilor Beers.  
480 He had one story and said that he was chosen to be the MC for the dedication ceremony and he was still  
481 working at the Shipyard. He said that as it got nearer to the ceremony, Councilor Beers had invited him  
482 to meeting with the Superintendents of the Shops and the Group Superintendents and explained to them

483 what they were going to do. He said he never heard of that and asked Councilor Beers "how did you get  
484 them to come here?" He said Councilor Beers replied "I told them they had to be here."  
485

486 Chairperson Lemont said Councilor Beers served with honor and distinction and will never be replaced.  
487 He read the Certificate of Appreciation in recognition of Councilor Beer's selfless commitment to the  
488 Town of Kittery and thanked him for his many years of service. He said that Councilor Beers had over  
489 27,000 volunteer hours.  
490

491 Councilor Beers refused to accept the certificate because he was doing what needed to be done, but  
492 said, on behalf of his wife, children and grandchildren and having missed a lot of their lives, both here,  
493 and through his service career, he would certainly accept.  
494

495 Councilor Thomson said he would like to piggy-back those remarks made for Councilor Beers and that  
496 he enjoyed serving with him, although he did not always agree with him.  
497

498 Councilor Thomson said one future item – home-sharing on air B & B – that he would like to have more  
499 discussion – after the new Council is formed. He said Go Sox!  
500

501 Vice-Chairperson Denault mentioned some notable deaths in town: Fanny Whitney who ran the Freebee  
502 barn in town for over 25 years; Nelson Gerko; his old boss Morris Patch; Eleanor Marsh and Nellie  
503 Dunlap McKay, who was the Valle's Steakhouse hostess for 25 years passed away. He said their hearts  
504 and prayers are with their families.  
505

506 Councilor Beers said this is the appropriate time to make a final statement, since this is his last regular  
507 Council meeting. He said he wanted everyone to know he wore his favorite tie, "Looney Tunes" and said  
508 "Th-That's all folks!"  
509

510 Councilor Beers said he would like to finish with a quote from Dr. Martin Luther King's famous speech on  
511 August 28, 1963: "Free at last! Free at last! Praise God Almighty I am free at last!"  
512

513 15. COMMITTEE AND OTHER REPORTS:

- 514  
515 a. Communications from the Chairperson  
516 b. Committee Reports  
517

518 16. EXECUTIVE SESSION: none  
519

520 17. ADJOURNMENT:  
521

522 **COUNCILOR BEERS MOVED TO ADJOURN THE MEETING AT 7:14 P.M., SECONDED BY**  
523 **COUNCILOR PELLETIER. ALL WERE IN FAVOR BY A VOICE VOTE, AYE. MOTION CARRIES.**  
524

525  
526 Respectfully submitted,  
527

528  
529 Barbara Boggiano  
530 Recording Secretary

1 **Kittery Town Council**  
 2 **Special Meeting**  
 3 **October 22, 2018 – 5:30 p.m.**  
 4 **Council Chambers**  
 5

- 6
- 7 1. Call to order: Chairperson Lemont called the meeting to order at 5:30 p.m.
  - 8
  - 9 2. Introductory: Chairperson Lemont read the introductory.
  - 10
  - 11 3. Pledge of Allegiance: Chairperson Lemont led those present in the Pledge of Allegiance.
  - 12
  - 13 4. Roll Call: Answering the roll were Councilors Frank Dennett, Jeffrey Pelletier, Jeffrey Thomson, Gary Beers, Matthew Brock, Vice-Chairperson Charles Denault and Chairperson Kenneth Lemont.
  - 14
  - 15
  - 16
  - 17 5. Discussion:
  - 18 a. Discussion by members of the public (only pertaining to item #6 below and three minutes per
  - 19 person) none
  - 20
  - 21
  - 22 6. Executive Session:
  - 23
  - 24 a. (100218-1) The Kittery Town Council moves to go into Executive Session, in accordance
  - 25 with 1 M.R.S. §405 (6) (A) to conduct the Town Manager’s annual evaluation.
  - 26

27 **COUNCILOR THOMSON MOVED TO ENTER EXECUTIVE SESSION AT 5:33 P.M., IN**  
 28 **ACCORDANCE WITH 1 M.R.S. §405 (6) (A), TO CONDUCT THE TOWN MANAGER’S ANNUAL**  
 29 **EVALUATION, SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN WITH**  
 30 **ALL VOTING IN FAVOR, 7-0, NONE OPPOSED, MOTION CARRIES.**

31

32 **COUNCILOR THOMSON MOVED TO COME OUT OF EXECUTIVE SESSION AT 5:49 P.M.,**  
 33 **SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN**  
 34 **FAVOR, 7-0, NONE OPPOSED, MOTION CARRIES.**

- 35
- 36 7. Adjournment:

37

38 **VICE-CHAIRPERSON DENAULT MOVED TO ADJOURN THE MEETING AT 5:50 P.M., SECONDED**  
 39 **BY COUNCILOR THOMSON. ALL WERE IN FAVOR BY A VOICE VOTE, MOTION CARRIES.**

40

41 Respectfully submitted,

42

43 Barbara Boggiano  
 44 Recording Secretary



# TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED  
BY: 10:34 AM  
DEC 20 2017

## APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: VERN GARDNER Contacted me 2/13/18 and requested to remain in the pool (MP)

RESIDENCE: 2 TUCKER Cove, KITTERY, ME

MAILING (if different) P.O. Box 214, PORTSMOUTH, N.H.  
VERN GARDNER & COMPANY, LLC

E-MAIL ADDRESS: \_\_\_\_\_ PHONE #: (Home) 439-4359 (Work) 439-9699

### Please check one choice:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Board of Appeals         | <input type="checkbox"/> Board of Assessment Review       |
| <input type="checkbox"/> Conservation Commission             | <input type="checkbox"/> Mary Safford Wildes Trust        |
| <input type="checkbox"/> Comprehensive Plan Update Committee | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Education Scholarship Committee     | <input type="checkbox"/> CIP Committee                    |
| <input type="checkbox"/> Parks Commission                    | <input type="checkbox"/> Open Space Committee             |
| <input type="checkbox"/> Port Authority                      | <input type="checkbox"/> Other _____                      |
| <input type="checkbox"/> Planning Board                      |   |

EDUCATION/TRAINING: BA, BUSINESS, MASSON COLLEGE (1970)  
INDEPENDENT STUDIES, UNH, ECONOMICS

RELATED EXPERIENCE (Including other Boards and Commissions) BOARD OF APPEAL  
(CHAIR-7 YRS), COMPREHENSIVE PLAN (CHAIR 3 YRS)  
CABLE BOARD, ECONOMIC DEVELOPMENT

PRESENT EMPLOYMENT: SELF - REAL ESTATE APPRAISER

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY  Yes  No

ANY KNOWN CONFLICT OF INTEREST (please read back of application):  
NONE KNOWN

REASON FOR APPLICATION TO THIS BOARD: SERVICE KITTERY

I HAVE  / HAVE NOT \_\_\_ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Please read the back of this application before signing.

Vern Gardner  
SIGNATURE OF APPLICANT

12/20/17  
DATE

## Maryann Place

---

**From:** Vern Gardner <verngardner@comcast.net>  
**Sent:** Tuesday, February 13, 2018 8:58 AM  
**To:** Maryann Place  
**Subject:** RE: Board of Appeals Interviews

Good morning Maryann:  
Would you place my application back into the pool of candidates.  
Good luck in your retirement  
Thanks  
Vern Gardner

---

**From:** Maryann Place [mailto:MPlace@kitteryme.org]  
**Sent:** Monday, February 12, 2018 10:26 AM  
**To:** Judy Spiller <judyspiller43@gmail.com>; Vern Gardner <verngardner@comcast.net>; Drew Fitch <drew@atlanticdev.net>; tprollins . <tprollins@gmail.com>; suzanne8esq@gmail.com  
**Subject:** Board of Appeals Interviews

Hi Everyone,

Just a reminder that Board of Appeals interviews will be held tonight in the Council Chambers. Please note the Council meeting begins at 6:00 p.m.

Maryann

Maryann Place, CCM  
Kittery Town Clerk  
200 Rogers Road  
Kittery, ME 03904  
Phone: 207-475-1328  
Fax: 207-439-6806  
Email: [mplace@kitteryme.org](mailto:mplace@kitteryme.org)



# TOWN OF KITTELY, MAINE

## TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED  
BY 1:25 PM  
JAN 08 2018

### APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: Suzanne Dwyer-Jones  
RESIDENCE: 6 Cutts Road, Kittery, Maine 03904, #41  
MAILING (if different) \_\_\_\_\_  
E-MAIL ADDRESS: suzanne8esq@gmail.com PHONE #: (Home) 2074756138 (Work) 2073632900

Requested to  
keep application  
in the pool for  
the Board of  
Appeals.  
2/13/18  
mp

#### **Please check one choice:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Board of Appeals         | <input type="checkbox"/> Board of Assessment Review       |
| <input type="checkbox"/> Conservation Commission             | <input type="checkbox"/> Mary Safford Wildes Trust        |
| <input type="checkbox"/> Comprehensive Plan Update Committee | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Education Scholarship Committee     | <input type="checkbox"/> CIP Committee                    |
| <input type="checkbox"/> Parks Commission                    | <input type="checkbox"/> Open Space Committee             |
| <input type="checkbox"/> Port Authority                      | <input type="checkbox"/> Planning Board                   |
| <input type="checkbox"/> Personnel Board                     | <input type="checkbox"/> Other _____                      |

EDUCATION/TRAINING: Juris Doctorate, MSL, B.A. Colby College

RELATED EXPERIENCE (Including other Boards and Commissions) \_\_\_\_\_

~~Related Experience~~ \_\_\_\_\_

PRESENT EMPLOYMENT: solo practitioner Law Office of Suzanne Dwyer Jones

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTELY     Yes     No

ANY KNOWN CONFLICT OF INTEREST (please read back of application): \_\_\_\_\_  
no known conflict of  
interest

REASON FOR APPLICATION TO THIS BOARD: interested in becoming involved with the town and its developments and giving back to the community

**HAVE \_\_\_/HAVE NOT XX\_\_ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.**

**Please read the back of this application before signing.**

  
SIGNATURE OF APPLICANT

  
DATE

## **Title 30-A: MUNICIPALITIES AND COUNTIES**

### **§2605. Conflicts of interest**

**1. Voting.** The vote of a body is voidable when any official in an official position votes on any question in which that official has a direct or an indirect pecuniary interest.

**4. Direct or indirect pecuniary interest.** In the absence of actual fraud, an official of a body of the municipality, county government or a quasi-municipal corporation involved in a question or in the negotiation or award of a contract is deemed to have a direct or indirect pecuniary interest in a question or in a contract where the official is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal, county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

When an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract is not voidable and actionable if the official makes full disclosure of interest before any action is taken and if the official abstains from voting, from the negotiation or award of the contract and from otherwise attempting to influence a decision in which that official has an interest. The official's disclosure and a notice of abstention from taking part in a decision in which the official has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

A. This subsection does not prohibit a member of a city or town council or a member of a quasi-municipal corporation who is a teacher from making or renewing a teacher employment contract with the municipality or quasi-municipal corporation for which the member serves.

**6. Avoidance of appearance of conflict of interest.** Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.



## Maryann Place

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**From:** suzanne dwyer jones <suzanne8esq@gmail.com>  
**Sent:** Tuesday, February 13, 2018 1:06 PM  
**To:** Maryann Place  
**Subject:** Re: Opening on the Planning Board

I wish to remain on the pool of applicants. Also heard last night you are retiring. Congratulations and I am sure you will be missed terribly. Thank you, Suzanne.

Suzanne Dwyer Jones  
Strater & Strater, P. A.  
P.O. Box 69  
York, Maine 03909  
207-363-2900  
207-475-6139

Sent from my iPhone

On Feb 13, 2018, at 10:14 AM, Maryann Place <[MPlace@kitteryme.org](mailto:MPlace@kitteryme.org)> wrote:

Hi Everyone,

If you would like to remain in the pool of applicants for the Board of Appeals, please email me and I will put your application back in the pool.

We also have a Planning Board opening coming up, so if you are interested in that position, I have attached an application for you to fill out and return to me.

Thank you.

Maryann

Maryann Place, CCM  
Kittery Town Clerk  
200 Rogers Road  
Kittery, ME 03904  
Phone: 207-475-1328  
Fax: 207-439-6806  
Email: [mplace@kitteryme.org](mailto:mplace@kitteryme.org)

<Appointment Application for Town Boards.doc>



# TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

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## REPORT TO TOWN COUNCIL

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Meeting Date: October 10, 2018  
UPDATE: December 10, 2018  
From: Kendra Amaral, Town Manager  
Subject: Title 16 – Sign Code  
Councilor Sponsor: Councilor Charles Denault

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### EXECUTIVE SUMMARY

The Planning Board has a prioritized objective to address challenges identified in Title 16 - Signs. I was informed this effort was actually initiated sometime in the past five years, but had been placed on hold to focus on other projects and issues.

The Sign code review focused on addressing challenges the staff and Planning Board have identified over the years in implementing and attempting to enforce the current regulations. The review also focused on needs identified generally by project applicants.

The revisions proposed were developed through discussion within the Planning and Development department, and included input from the planning staff and CEO staff.

### Zoning Amendment Development

The proposed amendments seek to address areas of challenge or question including message boards, internal and external lights and timers, quantity and size of freestanding signs allowed, temporary signs, sign locations, character/appearance of signs, and sign permit application/administration procedures and processes.

It is noted that the Title 16 recodification effort will address the larger issues embedded in the code, but the smaller fixes will improve the implementation and enforcement of the code in the interim.

### CURRENT SITUATION

The Planning Board reviewed and recommended to the Council the proposed amendments at their September 27<sup>th</sup> meeting.

### UPDATE

The feather flag prohibition was added by the Planning Board, however the vote was not unanimous. This is highlighted in the text to ensure the Council is aware of the language.

Text was added to address the concern raised by the Council in October regarding potential conflict regarding signs allowed without a permit, specifically political signs before an election. The proposed revision addresses other potential conflicts in the code as well.

**PROPOSED SOLUTION/RECOMMENDATION**

Approve as presented.

**ATTACHMENTS**

- Proposed Title 16 Amendments
- Proposed Title 16 Enactment
- Planning Board Minutes – Discussion of Proposal

## Definitions

1 **ADD to 16.2.2 Definitions:**

2 **Feather Flag**

3 A type of banner taller than it is wide, shaped similarly to a feather, and affixed to the ground at one end.

4 **AMEND 16.8 Signs:**

5 **§ 16.8.10.1 Purpose.**

6 The purpose of this article is to balance the need for adequate identification and advertising for land uses  
7 to promote the economic well-being of the Town with the need to protect the public safety and maintain  
8 and enhance the physical appearance of the community. This objective is to be achieved by:

- 9 A. Allowing adequate signage for the effective use of signs as a means of identifying, advertising and  
10 communication of land uses;
- 11 B. Establishing the appropriate bounds for location, size, number, type and use of signs to protect traffic  
12 safety, preserve property values and to promote visual order and clarity; and
- 13 C. Establishing procedures and regulations for the fair and consistent administration and enforcement of  
14 these sign restrictions.

15 **§ 16.8.10.2 General requirements.**

- 16 A. No sign may be erected, posted, enlarged, or substantially changed without a permit issued by the  
17 Code Enforcement Officer (CEO) or designee ~~and also approved by the Town Planner~~, except  
18 where § 16.8.10.9 provides otherwise.
- 19 B. No exterior sign may be artificially illuminated except where such lighting is hooded or shielded or  
20 otherwise designed to prevent direct light spilling onto traveled ways or neighboring property.  
21 Lighting specifications must be submitted to the Code Enforcement Officer with the permit  
22 application.
- 23 C. No sign may contain ~~a~~ moving or animated messages ~~board~~ or ~~displays~~ ~~intermittent illumination~~,  
24 except where necessary in time/temperature/date signs. Changes in lighting to create a special effect  
25 or depict action are prohibited.
- 26 D. Any sign that interferes with or closely imitates any official traffic sign, signal or device is  
27 prohibited.
- 28 E. No sign designed to be transported by means of wheels is allowed, unless said vehicle and/or trailer  
29 is used in the normal day-to-day transportation operations of the advertised business. ~~All trailer signs~~  
30 ~~are prohibited.~~
- 31 F. Any changeable message signs permitted by 16.8.1.2C. must be integrated into a permanently-  
32 mounted sign. Such a changeable message ~~board~~ sign is to be mounted a minimum of 3 1/2 feet  
33 above ground level.
- 34 G. All signs must be maintained in a safe and sound structural condition.
- 35 H. Advertising. No advertising or signage is permitted on wireless communication services facilities.

36 I. Any sign not expressly permitted herein is prohibited.

37 § 16.8.10.3 Sign location.

38 A. All signs must be permanently installed on the premises of the activity to which the advertising  
39 message refers, except where § 16.8.10.7 provides otherwise or upon approval by the Town Council.

40 B. All signs must be located outside the full width of the right-of-way of any public way, unless  
41 authorized by the Town Council.

42 C. Except for signs authorized in §§ 16.8.10.7 and 16.8.10.9, freestanding signs erected after October 1,  
43 1997 must be located at least 33 feet from the center line of any U.S. or state numbered highway less  
44 than 66 feet in width and at least 20 feet from the outside edge of the paved portion of any travel lane  
45 of any U.S. or state numbered highway which has both more than two travel lanes and a total paved  
46 portion in excess of 24 feet in width.

47 D. Signs ~~must~~ may not be placed on or above the roof of any building. All signs must be located below  
48 the level of the eaves of the portion of building where the sign is to be erected, except as follows:

49 (1) Signage may be located above the eaves on a gable or dormer of a building, providing it does not  
50 extend above or beyond the roofline of the gable or dormer; and

51 (2) Signage may be located on a parapet wall, provided the sign neither extends any more than eight feet  
52 above the roof-wall junction of the parapet wall nor extends beyond the height of the parapet wall.

Note: Please see Figure 3 of Chapter 16.8 at the end of this article to assist the reader in understanding acceptable and unacceptable locations of building-mounted signs according to the terms of § 16.8.10.3.

53 E. Building-mounted signs which extend more than six inches from the surface of the structure must  
54 provide a minimum of eight feet of vertical clearance to a walkway, parking area, private drive and  
55 ground surface. Such signs ~~must~~ may not extend beyond the street right-of-way boundary unless  
56 authorized by the Town Council.

57 F. Freestanding signs ~~must~~ may not extend higher than 20 feet above the original ground level or the  
58 elevation of the center line of the nearest street measured at the closest point to the sign, whichever is  
59 greater.

60 G. Signs ~~must~~ may not be posted on trees, utility poles, traffic control devices, or unregistered motor  
61 vehicles or trailers. Signs posted on fences are treated as a type of freestanding sign. Any  
62 ~~unpermitted and unallowed~~ sign located in a public road right-of-way may ~~be caused to~~ be removed  
63 by the Town without notice to the owner of such sign.

64 H. No sign may be located so that it interferes with the safe sight distances necessary for motorists to  
65 proceed safely through intersections or to enter onto or exit from public streets, private roads or  
66 driveways.

67 I. All building-mounted signs must be located only on the building that contains the activities or  
68 businesses advertised. ~~, except that up to 10% of the allowed signage for building mounted signs in~~  
69 ~~§ 16.8.10.6 may be allocated to signs mounted on fuel pumps and/or fuel pump canopies.~~

70 J. In cases where multiple freestanding signs are permitted, any additional allowed smaller freestanding

71 sign must face and be located along a separate publicly maintained street.

72 **§ 16.8.10.4 Number of freestanding signs.**

73 A. Except as otherwise authorized in this section, as well as §§ 16.8.10.8 and 16.8.10.9, each  
74 development is prohibited from having more than one freestanding sign.

75 B. Multisided signs are considered as one sign; however, the square footage of each sign face is  
76 calculated to determine total sign area.

77 C. Where a development fronts on two publicly maintained streets and has designed and approved  
78 access onto both those publicly maintained streets, the development is allowed one additional  
79 freestanding sign that faces and is located along a second publicly maintained street in accordance  
80 with § 16.8.10.6.

81 D. Where a development fronts on three publicly maintained streets and has designed and approved  
82 access onto each publicly maintained street, a third freestanding sign facing and located along the  
83 third publicly maintained street may be authorized at the Planning Board's discretion if it finds that  
84 other freestanding signage is not visible from the third street and that there is a need for a third  
85 freestanding sign to adequately communicate the business location to travelers on a third road  
86 fronted by the business.

87 **§ 16.8.10.5 Number of building-mounted signs.**

88 To prevent sign clutter, except for those signs authorized by §§ 16.8.10.8 or 16.8.10.9, each business  
89 facility which is on a site where two or more businesses occupy the same building, lot or development is  
90 prohibited from having more than two building-mounted, non-temporary signs.

91 **§ 16.8.10.6 Sign area.**

92 A. Residential Zones. Zones designated Residential - Rural Conservation, Residential - Rural,  
93 Residential - Suburban, Residential - Urban, and Residential - Village on the Zoning Map are  
94 residential zones for the purpose of this section.

95 (1) Accessory uses, including home occupations, are allowed sign area no greater than eight square feet.

96 (2) Other permitted uses are allowed sign area no greater than 16 square feet, except as otherwise  
97 provided. Residential developments are also allowed 24 square feet, provided that signs are located  
98 within the development on premises owned by the developer or an owners' association.

99 B. All other zones.

100 (1) A single business situated on a lot of record is allowed a total sign area no greater than 300 square  
101 feet or 1 1/2 square feet for every linear foot of building frontage, whichever is smaller. In any case,  
102 a single business on a lot of record is allowed a minimum sign area of 72 square feet.

103 (2) Where two or more business facilities occupy the same building, lot or development, allowable sign  
104 area is calculated as follows:

105 (a) Total building-mounted sign area equals 1 1/2 square feet per linear foot of building frontage for  
106 each business facility. The total allowed building-mounted sign area may be allocated among  
107 individual business facilities at the property owner's discretion.

108 (b) The development is allowed one freestanding sign not greater than 150 square feet in sign area

109 except:

110 (i) an additional freestanding sign no greater than seventy-two (72) square feet may be allowed  
111 provided-:

112 (a) the property contains multiple detached principal buildings;

113 (b) the property has at least one and one-half (1.5) times the minimum street frontage for the zone;

114 (c) all principal buildings on the property have commercial uses on the first floors.

115 (ii) An additional freestanding sign no greater than 72 square feet in sign area facing and located along  
116 that secondary street is allowed if the development fronts on multiple streets and has designed and  
117 approved access onto each publicly maintained street. A third freestanding sign may be permitted at  
118 the Planning Board's discretion in accordance with § 16.8.10.4.

119 § 16.8.10.7 **Off-premises signs.**

120 A. An individual business or service, upon application, may be assigned no more than three off-  
121 premises business directional signs (OBDS). An OBDS must be designed and located so as to avoid  
122 conflict with other signs and minimize impact on the scenic environment through the following  
123 standards:

124 (1) Dimensions: 12 inches by 48 inches.

125 (2) Coloring: state standard blue background, white lettering, logo may be any color.

126 (3) Reflectorization: optional.

127 (4) Location: on existing assemblies (posts) where possible. No more than two assemblies per  
128 intersection approach.

129 (5) Restricted areas: An OBDS must not be placed on an inbound leg of the Kittery traffic circle within  
130 400 feet of its outer perimeter, or adjacent to points of scenic or historical interest, including but not  
131 limited to federal, state and local parks and reserves, recognized historic sites and buildings, water  
132 bridges and cemeteries.

133 B. An off-premises sign which advertises commercial or other activity without advertising any specific  
134 enterprise (generic signs) may be approved by the Planning Board at size and location to be  
135 specified.

136 § 16.8.10.8 **Temporary signs.**

137 All temporary signs must be installed on the premises of the activity to which the advertising message  
138 refers and may not be located in the public right-of-way. Moveable or animated signs are prohibited as  
139 temporary signs. The following types of temporary signs are allowed with an approved sign permit:

140 A. The use of one temporary sign, other than a trailer sign, at any one time per business, that is mounted  
141 to the building or attached to a freestanding sign structure for the purpose of advertising special  
142 events, provided that such signs are displayed for no longer than a combined total of 21 days in any  
143 calendar quarter (January 1 to March 30, etc.), may be permitted. Total sign area for a temporary  
144 sign must not exceed 72 square feet. The allowed twenty-one-day display period may be divided into  
145 no more than three separate, nonoverlapping temporary periods of not less than seven days.

146 B. One additional temporary sign, other than a trailer sign, mounted to the building or to a freestanding  
147 sign structure, is permitted per legally participating site for the duration of each Town Council-  
148 approved sidewalk sales event.

149 **C. Feather flags are prohibited.**

150 **§ 16.8.10.9 Signs allowed without sign permit.**

151 The following types of signs, in sizes and under conditions stated, are allowed without a Town sign  
152 permit, but must conform with all other provisions of Article X of this chapter except for the provisions  
153 restricting the number of signs (§§ 16.8.10.4 and 16.8.10.5) ~~and~~ limiting the total sign area (§ 16.8.10.6)  
154 or as otherwise provided for in 16.8.10.9.

155 A. Public information signs. Signs for the control of traffic and other regulatory purposes, route  
156 markers, street signs, warning signs, utility, danger or warning signs, signs which indicate direction  
157 to hospitals, churches or other places of worship, or other public facilities.

158 B. General information signs. Signs which provide direction or instruction, such as location of  
159 telephone, restrooms, parking, automatic teller machines (ATMs), transit stops, entrances and exits,  
160 open and closed signs, where installed entirely upon the property to which they pertain. "Enter" and  
161 "Exit" signs must not exceed four square feet in size. All other general information signs must not  
162 exceed two square feet in size. Except for identifying approved off-premises parking stalls, no logos,  
163 trademarks or names of businesses are permitted on general information signs. The Planning Board  
164 may approve increased sizes and/or the use of logos or names of businesses on general information  
165 signs when considered necessary to promote safety or eliminate confusion.

166 C. Memorial tablets. Grave markers, signs commemorating a historical figure or event, names or dates  
167 of buildings to which a sign is attached.

168 D. Public notices and community signs. Official notices posted by public employees in performance of  
169 their duties, and any sign for Town sponsored or supported events or facilities as approved by the  
170 Town Council.

171 E. Signs placed on municipal property by the Town or signs placed on municipal property through  
172 approval of the Town Council.

173 ~~E~~F. Flags of any government or recognized political subdivision. The flag of any government or  
174 recognized political subdivision is allowed, provided it is displayed no higher than 50 feet above the  
175 original ground level or the elevation of the center line of the nearest street measured at the closest  
176 point to the flag, whichever is greater. A single memorial flagpole installation sponsored by private  
177 funding not to exceed 129 feet in height installed on Town-owned or regulated property at Memorial  
178 Circle is allowed.

179 ~~F~~G. Religious symbols.

180 ~~G~~H. Building street numbers. In accordance with the street-numbering map on file with the Town  
181 Assessing Department;

182 ~~H~~I. Political campaign signs. Signs bearing political messages relating to an election, primary or  
183 referendum, provided these signs may be displayed on:

184 (1) Public property not earlier than 30 days prior to the election, primary or referendum to which they



185 relate and are removed not later than two days thereafter.

186 (2) Private property without time constraints.

187 ~~H~~I. Interior signs. Signs placed inside a building which are located at least 10 feet inside the building or  
188 otherwise not oriented to be viewed from outside the building;

189 ~~J~~K. Vehicular signs. Signs painted on or affixed to registered motor vehicles or trailers where such signs  
190 are clearly incidental to the regular transportation function of the vehicle.

191 ~~K~~L. Service club signs. Service club signs may be placed within the right-of-way of a street with  
192 approval of the Commissioner of Public Works. Such signs are encouraged to be consolidated on a  
193 single designated assembly structure at major entranceways to the Town. In addition, such signs not  
194 exceeding four (4) square feet in size may be erected at locations where meetings of such service  
195 clubs are convened.

196 ~~L~~M. Real estate signs. Any sign advertising real estate for sale, lease or rent, provided:

197 (1) Each sign does not exceed 12 square feet;

198 (2) Each sign is located on the property being advertised, except one sign may be located as an off-  
199 premises directional sign, provided the sign does not restrict safe sight distances or impair safety;

200 (3) No more than two signs are erected per property being advertised; and

201 (4) Each sign is removed within 60 days of transfer of ~~title~~property.

202 ~~M~~N. Window signs. Any sign that is placed inside a window and is visible from the exterior of the  
203 window, provided such signage covers no more than 50% of the area of any window.

204 ~~N~~O. Legally required signs. Any sign required by local, state or federal law with sign area no greater than  
205 two square feet or the minimum size required by law, whichever is larger.

206 ~~O~~P. Food menu signs. Up to two signs advertising food items for sale on the premises at a legally  
207 existing restaurant, fast-food outlet, drive-in restaurant, or snack bar are allowed, provided that:

208 (1) The total sign area of each such food menu sign on the site must not exceed 32 square feet; and

209 (2) Such food menu signs must either be building-mounted or comply with the front yard requirements  
210 for structures and be located within 75 feet of the restaurant.

211 ~~P~~Q. Undercanopy, pedestrian-oriented signs. One building-mounted business identification sign per  
212 business facility, not to exceed 10 square feet in size per sign, where two or more businesses occupy  
213 the same building with a pedestrian walkway and canopy that parallels and connects the front  
214 entrances of the business facilities. The sign must be oriented toward pedestrians using the walkway,  
215 be located under the canopy near the main entrance to the business advertised and solely identify the  
216 business name or logo.

217 ~~Q~~R. Construction phase and contractor or developer signs. Signs, other than trailer signs, identifying the  
218 name of a contractor or developer working on the premises and/or describing a construction project,  
219 erected only during the construction phase of a development, provided:

220 (1) each sign does not exceed 75 square feet.

221 (2) one sign is erected per property under construction;

222 (3) the sign is removed within thirty (30) days of completion of construction.

223 S. Development or Construction Financing Signs. Signs identifying financial entities funding  
224 construction are allowed provided:

225 (1) each sign does not exceed twelve (12) square feet;

226 (2) only one sign is erected per development;

227 (3) the sign is removed within thirty (30) days of the completion of construction.

228 ~~R.T.~~ Garage sale signs as allowed by § 5.4.9A(2).

229 § 16.8.10.10 **Signs in Shoreland Overlay and Resource Protection Overlay Zones.**

230 The following provisions govern signs in the Conservation, Shoreland Overlay and Resource Protection  
231 Overlay Zones, except where ~~either is~~ overlaid by the Commercial Fisheries/Maritime Uses Overlay  
232 Zone. No signs are permitted in the public right-of-way.

233 A. Signs relating to goods and services sold on the premises are allowed, provided such signs do not  
234 exceed six square feet in area and do not exceed two signs per premises.

235 B. Signs relating to goods or services not sold or rendered on the premises are prohibited.

236 C. Name signs such as the name of the business are allowed, provided such signs do not exceed two  
237 signs per premises and do not exceed 12 square feet in the aggregate.

238 D. Residential users may display a temporary single sign not over three square feet in area relating to  
239 the sale, rental or lease of the premises.

240 E. Signs relating to trespassing and hunting are allowed without restriction as to number, provided no  
241 such sign exceeds two square feet in area.

242 F. Signs relating to public safety are allowed without restriction.

243 G. Signs higher than 20 feet above the ground are prohibited.

244 H. Signs may be illuminated only by shielded, non-flashing lights.

245 § 16.8.10.11 **Sign permit application procedures.**

246 A. No person may erect, post, enlarge, relocate, replace or modify a sign except in conformance with a  
247 permit issued by the Code Enforcement Officer or designee ~~and also approved by the Town Planner.~~  
248 Notwithstanding the above statement, the following signs may be erected or modified without a sign  
249 permit:

250 (1) Signs authorized in § 16.8.10.9.

251 (2) Changes to nameplates or "shingles" to reflect occupancy changes on an existing approved

- 252 freestanding sign identifying individual occupants on the site, provided no change is made to the  
253 shape or size of the sign or sign area.
- 254 (3) Characters, letters and numbers may be changed on approved changeable message signs without a  
255 sign permit, provided no other change is made to the sign.
- 256 (4) Signs may be maintained, cleaned or repainted, provided no change is made to the shape or size of  
257 the sign or to the sign area, and provided no new business name is advertised.
- 258 B. A complete sign application submission consists of the following items submitted to the Code  
259 Enforcement Officer:
- 260 (1) A completed sign permit application ~~form~~ provided by the Town, including the sign's design  
261 showing location, dimensions, colors, and lighting if any;
- 262 (2) An application fee in accordance with a fee schedule established by the Town Council;<sup>[1]</sup> and  
263 ~~(3) A self-addressed, stamped envelope.~~
- 264 C. Complete applications must be reviewed by the CEO for compliance with this title. ~~Complete sign~~  
265 ~~permit application submissions must be returned by the CEO after rendering a decision to the~~  
266 ~~applicant if accompanied by an SASE. Incomplete sign permit application submissions will only be~~  
267 ~~returned to the applicant if accompanied by an SASE.~~
- 268 D. Unless the proposed sign is located within the Shoreland Zone, the CEO must issue, deny or seek a  
269 formal Planning Board opinion within 14 working days of receiving a complete sign permit  
270 application submission. If either a Planning Board opinion is sought or the proposed sign is located  
271 within the Shoreland Zone, the CEO must issue a permit or deny the application within 35 calendar  
272 days of receiving a complete sign permit application submission.
- 273 E. The sign permit must be approved if the proposed sign conforms in every respect with the  
274 requirements of this article. In the CEO's absence, or if no action is taken by the CEO within the  
275 above time limits, the Town Manager or the Town Manager's designee ~~may~~ shall approve or deny  
276 the sign permit application submission and direct the issuance of the sign permit.
- 277 ~~F. All new signs approved as of October 1, 1997 must display a numbered sign permit sticker provided~~  
278 ~~by the Town in a visible location at the lower right hand corner of the sign face. Failure to display~~  
279 ~~such sign permit sticker on signs erected as of October 1, 1997 will be considered a violation of this~~  
280 ~~article. Replacement stickers are available from the CEO based on a fee schedule established by the~~  
281 ~~Town Council.~~
- 282 § 16.8.10.12 **Nonconforming existing signs.**
- 283 A. All signs lawfully existing on October 1, 1997 that do not conform to the terms of this article may be  
284 continued and maintained, subject to § 16.8.10.12B, but may neither be enlarged nor substantially  
285 altered except in conformity with this article.
- 286 B. Lawfully nonconforming signs must be made to conform or be removed if any of the following  
287 circumstances occur, individually or in combination, for a ~~consecutive three~~ one-year time period:
- 288 (1) The sign has ceased to be accurate by reason of vacancy or closure of the business which the sign  
289 advertises.

- 290 (2) The sign face is blank, illegible, obscured, painted over, concealed or otherwise not decipherable.
- 291 C. In no event may the degree of nonconformity of any sign or type of signage on any lot be increased.
- 292 An extension to the one-year time period may be granted by the Board of Appeals as a miscellaneous
- 293 variance. Such an extension must be requested of the Board of Appeals before the one-year period
- 294 has elapsed. The extension itself may not exceed a period of one year.

295 § 16.8.10.13 **Sign violations and appeal.**

- 296 A. The CEO must notify and order the owner to immediately correct any sign that endangers public
- 297 safety. Signs that endanger public safety include, but are not limited to, those which are dangerous
- 298 by reason of structural defect or those that interfere or obstruct a driver's safe operation of a motor
- 299 vehicle.
- 300 B. A nonconforming sign which is required to conform to the sign regulations per § 16.8.10.12 must be
- 301 brought into conformity.
- 302 C. Enforcement of the provisions of this article is in accordance with Chapter 16.4.

**KITTERY TOWN CODE TITLE 16  
SIGN CODE**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and  
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine  
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,  
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in  
6 Sections 1.01 and 2.07(3) of the Town Charter; 30-A MRS §3001, pursuant to its powers that  
7 authorize the town, under certain circumstances, to provide for the public health, welfare,  
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or  
9 federal laws; and

10 **WHEREAS**, the Town has identified areas for clarification and adjustment that improve the  
11 overall effect and impact of the sign code; and

12 **WHEREAS**, the proposed amendments address changes in signage design and signage needs;  
13 and

14 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001 AND TOWN CHARTER  
15 §2.07(3), THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENT TO TITLE 16 OF THE  
16 TOWN CODE, AS PRESENTED.

17

18 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,

19 20\_\_\_\_, by:\_\_\_\_\_ {NAME} Motion to approve by Councilor

20 \_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and

21 passed by a vote of \_\_\_\_\_.

22 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,  
23 Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

24 **Attest:** {NAME}, \_\_\_\_\_ Town Clerk

Council Chambers

40

41 7-0-0

42

43 \*Not Discussing ITEM #2 – No NEW Language

44 \*Mr. Ledgett raised a question of wetlands being filled in on a parcel off of Route 236  
45 which has caused property damage to abutters on Martin Road.

46 Karen Burbank of 122 Martin Road spoke about her concerns about the fill and flooding  
47 in the area. She noted she had information regarding that which she could share with  
48 the Board. Matter will be discussed with abutters in depth at a later date.

49

50 PUBLIC COMMENTS – None

51

52 PUBLIC HEARING

53

54 ITEM #1 – Land Use and Development Code (Title 16) Amendments – TITLE 16.8,

55 ARTICLE X. Signs

56 The proposed amendments clarify and update the sign regulations relative to message boards  
57 / internal & external lights and timers; number and sizes of free-standing signs allowed;  
58 temporary signs; sign location; character/appearance and sign permit  
59 application/administration procedures.

60 Public Hearing Vote to Recommend. Take public comment. Review and discuss proposed  
61 changes to ARTICLE X Signs. Vote to recommend to the Town Council.

62

63 Debbie Driscoll discussed the proposed amendments. She handed out a photograph of a  
64 truck sign to the Board. She discussed a situation in the past where a truck with sign attached  
65 advertising an off-premise business would park in front of her house. She suggested language  
66 should be added in line 35 to prevent that from occurring. She suggested language that would  
67 state that the vehicle must be registered to the business that it advertises. Mr. Alesse stated he  
68 believes the current language is acceptable but it may need to be tightened up. Mr. Steffen  
69 stated that the owner was contacted about the violation by Code Enforcement and matter was  
70 taken care of at the time. He explained that it is not permitted as it is sign that is located in the  
71 public right-of-way and is prohibited under lines 86 and 87 in the amendments that states any  
72 sign that is located in the public right away may be removed by the time without notice of the  
73 owner. Ms. Driscoll stated that she felt would fall under the off-premise advertising as well.  
74 Vice Chair Kalmar asked if staff had any objection to adding the word advertised the word  
75 business. Mr. Steffen stated that staff would not be opposed.

76

77 Ms. Driscoll discussed A- frame type signs. She noted that she thought they were only  
78 authorized in the foreside zones but could not find the language in the current code. Mr. White

79 asked if this pertained to temporary signs put out during the day to advertise specials. Ms.  
80 Driscoll stated if the Board was considering allowing A-frame type signs she would like the  
81 Board to consider allowing them in all business zones to be fair all businesses in town. Vice  
82 Chair Kalmar noted that the current ordinance doesn't call out A-frame signs. Mr. White noted  
83 that he felt it was acceptable to allow these types of signs across all of the business zones.  
84 There was further discussion by the Board about developing regulations for these types of  
85 signs. Mr. Dunkelburger stated he would like the Board to create a definition for A-frame signs  
86 advertising daily specials that would allow them on the side walk in all commercial zones  
87 provided that they didn't obstruct the flow of pedestrian traffic.  
88 Chair Grinnell summarized that the Board would not include anything in the current  
89 amendments but in the future develop wording that would include a definition, size limits and  
90 inclusion in all of the commercial zones. Mr. Alesse discussed adding it to the temporary signs  
91 section and noted the wording in subsection C is new. Mr. Steffen will follow up with proposed  
92 language.

93  
94 Ms. Driscoll then discussed line 235 that mentions vehicular signs. She felt that the wording  
95 needed to be tweaked to prevent signage like the one shown in the photograph that she  
96 handed out. Mr. Steffen responded that truck sign that was concerned about doesn't meet that  
97 definition as the sign is not incidental to the regular transportation function of the vehicle.

98  
99 It was noted that there need to be a correction to line 240 to add "square".

100  
101 Ms. Driscoll discussed the wording in lines 257 & 258 regarding the 75 foot distance from the  
102 restaurant for food menu signs. She asked if it was possible to seek relief from that  
103 requirement from the Board of Appeals. Mr. Steffen responded that staff was not proposing  
104 any change to this requirement. There was discussion amongst the Board regarding this and  
105 Ms. Driscoll stated it wasn't necessary after all as a person could appeal the decision by the  
106 Code Enforcement Officer to the Board of Appeals as it now stands.

107  
108 The Board discussed the proposed definition of a feather flag. Mr. Fitch mentioned seeing a  
109 feather flag affixed to a boat and questioned how would meet the proposed definition. The  
110 Board discussed the wording "affixed at one end". Adam Causey, Director of Planning and  
111 Development shared his insight on feather flags. Mr. Causey and the Board had several  
112 exchanges on how the use of feather flags would be tracked by the code enforcement  
113 department and the definition of a feather flag.

114  
115 Mr. White discussed providing more notice if the Board was going to prohibit them and  
116 allowing interest groups and the business community to weigh in.

117 After question from Mr. Ledgett, there was a discussion about the time period allowed for  
118 displaying temporary signs. The intent was to allow for special / seasonal type sales.

119  
120 Chair Grinnell polled the Board on supporting a ban on feathered flags.

121  
122 Mr. Dunkelberger voiced his concerns about how this would limit businesses from advertising  
123 special sales or drawing attention to businesses like food trucks that are in the back of a  
124 business. There was a discussion about the Board legislating taste with this ban.

125  
126 **Mr. Alesse moved to ban feather flags entirely. Seconded by Mr. Ledgett**  
127 **Motion carried 4-3-0.**

128  
129 After question from Mr. Steffen, the Board stated it would keep the definition in the ordinance  
130 but prohibit them from being utilized.

131  
132 **The recommendation is for the Town Council in consideration of adoption of the**  
133 **proposed sign ordinance amendments.**

134  
135 Chair Grinnell summarized the proposed changes accepted by the Board:

136  
137 Line 36: Add the word “advertised” before business.

138  
139 Line 91: Add wording to state that feather flags are prohibited.

140  
141 Line 240: add the word “square” in front of feet.

142  
143 Line 258: Add a period at the end of the sentence.

144  
145 There was more discussion by the Board about the definition of feather flag. Mr. Causey  
146 recommended that the definition stay the same.

147  
148 After polled by the Chair Grinnell the Board voted 4-3-0 to keep the language that way was  
149 written. There was further discussion regarding amending the definition of feather flag. The  
150 Board voted 4-3-0 to leave the definition as it was written as recommended Mr. Causey.

151  
152 **Mr. White made a motion to recommend the proposed amendments to Section 16.2 –**  
153 **Definitions – Feather Flag & Section 16.8.10 relative to message boards / internal &**  
154 **external lights and timers; number and sizes of free-standing signs allowed; temporary**



155 **signs; sign location; character/appearance and sign permit application/administration**  
156 **procedures. Seconded by Mr. Fitch**

157  
158 **Motion carried 7-0-0.**

159  
160 **Mr. Dunkelberger asked the Chair is this would reflect the vote regarding the feather**  
161 **flags. It was noted that that it would be included in the transmittal to the Town Council.**

162  
163 **OLD BUISNESS**

164  
165 **ITEM #2 – Town Zoning Map Amendment: Neighborhood Mixed – Use (MU-N) Zone-**  
166 **Postponed**

167  
168 **NEW BUISNESS**

169  
170 **ITEM #3 – Housing Working Group**

171 Discussion/Q&A: Adam Causey, Kittery’s Planning & Development Director, will provide an  
172 update on the activities of the Kittery Housing Working Group.

173  
174 Mr. Causey provided an update on the progress of the Kittery Housing Working Group. He  
175 noted that Mr. White and Mr. Fitch could share their experience as members of the working  
176 group. He discussed their work on crafting amendments to the existing Accessory Dwelling  
177 Unit (ADU) regulations for review and what is possible for inclusionary housing look in Kittery.  
178 He discussed the Workforce Housing Coalition’s upcoming design workshop that will focus on  
179 developing a concept plan for affordable housing on a test site. He noted the majority of  
180 Kittery residents cannot afford to purchase a house at today’s prices. He explained the  
181 purpose of the workshop would be to bring architects, planners and financiers together take  
182 input from the public and create some ideas and concepts for development of affordable  
183 housing in Kittery.

184  
185 He discussed the test site former ambulance / fire station at 25 Walker Street. He discussed he  
186 that location was selected and stressed that this would just be a planned exercise. It is an  
187 opportunity to look at a piece of property to see what the professionals can do. He noted that  
188 the exercise will start with “Walk and Talk” on October 3<sup>rd</sup> from 4:30pm – 6:00pm to preview  
189 the site and brainstorm. A second tour will take place on Wednesday October 24<sup>th</sup> from  
190 3:30pm - 4:30pm at 25 Walker Street. The team will then host a community listening session at  
191 6pm at the Kittery Community Center to gather people’s hopes, concerns and ideas. Then on  
192 Friday, October 26<sup>th</sup> the team will get creative back at the KCC and reveal the concept plans at  
193 6pm and take follow up questions. He noted that the public is welcome to all of the events.



# TOWN OF KITTEERY

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## REPORT TO TOWN COUNCIL

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Meeting Date: November 14, 2018  
UPDATE: December 4, 2018  
From: Kendra Amaral, Town Manager  
Subject: Shoreland and Resource Protection Zones  
Councilor Sponsor: Councilor Kenneth Lemont

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### **EXECUTIVE SUMMARY**

The Planning Board has a prioritized objective to address challenges identified in Title 16. In this proposal the challenges identified exist with the Shoreland and Resource Protection Overlay zones. Specifically, the proposed amendments seek to define drainage structures (which are not ditches per se) and address how they should be considered within the code; and to address non-conforming structures in both zones.

The revisions proposed were developed through discussion within the Planning and Development department, and included input from the Resource Protection Officer and Planning staff.

### **Zoning Amendment Development**

The proposed amendments seek to make clear what the Town expects for drainage structures (and what the Town defines as a drainage structure) within and outside of properties containing shoreland zoned land.

The proposed amendments also remove the roof pitch language which, as an unintended consequence, prevents rooftop decks that would otherwise be (and in the past were) permissible in various zones.

It will also align the nonconforming building expansion section more closely with the Department of Environmental Protection's while clarifying what is and is not allowable in the shoreland zone setbacks.

It is noted that the Title 16 recodification effort will address the larger issues embedded in the code, but these smaller fixes will improve the implementation and enforcement of the code in the interim.

### **CURRENT SITUATION**

The Planning Board reviewed and recommended to the Council the proposed amendments at their August 23rd meeting.

### **PROPOSED SOLUTION/RECOMMENDATION**

Approve as presented.

## **ATTACHMENTS**

- Proposed Title 16 Amendments
- Proposed Title 16 Enactment
- Planning Board Minutes – Discussion of Proposal

**TITLE 16 LAND USE AND DEVELOPMENT CODE**

1 **ADD to § 16.2.2 Definitions.**

2 **DRAINAGE STRUCTURE** means any stormwater run-off control system designed to manage  
3 stormwater on a site, including but not limited to underdrain soil filter (USF) ponds, stormwater detention  
4 ponds, bioretention cells, or other similar engineered systems.

5 **AMEND 16.7.3.3.B Nonconforming structures**

6 **§ 16.7.3.3 Nonconforming structures.**

7 B. Nonconforming structure repair and/or expansion.

- 8 (1) Except where otherwise permitted in this title, repair and/or expansion of a nonconforming structure  
9 must be approved by the Board of Appeals. In cases where the structure is located in the Shoreland  
10 or Resource Protection Overlay Zone, the repair and/or expansion must be approved by the Planning  
11 Board.
- 12 (2) The Code Enforcement Officer may approve the repair and/or expansion of a nonconforming  
13 structure provided the proposed expansion meets all of the following criteria:
- 14 (a) A vertical expansion that follows the existing building footprint;
- 15 (b) Will not result in setbacks less than those existing;
- 16 (c) Is not located in the Shoreland Overlay or Resource Protection Overlay Zone.
- 17 (3) This subsection does not apply to any proposed vertical expansion of a patio, deck or accessory  
18 structure permitted to be closer to a water body or to a principal structure in accordance with Table  
19 16.9 - Minimum Setbacks from Wetlands and Water Bodies.
- 20 (a) A nonconforming structure may be repaired or maintained and may be expanded in conformity with  
21 the dimensional requirements, such as setback, height, etc., as contained in this title. If the proposed  
22 expansion of a nonconforming structure cannot meet the dimensional requirements of this title, the  
23 Board of Appeals or the Planning Board will review such expansion application and may approve  
24 proposed changes provided the changes are no more nonconforming than the existing condition and  
25 the Board of Appeals or the Planning Board makes its decision per § 16.6.6.B.
- 26 (b) Except in the Residential - Village (R-V) Zone, minimum setbacks of residential storage sheds that  
27 are less than 121 square feet, one-story residential garages that are less than 577 square feet, and  
28 decks less than 251 square feet may be one-half the minimum rear and side yard setbacks, providing  
29 the lots are legally nonconforming.
- 30 (c) Where the expansion of the residential use within the Commercial Zones involves an expansion of a  
31 structure, the structure must be expanded in conformity with the dimensional requirements contained  
32 in this title. If the proposed structure expansion cannot meet the dimensional requirements of this  
33 title, the application may be submitted to the Board of Appeals for review as a miscellaneous  
34 variation request. In reviewing all such applications, the Board of Appeals must use the criteria  
35 established in this section, and then may approve the proposed variations to the dimensional  
36 requirements.

37 (d) The addition of steps and landings, exterior to the structure does not constitute expansion. Such steps  
38 are not to be considered part of the structure for such determination. Step landings may not exceed  
39 three feet by three feet in size.

40 (e) In addition to the standards in the above § 16.7.3.3B(3)(a) through (d), the expansion of a  
41 nonconforming structures ~~and the construction of new, enlarged, or replacement foundation beneath~~  
42 a nonconforming structure located in the Shoreland or Resource Protection Overlay Zone must meet  
43 the following:

44 [1] Wherever a new, enlarged, or replacement foundation is constructed under a nonconforming  
45 structure the structure and new foundation must be placed such that setback requirements are met to  
46 the greatest practical extent as determined by the Planning Board, basing its decision on the criteria  
47 specified in § 16.7.3.3A(2), Nonconforming structure relocation.

48 [2] All new principal and accessory structures, excluding functionally water-dependent uses, must meet  
49 the water body, tributary stream, or wetland setback requirements contained in 16.3.2.17.D(2). A  
50 nonconforming structure may be added to or expanded after obtaining a permit from the same  
51 permitting authority as that for a new structure, if such addition or expansion does not increase the  
52 nonconformity of the structure and is in accordance with 16.7.3.3.B(3)(e)[4] and 16.7.3.3.B(3)(e)[5]  
53 below.

54 [23] Expansion of any portion of a structure that is located within 25 feet of the normal high-water line of  
55 a water body, tributary stream, or upland edge of a coastal or freshwater wetland is prohibited even if  
56 the expansion will not increase nonconformity with the water body, tributary stream, or wetland  
57 setback requirement. Expansion of an accessory structure that is located closer to the normal high-  
58 water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland than  
59 the principal structure is prohibited, even if the expansion will not increase nonconformity with the  
60 water body, tributary stream, or coastal or freshwater wetland setback requirement.

61 [34] Notwithstanding § 16.7.3.3B(3)(e)[2] above, if a legally existing nonconforming principal structure  
62 is entirely located less than 25 feet from the normal high-water line of a waterbody, tributary stream,  
63 or upland edge of a coastal or freshwater wetland, that structure may be expanded as follows, as long  
64 as all other applicable municipal land use standards are met and the expansion is not prohibited by  
65 16.7.3.3.B(3)(e)[2]:

66 [a] The maximum total footprint for the principal structure may not be expanded to a size greater than  
67 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is  
68 greater. The maximum height of the principal structure may not be made greater than 15 feet or the  
69 height of the existing structure, whichever is greater. ~~Roof slope must not be less than an 8:12 pitch.~~

70 [45] ~~Expansion of an accessory structure that is located closer to the normal high-water line of a water~~  
71 ~~body, tributary stream, or upland edge of a coastal or freshwater wetland than the principal structure~~  
72 ~~is prohibited, even if the expansion will not increase nonconformity with the water body, tributary~~  
73 ~~stream or coastal or freshwater wetland setback requirement.~~ All other legally existing  
74 nonconforming principal and accessory structures that do not meet the water body, tributary stream,  
75 or coastal or freshwater wetland setback requirements may be expanded or altered as follows, as  
76 long as other applicable municipal land use standards are met and the expansion is not prohibited by  
77 16.7.3.3.B(3)(e)[2] or 16.7.3.3.B(3)(e)[3] above:

78 [a] For structures located less than 100 feet from the normal high-water line of a water body, tributary  
79 stream, or upland edge of a coastal or freshwater wetland, the maximum combined total footprint for  
80 all structures may not be expanded to a size greater than 1,000 square feet, or 30% larger than the

81 footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure  
 82 may not be made greater than 20 feet, or the height of the existing structure, whichever is greater.  
 83 ~~Roof slope must not be less than an 8:12 pitch.~~

84 [b] In addition to the limitations in 16.7.3.3.B(3)(e)[5](a) above, for structures that are legally  
 85 nonconforming due to their location within ~~For structures that are located within~~ the Resource  
 86 Protection Overlay Zone when located at less than 250 feet from the normal high water line of a  
 87 water body or the upland edge of a coastal or freshwater wetland, the maximum combined total  
 88 footprint for all structures may not be expanded to a size greater than 1,500 square feet, or 30%  
 89 larger than the footprint that existed at the time the Resource Protection Overlay Zone was  
 90 established on the lot, whichever is greater. The maximum height of any structure may not be greater  
 91 than 25 feet, or the height of the existing structure, whichever is greater, except that any portion of  
 92 those structures located less than 100 feet from the normal high-water line of a waterbody, tributary  
 93 stream, or upland edge of a coastal or freshwater wetland must meet the footprint, ~~roof pitch~~ and  
 94 height limits in § 16.7.3.3B(3)(e)[4][a], and 16.7.3.3.B(3)(e)[5](a) above.

95 [6] An approved plan for expansion of a nonconforming structure must be recorded by the applicant  
 96 with the York County Registry of Deeds within 90 days of approval. The recorded plan must show  
 97 the existing and proposed footprint of the non-conforming structure, the existing and proposed  
 98 structure height, the footprint of any other structures on the parcel, the Shoreland Overlay zone  
 99 and/or the Resource Protection Overlay zone boundary and evidence of approval by the municipal  
 100 review authority.

101 **AMEMD Table 16.9 as follows:**

<b>Table 16.9</b>			
<b>Minimum Setbacks from Wetlands and Water Bodies* [Amended 9-24-2012 by Ord. No. 12-11]</b>			
<b>Structure/Activity</b>	<b>Total Size of Wetland and/or Water Body</b>		
	<b>Less than 501 square feet</b>	<b>501 square feet to 1 acre and Intermittent Streams</b>	<b>Greater than 1 acre</b>
	<b>(feet)</b>	<b>(feet)</b>	<b>(feet)</b>
Local distribution utility pole, fence, flagpole, <u>or signs</u> <del>or drainage structure</del>	0	0	0
<u>Drainage structure outside OZ-SL- 250</u>	<u>10 feet</u>	<u>10 feet</u>	<u>10 feet</u>
<u>Drainage structure within OZ-SL-250, OZ-RP, wetlands of special significance, and OZ-SP-75</u>	<u>75 feet</u>	<u>75 feet</u>	<u>100 feet</u>

102

**KITTERY TOWN CODE TITLE 16**  
**SHORELAND AND RESOURCE PROTECTION OVERLAY ZONES**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and  
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine  
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,  
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in  
6 Sections 1.01 and 2.07(3) of the Town Charter; 30-A MRS §3001, pursuant to its powers that  
7 authorize the town, under certain circumstances, to provide for the public health, welfare,  
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or  
9 federal laws; and

10 **WHEREAS**, the Town has identified areas for clarification and adjustment that improve the  
11 overall effect and implementation of the Shoreland and Resource Protection Overlay zones; and

12 **WHEREAS**, the proposed amendments clarify the regulations regarding drainage structures,  
13 and address alteration of non-conforming structures within the two overlay zones; and

14 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001 AND TOWN CHARTER  
15 §2.07(3), THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENT TO TITLE 16 OF THE  
16 TOWN CODE, AS PRESENTED.

17

18 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,

19 20\_\_\_\_, by:\_\_\_\_\_ {NAME} Motion to approve by Councilor

20 \_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and

21 passed by a vote of \_\_\_\_\_.

22 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,

23 Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

24 **Attest:** {NAME}, \_\_\_\_\_ Town Clerk

45 **PUBLIC COMMENT**

46

47 Chair Grinnell opened the public comment segment of the meeting. There being no  
48 comments, Chair Grinnell closed the public comment.

49

50 **NEW BUSINESS**

51

52 **ITEM 1 – Potential expansion of the Neighborhood Mixed-Use Zone (formerly Business**  
53 **Park Zone).** Discussion: Follow-up to letter sent to property owners in March, map of zone for  
54 review.

55

56 Chair Grinnell expressed interest in continuing this discussion to the second meeting in August  
57 when a full board is expected to be present.

58

59 Ms. Connor asked if the Board would like to see the entire land use study conducted in the fall  
60 of 2017 which helped inform the changes to the MU-N zone, formerly Business Park zone.  
61 Board members present were in favor and asked to have the document emailed to them for  
62 review prior to the workshop with Town Council in July.

63

64 Chair Grinnell requested that the Town Council receive the entire land use study as well and  
65 informed the audience that there will be a joint workshop with the Planning Board and Town  
66 Council from 5pm to 6pm on July 23, 2018 to discuss the Planning Board's recommendation  
67 for rezoning the Business Park to the Mixed-Used Neighborhood zone. The Town Council will  
68 also schedule a public hearing on this topic.

69

70 The discussion on the expansion of the MU-N (formerly Business Park) zone will continue at  
71 the August 23, 2018 meeting.

72

73 **ITEM 2 – Draft amendments to Shoreland Zoning.** Discussion: Changes proposed to 16.9  
74 (Wetland Setback Table) and 16.7.3.3.2 (Nonconforming Structure Repair and/or Expansion).

75

76 Chair Grinnell requested that the Shoreland Resource Officer provide background on this item.

77

78 Ms. Kellogg explained that there have consistent challenges in interpreting the code in areas of  
79 shoreland zoning, so are attempting to rectify some of the low hanging fruit prior to a full look  
80 at the whole code. Staff is proposing changes to the wetland table, including defining what a  
81 drainage structure is. Maine DEP identifies a drainage structure in the shoreland overlay zone  
82 as a structure required to meet setbacks and if it is not within the shoreland overlay zone it  
83 does not need to meet setbacks like a building would. The wetland table was amended to  
84 provide the setback requirements related to the shoreland overlay zone, resource protection  
85 overlay zone, wetland of special significance or the stream protection overlay zone and size of  
86 wetland.

87

88 Ms. Kellogg explained that the other piece to be amended is for non-conforming structure  
89 repair/expansion in Title 16.7.3.3.2. Staff realized some inconsistencies in the code when



90 compared with Chapter 1000 recommendations from Maine DEP. Since this was provided to  
91 the Board staff identified areas where the code numbering was not accurate, particularly at  
92 Lines 14, 24, 28 and will also change lines 59-60 in section b as it relates to the resource  
93 protection overlay zone. Ms. Kellogg stated that she has another idea on how to make that  
94 section more clear and will amend this further and will bring it back to the Board.

95  
96 Chair Grinnell requested discussion on these amendments to continue at the second meeting  
97 in July and a public hearing will likely be set for the second meeting in August. Ms. Connor  
98 stated that any board member not in attendance is welcome to send comments to staff.

99

100 **OLD BUSINESS**

101

102 **ITEM 3 – Update on Foreside Study.** Discussion: Director of Planning and Development will  
103 update the Board on the Study and parking changes.

104

105 Mr. Causey said that he is still waiting for the electronic copy of the Foreside Study from the  
106 consultant. The memo draws out a few recommendations that could be part of a separate  
107 action plan or the Board could get started on items with general support, like parking efforts.

108

109 Discussion on a draft survey included some specific uses that may not be in play anymore in  
110 the Foreside so certain questions may be amended or removed, and the survey will expand on  
111 parking questions and aiming for more opinions on the correct mix of commercial, residential  
112 and other uses. The Board will discuss a revised survey at the second meeting in July.

113

114 Mr. Causey highlighted street parking changes which would require an ordinance amendment  
115 by Town Council. He met with members of the Foreside business group who expressed  
116 concern with perception of parking issues in the Foreside, mostly employee parking in 2-hour  
117 parking areas. This may be addressed with better striping, new signage and having a broader  
118 category of parking with areas on Walker/State and Wentworth potentially having 4-hour  
119 parking and possibly at least one 15-minute parking space for a quick visit in the downtown  
120 area. An existing parking map will need to be updated with current parking counts, but it shows  
121 both public parking and private parking with on and off-street parking.

122

123 Chair Grinnell asked if there is enforcement of parking in the foreside? Mr. Causey stated that  
124 for the 2-hour parking on Walker Street away from the downtown Foreside they are trying to be  
125 more lenient, but they are enforcing parking in the downtown area.

126

127 Vice Chair Kalmar stated that the Foreside Study identified a great number of on-street parking  
128 spaces that are not painted, so people do not recognize that they are available. She asked if  
129 having a 4-hour parking area needed to be in place before we change striping? Mr. Causey  
130 replied that this does not correlate with current Code so that would need to be addressed first  
131 before striping changes. He will work with the Public Works Commissioner to identify areas  
132 listed as 2-hour parking that are not striped and get those painted now.

133

196

197 The Chair shared the workshop with the Town Council was informative. She added that she  
198 would be in favor of the expansion proposal if the height limit of the buildings was reduced.

199

200 Mr. Dunkelberger explained why he is in agreement with the 70-ft. building height limit in the  
201 zone. Mr. Ledgett and Vice Chair Kalmar reminded the Board that they have previously  
202 approved the zone change recommendation to Town Council and the issue for discussion is  
203 the expansion of the boundary.

204

205 Mr. Fitch shared that he does not think the 70-ft. building height is appropriate that close to  
206 Route 236 and Chair Grinnell agreed.

207

208 Vice Chair Kalmar suggested scheduling a hearing to listen to the public's opinion before they  
209 have further discussion on recommending this proposal.

210

211 Because of Board member schedules in August, the Board decided to hold a special meeting  
212 on August 21<sup>st</sup>.

213

214 **Mr. Dunkelberger proposed to hold a public hearing on the Neighborhood Mixed-Use**  
215 **Zone (MU-N) formerly Business Park Zone (B-PK) at a date of August 21, 2018 at a time**  
216 **to be determined and appropriately advertised.**

217 **Mr. Ledgett seconded the motion**

218

219 **The motion carried 6-0-0.**

220

221 **ITEM 3 – Draft amendments to Shoreland Zoning**

222 Discussion: Changes proposed to 16.9 (Wetland Setback Table) and 16.7.3.3.2  
223 (Nonconforming Structure Repair and/or Expansion).

224

225 Vice Chair Kalmar commented the staff did a good job clarifying the language in the ordinance.

226

227 Mr. Ledgett questioned if language should be added to Section F that no permit will be issued  
228 until this approval of the plan for expansion has been recorded. Ms. Kellogg explained the  
229 language was taken from the state's Chapter 1000 guidelines for municipal shoreland zoning  
230 ordinances and she added Code Staff do not issue building permits until the planning  
231 requirements are met and this will be one of the requirements. She added the amendments will  
232 be sent to DEP for review before the public hearing.

233

234 **Vice Chair Kalmar moved to hold a public hearing on the proposed amendments to**  
235 **16.7.3.3.2 (Nonconforming Structure Repair and/or Expansion) for August 23, 2018.**  
236 **Mr. Dunkelberger seconded the motion.**

237

238 **The motion carried 6-0-0.**

239

240 **ITEM 4 – Update on Foreside Study**

241 Discussion: Director of Planning and Development will update the Board on the latest edits to  
242 the Study.

243

244 Mr. Causey explained the updated study is in the Board packet and changes were made  
245 based on earlier comments. The consultants updated the maps and they are more readable.  
246 He added they are still waiting for the electronic version of the study and he will continue to ask  
247 for it. He explained this study went through a public planning process along with several  
248 business partners in the area and a working group and any changes need to go through the  
249 public process. His Executive Memorandum includes an outline of what staff is working on. He  
250 informed the Board a survey will be going out to gather opinions from the public. Suggestions  
251 of alleviating some of the parking issues were addressed which includes a proposal to change  
252 the time limit for parking in certain areas. A map of proposed parking changes has been  
253 shared with the business group in the Foreside for feedback and he is working with the Town  
254 Manager to get this on the Council's agenda.

255

256 Mr. Dunkelberger reminded Mr. Causey that the Board had recommended appropriate warning  
257 lights at crosswalks similar to the system near Rite Aid and the post office. Mr. Causey added  
258 the plans for the Walker and Wentworth intersection has been submitted and the construction  
259 timeframe is estimated for 2020-2021.

260

261 Chair Grinnell suggested that the Planning Board add this as an agenda item, review the  
262 report and write a letter outlining what they believe is important to moving forward. Mr. Ledgett  
263 added a lot of effort was put into this report and he expressed his concern of it not being used  
264 and forgotten. Discussion ensued of the report fitting into the recodification process taking  
265 place in the fall. The Board also discussed the Shipyard Study for the Government and Walker  
266 Streets intersection and the need to find out what it encompasses for the Town.

267

268 The Board was in consensus to add this item to the agenda for the second meeting in October.

269

270 **ITEM 5– Board Member Items / Discussion**

271

272 a. Short Term Rental Information

## **CALL TO ORDER**

## **ROLL CALL**

Present: Drew Fitch, Member; Dutch Dunkelberger, Member; Russel White, Member; Mark Alesse, Member; Karen Kalmar, Vice Chair; and Ann Grinnell, Chair

Absent: Ronald Ledgett, Member;

Staff: Jamie Steffen, Town Planner; Adam Causey, Director of Planning and Development; Jessa Kellogg, Shoreland Resource Officer/Stormwater Coordinator

## **PLEDGE OF ALLEGIANCE**

## **PUBLIC HEARING**

### **ITEM #1 – Town Code Amendments – 16.9 and 16.7 Land Use Zone Regulations**

The proposed amendments clarify and update the Title 16 zoning ordinance pertaining to wetland setbacks (16.9 Wetland Setback Table) and nonconforming structure repair and/or expansion (16.7.3.3.2 Nonconforming Structure Repair and/or Expansion) in the shoreland zone. Public Hearing Vote to Recommend. Take public comment. Review and discuss proposed changes to 16.9 Wetland Setback Table and 16.7.3.3.2 Nonconforming Structure Repair and/or Expansion. Vote to recommend to the Town Council.

**Vice Chair Kalmar moved to recommend the proposed amendments to the aforementioned codes to the Town Council, seconded by Mr. Dunkelberger.**

The Board thanked Jessa Kellogg Shoreland Resource Officer/Stormwater Coordinator for her work on drafting the amendments.

Mr. White questioned the origin of the green highlighted language. Ms. Kellogg explained that after the last meeting she sent the amendments to Mike Morse at Maine DEP for approval. The green highlighted additions are his comments to meet state minimum shoreland zoning standards. Everything else he is okay with.

Chair Grinnell stated that it will now go to the Town Council with the full support of Planning Board.

**Motion carried 6-0-0.**

**Continuation of the PUBLIC HEARING 8-21-18 -Town Zoning Map Amendment**

This zoning map amendment is the second step to a two-part process replacing the Business Park (B-PK) zoning district. The first step proposes a text amendment changing the B-PK zone to the Neighborhood Mixed-Use (MU-N) zone and replace the zoning requirements. This step is currently under consideration by Town Council after going through a public hearing process with the Planning Board on June 14, 2018. This second step proposes a zoning map amendment which will expand the proposed boundary of the new Neighborhood Mixed-Use (MU-N) zone currently under consideration by Town Council.

**PUBLIC COMMENTS**

Debbie Driscoll, Pepperrell Terrace asked if the Board would be answering the questions that were brought up at the previous meeting.

Jen Thayer, Martin Rd also asked about getting answers to the questions asked. She stated her concerns about wetlands being filled on other side of Martin Rd. She discussed the fill being composed of asphalt from the road and noted her concern about trees are dying in the area.

Ms. Kellogg shared that the process for wetland filling starts with the town and they look at if the wetland is of special significance and how much fill proposed. Maine DEP may issue permits but wetland filling and crossings require Planning Board approval. She stated that she was not aware of when the fill for Happy Ave was placed there but she was aware of the filling that was done at 122 Martin Road.

Chair Grinnell explained that Ms. Kellogg would happily deal with any their complaints in that regard.

The Board then addressed the questions from the public hearing on August 21<sup>st</sup>.

Barry Fitzpatrick, Rodgers Rd questions: The parcels are owned by individual property owners not by the Town of Kittery. They have access to Town sewer but do not have any roads built. Water would need to be extended and they do not have 3 phase power. Power could be extended. The height of 70 feet for the proposed zone only.

Vern Gardner Tucker Cove questions: The additional twelve lots will not be in the TIF District.

Mr. Alesse mentioned the question - Why has this parcel been so hard to develop. He stated that the obvious answer is that the property has a lot of wetlands. Plus, the area didn't have sewer.

Vice Chair Kalmar asked Mr. Causey to speak about the implications of changing the ordinance to improve the desirability of the land for future development.

Adam Causey, Director of Planning and Development discussed the study done in 2017 by the Southern Maine Planning and Development Commission which examined the reasons why the parcel hasn't been developed. He noted that the study is on the Town's website. He explained that it touches many aspects, such as sewer extension, environmental conditions including wetlands, roadway infrastructure and modifying the zoning to create higher densities that would attract worthwhile development.

EDC letter by George Dow, Bartlett Rd: Mr. Steffen noted that he had not received the letter for the Board's packets. Needs to be included in packet.

Judy Spiller, Rosellen Dr: No questions.

Kathy Hardy, Armour Drive: No questions.

Chair Grinnell noted that affordable housing is not included into the zone currently, however, there was potential for the topic to be included at a later time.

Chair Grinnell stated the question by Susan Emery, School Lane about how much effort was being put into using the property as a strictly business zone. It was noted even with sewer available there has been none.

Mr. Alesse mentioned the question about who owns the largest parcels of land within the proposed zone. Mr. Gerison approached the podium and explained the ownership arrangement for the properties involved – thirteen (13) acres are owned by Gerison Family Entities LLC, and eighty (83) acres are owned by YSKICE, LLC. He pointed out the parcels on the maps furnished by the Planning Department.

Mr. Causey answered the question about traffic concerns by noting that the Kittery Area Comprehensive Transportation System (KACTS) traffic and safety study for Route 236 will kick-off next month. For the Dennett Road he discussed the Joint Land Use Study with the Naval Shipyard, financed by the Department of Defense through a grant beginning in the October – November timeframe. The study will look at the impact on the town and the region of the shipyard traffic. He explained that a big part of the study will be looking the traffic impact at every corridor coming into Kittery and Dennett Rd will be part of that. He further explained that any proposed development whether or not this area gets rezoned depending on the intensity of

the use would require a traffic study. After question from Chair Grinnell, he discussed the funding for the Shipyard study and explained that he thought the cost was \$240,000 with the Town's match being 10%. He further discussed previous plans and study and felt this would be a great benefit.

Chair Grinnell discussed the proposed building height allowance of 70 feet. She stated that the owner of the property said at the last meeting he did not foresee building anything 70 feet high and would be okay with a 50 foot height limit. The EDC also stated that 55 feet would be acceptable provided it include allowances to exclude solar and other rooftop equipment in the height calculation. Vice Chair Kalmer explained that the language of the proposed zoning amendment does exclude solar and other appurtenances from the height limitation. Chair Grinnell noted that the Town Council would be meeting on Monday and will discuss the language change to Title 16 and when the public hearing will be set.

Mr. Alesse ask for clarification on the proposal relative to the 70 foot height allowance. He asked if we were opening the door on allowing that height in the expanded zone along Route 236. Vice Chair Kalmar explained that the Board voted a recommendation and cannot undo that, however, the Chair can ask for greater consensus. Vice Chair Kalmar stated that she is not in favor of the map amendment. The Board discussed obtaining consensus around the building height and sending a recommendation to Town Council.

The Board discussed giving the Town Council suggestions for the new zoning but not vote on the map. Vice Chair Kalmar, Mr. Alesse and Mr. Fitch all stated that they would like to table the proposal until the language is changed on the 70 foot height.

Mr. Dunkelberger stated that he would like to add a caveat that any building adjacent to Route 236 have a height limit of 50 feet.

The Board discussed that it doesn't want any 70-foot high buildings in Town. Mr. White added Chair Grinnell wasn't present at the meeting where the vote on the recommendation was made and explained that the Board probably should have waited until it had a full board for the vote. He felt that the expansion changes picture of the zone. Chair Grinnell echoed having a full board on matters such as this one.

Mr. Dunkelberger stated that the reason for the 70-foot height increase was in part because of the business park development and from the Town Manager whom he noted wasn't present. There was discussion amongst the Board on the purpose of allowing the 70 foot height. It was stated that it intended to allow for greater flexibility and higher density and because of the limitations of the property. Mr. Steffen explained that it was also to allow for parking

underneath the building and to allow one to utilize more of the property for building rather than for parking lots. The EDC has made the suggestion that it is cost prohibitive and the Board stated it is willing to limit it.

Chair Grinnell polled the Board on the limiting the building height in the proposed new zone to 50 feet. The vote was 5-1-0. Chair Grinnell discussed that it was non-binding and wanted consensus on what to say in a memo to Town Council.

Vice Chair Kalmar includes discussed the buildable area of the larger parcel that runs up to Martin Rd. She stated that she would like to see a greater buffer, or some adjustment precludes any large structure being built near that residential area. She discussed the building envelope that could be filled between two homes and was concerned about maintaining the residential character of Martin Rd. She discussed the need for an intensive buffer within 500 feet anywhere that there is residential. The Board discussed further buffering for adjacent residential areas. Chair Grinnell proposed changing the section of the business park property to up near martin Road to R-S. Mr. Steffen responded by stating that would require a whole new public hearing process as it would be another zoning change.

The Board discussed further buffering for adjacent residential areas. Mr. Steffen added that those types of requirements could be included in the text amendment.

Mr. Gerison discussed the available upland for development in regard to Dennett and Martin Roads. He explained that there will be a significant amount of woodland between any potential development and the residential areas. Mr. White suggested that the Board not pick a number like 500 feet because a developer and the Town would need to work with the site on any development proposal.

Mr. Causey discussed the current zoning amendment text which includes a lot of buffer requirements between different uses. He explained that the Board could add requirements to the text amendment for additional buffering or fencing where needed to protect residential properties. He discussed incorporating a height plane into the requirements as a form of buffering. Mr. Steffen read the current language in the text amendment for the buffer requirements. Mr. Dunkelberger noted that this would be in addition to those requirements. Mr. Causey explained that the buffer would be determined by the appropriate height plane and discussed a possible development scenario. Vice Chair Kalmar asked about applying the buffer requirements where single family residential would abut multi-family residential. Mr. White discussed including a larger buffer for more intensive development on the ground.



The Board reached a consensus increasing the perimeter buffers to protect existing residential structures regardless of zone and to add that text to the proposed ordinance.

The vote of the Board was 6-0-0.

The Board reached a consensus that it did not want to vote at this time on the proposed amendment to expand the boundaries of the new zone. Vice Chair Kalmer stated that the Board would be in favor of the zone expansion if the Town Council voted to reduce the building height to 50 feet and adding the extra buffer requirements.

The Board then had a lengthy discussion on what they were going to vote on for a recommendation to Town Council on the proposed zoning map change. The Board discussed drafting a memo for the Town Council. It was decided by Board that staff would write the memo detailing the Board's position on the proposed zoning change and have it sent to the Board for its approval before it is forwarded to the Town Council. The Board wished to have Mr. Causey communicate with the Town Council about the memo.

## **NEW BUSINESS**

### **ITEM #2 – Midway Way – Street Naming Application**

Action: Accept or deny application. Grant or deny approval of street name. Owner/applicant Ronald Dalrymple requests consideration of naming a private right-of-way off of Shapleigh Road currently known as 1 Mill Lane to Midway Way (Tax Map 15 Lot 1).

**Vice Chair Kalmar moved to approve the renaming of 1 Mill Lane to Midway Way, seconded by Mr. White.**

**Motion carried 6-0-0.**

**ITEM #3 – Bayberry Lane – Street Naming Application** Action: Accept or deny application. Grant or deny approval of street name. Applicant William Cullen requests consideration of naming the unnamed private right-of-way off of Martin Road to Bayberry Lane (Tax Map 11 Lot 29-2). - **WITHDRAWN**

### **ITEM #4 – Proposed Amendments Related to Signs**

Discussion: Changes proposed to clarify language and requirements for certain types of signage, location and approval thereof.

**BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS**  
**DIVISION OF LIQUOR LICENSING AND ENFORCEMENT**  
**8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008 (Regular Mail)**  
**10 WATER STREET, HALLOWELL, ME 04347 (Overnight Mail)**  
**TEL: (207) 624-7220 FAX: (207) 287-3434**  
**EMAIL INQUIRIES: [MAINELIQUOR@MAINE.GOV](mailto:MAINELIQUOR@MAINE.GOV)**

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	
Good SOS & DBA: YES <input type="checkbox"/> NO <input type="checkbox"/>	

**PRESENT LICENSE EXPIRES:** December 13, 2018

NEW application:  Yes  No

If business is NEW or under new ownership, indicate starting date: \_\_\_\_\_

Requested inspection (New Licensees/ Ownership Changes Only) Date : \_\_\_\_\_ Business hours: \_\_\_\_\_

**INDICATE TYPE OF PRIVILEGE:**  MALT  VINOUS  SPIRITUOUS

**INDICATE TYPE OF LICENSE:**

- RESTAURANT (Class I,II,III,IV)  RESTAURANT/LOUNGE (Class XI)  CLASS A LOUNGE (Class X)  
 HOTEL (Class I,II,III,IV)  HOTEL, FOOD OPTIONAL (Class I-A)  BED & BREAKFAST (Class V)  
 CLUB w/o Catering (Class V)  CLUB with CATERING (Class I)  GOLF COURSE (Class I,II,III,IV)  
 TAVERN (Class IV)  QUALIFIED CATERING  OTHER: \_\_\_\_\_

**REFER TO PAGE 3 FOR FEE SCHEDULE**

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

Corporation Name: <b>First Serve Hospitality Group</b>			Business Name (D/B/A) <b>Robert's Maine Grill</b>		
APPLICANT(S) –(Sole Proprietor) <b>Shiva K. Natarajan</b> <b>06/10/1964</b>		DOB:	Physical Location: <b>326 US Route 1</b>		
		DOB:	City/Town <b>Kittery</b>	State <b>ME</b>	Zip Code <b>03904</b>
Address <b>P.O. Box 630</b>			Mailing Address <b>P.O. Box 630</b>		
City/Town <b>Kittery</b>	State <b>ME</b>	Zip Code <b>03904</b>	City/Town <b>Kittery</b>	State <b>ME</b>	Zip Code <b>03904</b>
Telephone Number <b>203-434-7205</b>		Fax Number		Business Telephone Number <b>207-439-0300</b>	
Federal I.D. # <b>81-3995475</b>			Seller Certificate #: or Sales Tax #: <b>1181797</b>		
Email Address: Please Print <b>shivaknat@gmail.com</b>			Website: <b>www.robertsmainegrill.com</b>		

- If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: \_\_\_\_\_
- State amount of gross income from period of last license: ROOMS \$ \_\_\_\_\_ FOOD \$ 3,927,150.00 LIQUOR \$ 1,039,441.20
- Is applicant a corporation, limited liability company or limited partnership? YES  NO   
If Yes, please complete the Corporate Information required for Business Entities who are licensees.
- Do you permit dancing or entertainment on the licensed premises? YES  NO

5. Do you own or have any interest in any another Maine Liquor License?  Yes  No (Use an additional sheet(s) if necessary.) If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

License # \_\_\_\_\_ Name of Business \_\_\_\_\_

Physical Location \_\_\_\_\_ City / Town \_\_\_\_\_

6. If manager is to be employed, give name: \_\_\_\_\_

7. Business records are located at: 326 US Route 1, Kittery, Maine 03904

8. Is/are applicants(s) citizens of the United States? YES  NO

9. Is/are applicant(s) residents of the State of Maine? YES  NO

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
Shiva K. Natarajan	6/10/1964	Calcutta, India

11. Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Name: _____	City: _____	State: _____
Name: _____	City: _____	State: _____
Name: _____	City: _____	State: _____

12. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_ (use additional sheet(s) if necessary)

13. Will any law enforcement official benefit directly in your license, if issued?

Yes  No  If Yes, give name: \_\_\_\_\_

14. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

15. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: \_\_\_\_\_

16. Describe in detail the premises to be licensed: (On Premise Diagram Required) Full service restaurant & bar

17. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES  NO  Applied for: \_\_\_\_\_

18. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 2.0 Miles

Which of the above is nearest? Jehovah's Witness

19. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO

If YES, give details: SBA Loan, 44 Business Capitol (Division of Berkshire Bank)

The Division of Liquor Licensing & Enforcement is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

**NOTE:** "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_  
Town/City, State Date

**Please sign in blue ink**

\_\_\_\_\_  
 Signature of Applicant or Corporate Officer(s)

*Shiva Natarajan*  
 \_\_\_\_\_  
 Signature of Applicant or Corporate Officer(s)

\_\_\_\_\_  
 Print Name

*SHIVA NATARAJAN*  
 \_\_\_\_\_  
 Print Name

**FEE SCHEDULE**

<b>FILING FEE: (must be <u>included</u> on all applications)</b> .....	<b>\$ 10.00</b>
<b>Class I</b> Spirituous, Vinous and Malt .....	<b>\$ 900.00</b>
<b>CLASS I:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
<b>Class I-A</b> Spirituous, Vinous and Malt, Optional Food (Hotels Only) .....	<b>\$1,100.00</b>
<b>CLASS I-A:</b> Hotels only that do not serve three meals a day.	
<b>Class II</b> Spirituous Only .....	<b>\$ 550.00</b>
<b>CLASS II:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
<b>Class III</b> Vinous Only .....	<b>\$ 220.00</b>
<b>CLASS III:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
<b>Class IV</b> Malt Liquor Only .....	<b>\$ 220.00</b>
<b>CLASS IV:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
<b>Class III &amp; IV</b> Malt & Vinous Only .....	<b>\$ 440.00</b>
<b>CLASS III &amp; IV:</b> Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
<b>Class V</b> Spirituous, Vinous and Malt (Clubs without Catering, Bed & Breakfasts) .....	<b>\$ 495.00</b>
<b>CLASS V:</b> Clubs without catering privileges.	
<b>Class X</b> Spirituous, Vinous and Malt – Class A Lounge .....	<b>\$2,200.00</b>
<b>CLASS X:</b> Class A Lounge	
<b>Class XI</b> Spirituous, Vinous and Malt – Restaurant Lounge .....	<b>\$1,500.00</b>
<b>CLASS XI:</b> Restaurant/Lounge; and OTB.	

**UNORGANIZED TERRITORIES** \$10.00 filing fee shall be paid directly to County Treasurer. **All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.**

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval and signatures for liquor licenses prior to submitting them to the bureau.

All fees must accompany application, make check payable to the Treasurer, State of Maine.

This application must be completed and signed by the Town or City and mailed to:

Bureau of Alcoholic Beverages and Lottery Operations  
Division of Liquor Licensing and Enforcement  
8 State House Station, Augusta, ME 04333-0008 (Regular address)  
10 Water Street, Hallowell, ME 04347 (Overnight address)  
Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

**TO STATE OF MAINE MUNICIPAL OFFICERS & COUNTY COMMISSIONERS:**

Hereby certify that we have complied with Section 653 of Title 28-A Maine Revised Statutes and hereby approve said application.

Dated at: \_\_\_\_\_, Maine \_\_\_\_\_  
City/Town (County)

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

The undersigned being:  Municipal Officers  County Commissioners of the  
 City  Town  Plantation  Unincorporated Place of: \_\_\_\_\_, Maine

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THIS APPROVAL EXPIRES IN 60 DAYS**

**NOTICE – SPECIAL ATTENTION**

**§653. Hearings; bureau review; appeal**

**1. Hearings.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c. 730, §27 (AMD).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c. 140, §4 (AMD).]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application. [2003, c. 213, §1 (AMD).]

D. If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall

notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant. [1995, c. 140, §5 (NEW).][ 2003, c. 213, §1 (AMD) .]

**2. Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime; [1987, c. 45, Pt. A, §4 (NEW) .]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c. 45, Pt. A, §4 (NEW) .]

C. Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c. 730, §27 (AMD) .]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c. 592, §3 (AMD) .]

E. A violation of any provision of this Title; [2009, c. 81, §1 (AMD) .]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and [2009, c. 81, §2 (AMD) .]

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages. [2009, c. 81, §3 (NEW) .]

[ 2009, c. 81, §§1-3 (AMD) .]

**3. Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c. 730, §27 (RP) .]

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause. [1993, c. 730, §27 (AMD) .]

[1995, c. 140, §6 (AMD) .]

**4. No license to person who moved to obtain a license.** [ 1987, c. 342, §32 (RP) .]

**5. Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

[ 1995, c. 140, §7 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

*Bureau of Alcoholic Beverages and Lottery Operations  
Division of Liquor Licensing & Enforcement  
8 State House Station, Augusta, ME 04333-0008  
10 Water Street, Hallowell, ME 04347 (overnight)  
Tel: (207) 624-7220 Fax: (207) 287-3434  
Email Inquiries: [MaineLiquor@maine.gov](mailto:MaineLiquor@maine.gov)*



**ON PREMISE DIAGRAM**  
(Facility Drawing/ Floor Plan)

In an effort to clearly define your license premise and the area that consumption and storage of liquor is allowed. The Division requires all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

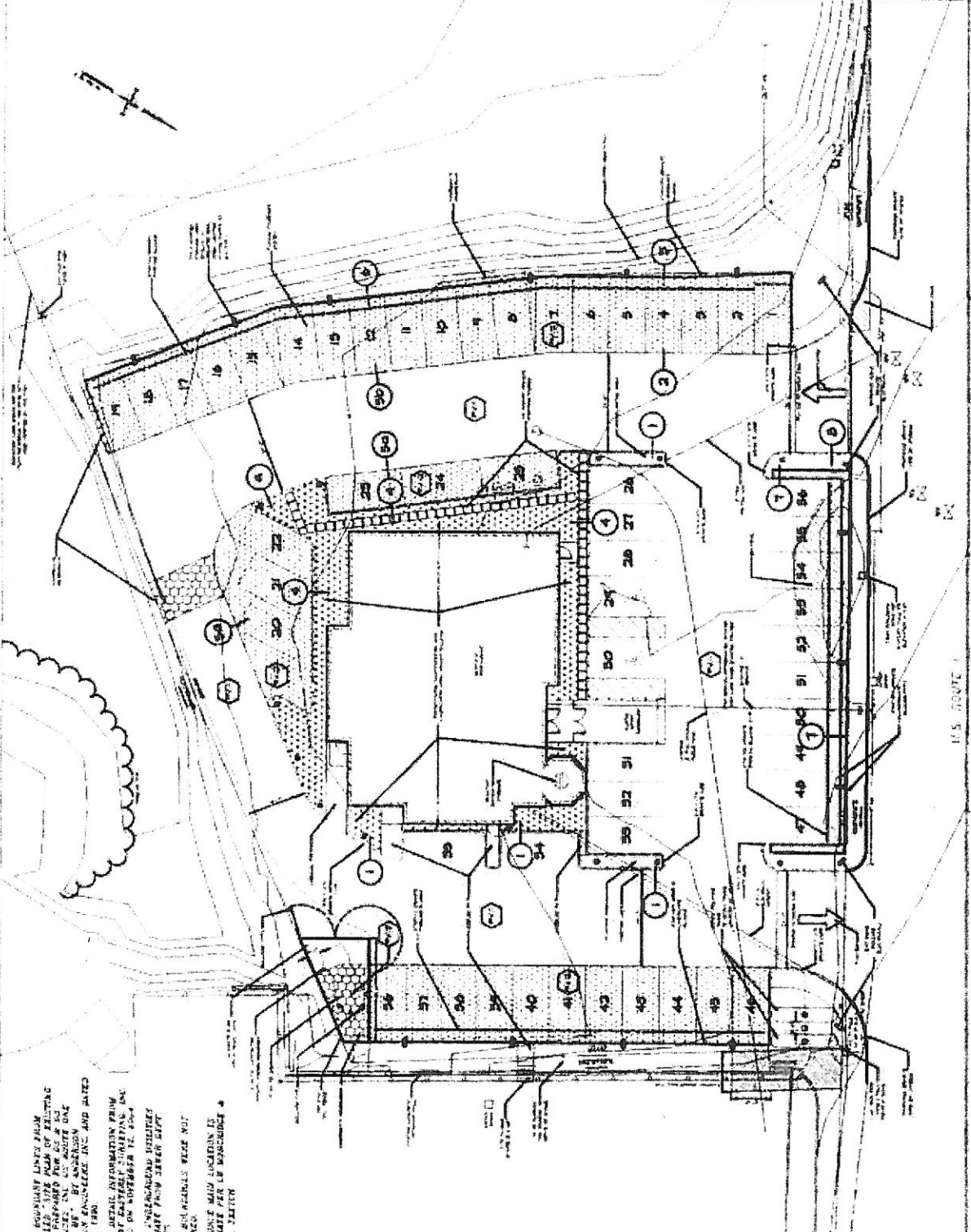
Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas with the following: • **Entrances** • **Office area** • **Kitchen** • **Storage Areas** • **Dining Rooms** • **Lounges** • **Function Rooms** • **Restrooms** • **Decks** • **All Inside and Outside areas that you are requesting approval.**

See diagrams attached, as 2 separate sheets.

ROBERT'S  
ARCHITECTURAL AND ENGINEERING

200 U.S. ROAD 1  
MILWAUKEE, WIS.

Scale: 1/8" = 1'-0"	Sheet: C-1
Date: 10/15/66	Project: [illegible]
Author: [illegible]	Checked: [illegible]
Drawn: [illegible]	Reviewed: [illegible]
Approved: [illegible]	Discipline: [illegible]
Client: [illegible]	Location: [illegible]
Contract: [illegible]	Phase: [illegible]
Notes: [illegible]	Revisions: [illegible]

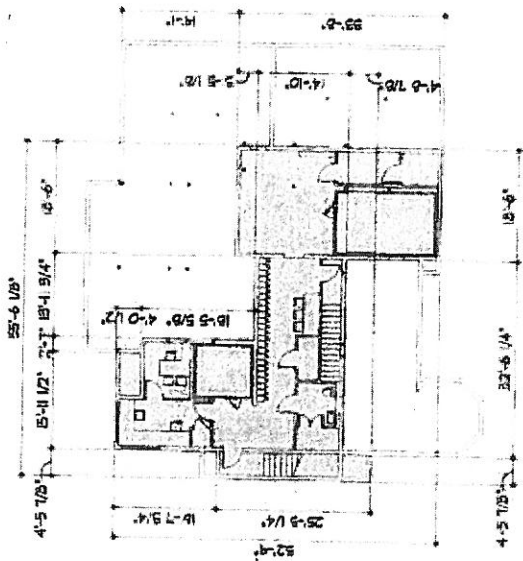


- NOTES:**
- 1. EXISTING BOUNDARY LINES FROM PLAN TITLE - SEE PLAN OF EXISTING PLANT AND BUILDING - SEE SHEET C-1.
  - 2. EXISTING INTERIOR WALLS AND PARTITION WALLS - SEE SHEET C-1.
  - 3. EXISTING INTERIOR WALLS AND PARTITION WALLS - SEE SHEET C-1.
  - 4. EXISTING INTERIOR WALLS AND PARTITION WALLS - SEE SHEET C-1.
  - 5. EXISTING INTERIOR WALLS AND PARTITION WALLS - SEE SHEET C-1.
  - 6. EXISTING INTERIOR WALLS AND PARTITION WALLS - SEE SHEET C-1.
  - 7. EXISTING INTERIOR WALLS AND PARTITION WALLS - SEE SHEET C-1.
  - 8. EXISTING INTERIOR WALLS AND PARTITION WALLS - SEE SHEET C-1.
  - 9. EXISTING INTERIOR WALLS AND PARTITION WALLS - SEE SHEET C-1.
  - 10. EXISTING INTERIOR WALLS AND PARTITION WALLS - SEE SHEET C-1.

U.S. ROAD 1

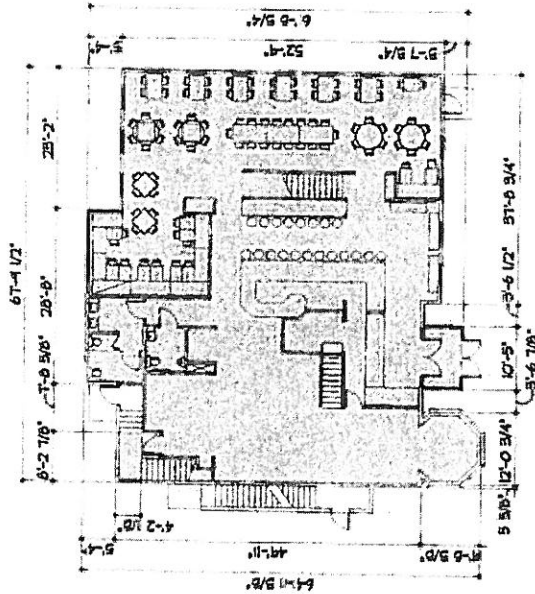
C-1





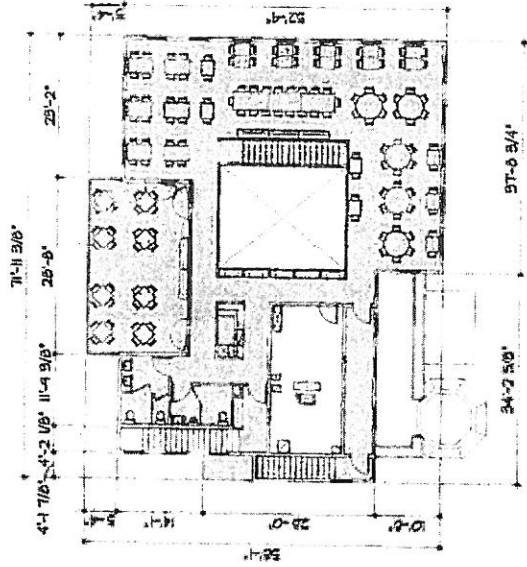
BASEMENT:

AREA = 1626 SQ.FT.



FIRST FLOOR:

AREA = 3743 SQ.FT.



SECOND FLOOR:

AREA = 2744 SQ.FT.

TOTAL AREA (FLOOR BASE - SECOND): 8113 SQ.FT.

KITTERY SEAFOOD RESTAURANT  
CONCEPT PRESENTATION

Area Calculation  
Oct 17, 2005

364' = 1'-0"

AC01



Division of Alcoholic Beverages and Lottery  
Operations  
Division of Liquor Licensing and Enforcement

**Corporate Information Required for  
Business Entities Who Are Licensees**

<b>For Office Use Only:</b>	
License #:	_____
SOS Checked:	_____
100% Yes	<input type="checkbox"/> No <input type="checkbox"/>

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

1. Exact legal name: First Serve Hospitality Group
2. Doing Business As, if any: Robert's Maine Grill
3. Date of filing with Secretary of State: 9/28/16 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: \_\_\_\_\_
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
SHIVA NATARAJAN	8 PEPPERELL WAY YORK, ME, 03909	06/10/64	President	100

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: \_\_\_\_\_ (list primary officers in the above boxes)

7. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?  Yes  No

8. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: \_\_\_\_\_

Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_

Location of Conviction: \_\_\_\_\_

Disposition: \_\_\_\_\_

\_\_\_\_\_

**Signature:**

\_\_\_\_\_  
Signature of Owner or Corporate Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name of Owner or Corporate Officer

---

Submit Completed Forms to:

Bureau of Alcoholic Beverages  
Division of Liquor Licensing and Enforcement  
8 State House Station, Augusta, Me 04333-0008 (Regular address)  
10 Water Street, Hallowell, ME 04347 (Overnight address)  
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434  
Email Inquiries: [MaineLiquor@Maine.gov](mailto:MaineLiquor@Maine.gov)

**TOWN OF KITTERY**  
**SCHOOL DEPARTMENT'S POLICY ON DISBURSEMENT WARRANTS**  
**FOR SCHOOL EMPLOYEE WAGES AND BENEFITS**

Purpose: This policy allows designated School Committee members, acting on behalf of the full School Committee, to review, approve, and sign School Department disbursement warrants for wages and benefits only.

This policy is in addition to, not in lieu of, majority power. Nothing in this policy is intended to replace the authority of the full School Committee, acting by majority vote, to act on any treasurer's warrant, including warrants for wages and benefits.

Delegation of Authority: Pursuant to Title 30-A, M.R.S., Section 5603(2)(A)(2), the following authority is granted with respect to disbursement warrants for School employee wages and benefits only.

Current School Committee members: The members in office at the time of execution of this policy are: Kimberly Bedard; Julie D. Dow; Ann Gilbert; Anne Cicero, Rhonda Pomerleau; Danielle Hoffman and Nicholas Chalupa. **Julie Dow** will be the primary School Committee member who will review, approve and sign such warrants, with **Kimberly Bedard** as alternate in the absence of Julie Dow. In the absence of both Julie Dow and Kimberly Bedard, **Anne Gilbert** will be the alternate who will review, approve and sign such warrants.

Effective Date: This policy becomes effective on the date indicated below.

Copies: The Chair of the School Committee will furnish copies of this policy to the municipal clerk and municipal treasurer. If the clerk and treasurer are the same person, a copy shall nonetheless be provided to that person in each capacity.

Lapse: **This policy lapses November 30, 2019, if not sooner amended or canceled.**

Renewal: This policy may be renewed at any time before its lapse. Thereafter, it may be readopted at any time. Any renewal is valid for one year from its effective date, unless a sooner date of expiration is specified.

Reminder: If the municipal treasurer is an appointed official, the treasurer shall remind the municipal officers and School Committee to consider renewing this policy annually before it lapses. If the municipal treasurer is an elected official, the treasurer is requested to provide such an annual reminder.

Original: The Chair of the School Committee will maintain the original of this policy on file unless the municipal clerk is an appointed official, in which case the clerk shall maintain it on file, if requested to do so by the Chair.

Dated: November 27, 2017:

MUNICIPAL OFFICERS:

_____	_____
_____	_____
_____	_____
_____	_____



# TOWN OF KITTELY, MAINE

## TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED

NOV 26 2018


BY: Mail @ 8:4u

PLEASE CHECK APPROPRIATE BOX:

APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS

APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE

NAME: \_\_\_\_\_  Ms. Karen Saltus  
16 Pocahontas Rd  
Kittery Point, ME 03905-5303 \_\_\_\_\_

RESIDENCE: \_\_\_\_\_

MAILING ADDRESS IF DIFFERENT FROM ABOVE: \_\_\_\_\_

E-MAIL ADDRESS: ksaltus@me.com

TELEPHONE NUMBERS: (HOME) 207 438 9055 (WORK) same

PRESENT POSITION: Conservation Commission

PLEASE CHECK APPROPRIATE BOX:

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Board of Appeals                   | <input type="checkbox"/> Port Authority   | <input type="checkbox"/> Mary Safford Wildes Trust         |
| <input checked="" type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board   | <input type="checkbox"/> Shellfish Conservation Commission |
| <input type="checkbox"/> Board of Assessment Review         | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee              |
| <input type="checkbox"/> Economic Development Committee     | <input type="checkbox"/> Personnel Board  | <input type="checkbox"/> Educational Scholarship Committee |
| <input type="checkbox"/> Comp Plan Update Committee         | <input type="checkbox"/> Other _____      |  |

COMMENTS: \_\_\_\_\_

Please read the back of this application before signing.

  
SIGNATURE OF APPLICANT

11-17-18  
DATE



# TOWN OF KITTEKY, MAINE

## TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904  
Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED  
NOV 21 2018  
BY: 10:44 a.m.

PLEASE CHECK APPROPRIATE BOX:

- APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS
- APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER
- APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE

NAME: EARLDEAN WELLS

RESIDENCE: 104 Whipple Rd. - Kittery, Me. 03904

MAILING ADDRESS IF DIFFERENT FROM ABOVE: \_\_\_\_\_

E-MAIL ADDRESS: earldewells@myfairpoint.net

TELEPHONE NUMBERS: (HOME) 439-2787 (WORK) \_\_\_\_\_

PRESENT POSITION: CONSERVATION COMMISSION - (chair)

PLEASE CHECK APPROPRIATE BOX:

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Board of Appeals        | <input type="checkbox"/> Port Authority   | <input type="checkbox"/> Mary Safford Wildes Trust         |
| <input checked="" type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board   | <input type="checkbox"/> Shellfish Conservation Commission |
| <input type="checkbox"/> Board of Assessment Review         | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee              |
| <input type="checkbox"/> Economic Development Committee     | <input type="checkbox"/> Personnel Board  | <input type="checkbox"/> Educational Scholarship Committee |
| <input type="checkbox"/> Comp Plan Update Committee         | <input type="checkbox"/> Other _____      |  |

COMMENTS: \_\_\_\_\_

Please read the back of this application before signing.

Earldean Wells  
SIGNATURE OF APPLICANT

11/20/18  
DATE



# TOWN OF KITTELY, MAINE

## TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED

NOV 26 2018

BY: MM@  
8:30 AM

PLEASE CHECK APPROPRIATE BOX:

- APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS
- APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER
- APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE

NAME: Jeff Thomson

RESIDENCE: 25 oed Post Rd

MAILING ADDRESS IF DIFFERENT FROM ABOVE: \_\_\_\_\_

E-MAIL ADDRESS: jefftdthomson@gmail.com

TELEPHONE NUMBERS: (HOME) 752-1313 (WORK) \_\_\_\_\_

PRESENT POSITION: \_\_\_\_\_

PLEASE CHECK APPROPRIATE BOX:

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Board of Appeals               | <input type="checkbox"/> Port Authority   | <input checked="" type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission        | <input type="checkbox"/> Planning Board   | <input type="checkbox"/> Shellfish Conservation Commission    |
| <input type="checkbox"/> Board of Assessment Review     | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee                 |
| <input type="checkbox"/> Economic Development Committee | <input type="checkbox"/> Personnel Board  | <input type="checkbox"/> Educational Scholarship Committee    |
| <input type="checkbox"/> Comp Plan Update Committee     | <input type="checkbox"/> Other _____      |   |

COMMENTS: \_\_\_\_\_

**Please read the back of this application before signing.**

Jeff Thomson  
SIGNATURE OF APPLICANT

11/17/18  
DATE



# TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

12/10

NOV 29 2018

BY: 2:02 pm

PLEASE CHECK APPROPRIATE BOX:

APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS

APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE

NAME: THOMAS BATTLOCK-EMERSON

RESIDENCE: 10 OX POINT DRIVE

MAILING ADDRESS IF DIFFERENT FROM ABOVE: \_\_\_\_\_

E-MAIL ADDRESS: B-E @ COMCAST.NET

TELEPHONE NUMBERS: (HOME) 207/430-9955 (WORK) 207/752-1371 \* BEST NUMBER

PRESENT POSITION: ECONOMIC DEVELOPMENT COMMITTEE

PLEASE CHECK APPROPRIATE BOX:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Board of Appeals                          | <input type="checkbox"/> Port Authority   | <input type="checkbox"/> Mary Safford Wildes Trust         |
| <input type="checkbox"/> Conservation Commission                   | <input type="checkbox"/> Planning Board   | <input type="checkbox"/> Shellfish Conservation Commission |
| <input type="checkbox"/> Board of Assessment Review                | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee              |
| <input checked="" type="checkbox"/> Economic Development Committee | <input type="checkbox"/> Personnel Board  | <input type="checkbox"/> Educational Scholarship Committee |
| <input type="checkbox"/> Comp Plan Update Committee                | <input type="checkbox"/> Other _____      |  |

COMMENTS: \_\_\_\_\_

Please read the back of this application before signing.

[Signature]  
SIGNATURE OF APPLICANT

11.19.2018  
DATE





# TOWN OF KITTERY, MAINE

## TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

**PLEASE CHECK APPROPRIATE SQUARE:**

- APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS**
- APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER**
- APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE**

NAME: Joseph William Afienko

RESIDENCE: 61 Picott Rd Kittery, ME 03904

MAILING ADDRESS IF DIFFERENT FROM ABOVE: Same

E-MAIL ADDRESS: Jafienko@c21news.com

TELEPHONE NUMBERS: (HOME) 207-475-6532 (WORK) 207-439-4070

PRESENT POSITION: Chair - Assessment Review Board

**PLEASE CHECK APPROPRIATE SQUARE:**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Board of Appeals                | <input type="checkbox"/> Port Authority                      | <input type="checkbox"/> Mary Safford Wildes Trust    |
| <input type="checkbox"/> Conservation Commission         | <input type="checkbox"/> Planning Board                      | <input type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review      | <input type="checkbox"/> Parks Commission                    | <input type="checkbox"/> Open Space Committee         |
| <input type="checkbox"/> Education Scholarship Committee | <input type="checkbox"/> Other <u>Tax Asses Review Board</u> |   |

COMMENTS: \_\_\_\_\_

Please read the back of this application before signing.

Joseph W Afienko  
SIGNATURE OF APPLICANT

12-5-18  
DATE



# TOWN OF KITTERY, MAINE

## TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

PLEASE CHECK APPROPRIATE SQUARE:

APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS

APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE

NAME: Daniel Clapp

RESIDENCE: 1 Macdougall St.

MAILING ADDRESS IF DIFFERENT FROM ABOVE: \_\_\_\_\_

E-MAIL ADDRESS: dlclapp66@yahoo.com

TELEPHONE NUMBERS: (HOME) 439-0528 (WORK) \_\_\_\_\_

PRESENT POSITION: Chairman

PLEASE CHECK APPROPRIATE SQUARE:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Board of Appeals                | <input type="checkbox"/> Port Authority   | <input type="checkbox"/> Mary Safford Wildes Trust               |
| <input type="checkbox"/> Conservation Commission         | <input type="checkbox"/> Planning Board   | <input checked="" type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review      | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee                    |
| <input type="checkbox"/> Education Scholarship Committee | <input type="checkbox"/> Other _____      |  |

COMMENTS: \_\_\_\_\_

**Please read the back of this application before signing.**

Daniel L. Clapp

\_\_\_\_\_  
SIGNATURE OF APPLICANT

12/5/18  
\_\_\_\_\_  
DATE



**TOWN OF KITTERY**  
200 Rogers Road, Kittery, ME 03904  
Telephone: 207-475-1329 Fax: 207-439-6806

---

**REPORT TO TOWN COUNCIL**

---

Meeting Date: November 26, 2018  
From: Kendra Amaral, Town Manager  
Subject: Title 8 – Blasting Ordinance  
Council Sponsor: Chairperson Judy Spiller

---

Kittery has a significant amount of ledge throughout town and in its targeted development areas.

Development in these areas often requires the builder to blast ledge in order to lay foundations, utilities, and other necessary infrastructure. Most recently the discussion on the proposed Mixed-Use Neighborhood zoning, has resurfaced concerns and frustration with the blasting that occurred to lay the sewer extension along Martin Road.

**OVERVIEW**

The attached proposed Title 8 – Blasting Ordinance was developed to add clarity, consistency, and protective standards to any blasting operation occurring within Kittery. The ordinance includes the establishment of a permitting process, notification to both Town officials and adjacent property owners, pre-blast assessments, post-blast documentation, and safety protocols.

The ordinance was drafted by the Fire Chief with input from the Code Enforcement Officer and Director of Planning and Development. It specifically references state requirements and industry standards for safe blasting operations.

**PROPOSED SOLUTION/RECOMMENDATION**

Approve as presented.

**ATTACHMENTS**

- Proposed Title 8 and Appendix A Amendments
- Proposed Title 8 Enactment
- M.R.S §4452 Enforcement of Land Use Laws and Ordinances

1 **ADD: Chapter 8.4 BLASTING**

2 **8.4. Blasting**

3 **8.4.1. Purpose.**

4 This chapter describes the general regulation and enforcement of blasting operations within the  
5 town limits.

6 **8.4.2. Definitions**

7 **Airblast** an airborne shock wave resulting from the detonation of explosives. The movement of  
8 overburden or the release of expanding gas into the air from the detonation of explosives may  
9 cause airblast. Airblast may or may not be audible.

10 **Applicant** the person, responsible for managing and/or conducting of a blasting operation.

11 **Blasting** any activity entailing the use of explosives for the purpose of producing an explosion to  
12 demolish structures or to fragment rock for mining, quarrying, excavation, or construction.  
13 Related terms are as defined in National Fire Protection Association (NFPA) 495; Explosive  
14 Materials Code.

15 **Blasting Operation** includes all blasting anticipated to be undertaken during the completion of a  
16 contract or a series of contracts, for demolition, excavation, construction, and development. A  
17 blasting operation includes all work involving the preparation, drilling, loading and detonation of  
18 the explosive charge.

19 **Code Enforcement Officer** includes the Town's duly appointed Code Enforcement Officer,  
20 Assistant Code Enforcement Officer, and any assigned designee of the Code Enforcement  
21 Officer.

22 **Decibel** the unit of sound pressure commonly used to measure airblast for an explosion.

23 **Emergency** a sudden or unexpected occurrence involving a clear and imminent danger,  
24 demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property,  
25 or essential public services.

26 **Explosives** any substance, chemical compound, or mechanical mixture that is commonly used  
27 for the purpose of producing an explosion for blasting. Initiating devices such as detonators,  
28 detonating cords, etc. are also included in this definition.

29 **Flyrock** rock that is propelled through the air or along the ground as a result of the detonation of  
30 an explosive.

31 **Ground Vibration** the shaking of ground caused by the blast wave emanating from the  
32 detonation of an explosive.

33 **Hertz** a term used to express the frequency of ground vibrations and airblast. One hertz is equal  
34 to one cycle per second.

35 **Independent Firm** a bona fide person approved by the Code Enforcement Officer which is not  
36 affiliated with the applicant but is contracted to impartially render services. In order to qualify as  
37 an independent firm, such firm shall verify the following:

38 (1) The person holds commercial general liability, workers' compensation, and auto liability  
39 insurance.

40 (2) The person and/or its principal has a minimum of three years-experience in the use and  
41 theory of seismology, as well as structural engineering as it relates to vibratory energies.  
42

43 **Level 1 Blasting Operation** a blasting operation involving less than 250 cubic yards of material  
44 to be removed.

45 **Level 2 Blasting Operation** a blasting operation involving 250 cubic yards or more of material  
46 to be removed.

47 **Particle Velocity** a measure of ground vibration that describes the velocity as which a particle of  
48 ground vibrates when excited by a force producing ground motion such as an earthquake or an  
49 explosion. Particle velocity is measured in inches per second.

50 **Seismograph** an instrument that measures and records earthborn vibration induced by the  
51 detonation of explosives. The instrument produces a printout of ground motion frequency,  
52 acceleration, particle velocity and amplitude which may be recorded directly or produce a record  
53 from which any of these parameters may be calculated.

#### 54 **8.4.3. Applicability.**

55 This section applies to all blasting operations related to demolition, excavation, construction,  
56 and development within the Town limits. Emergency blasting operations are subject to this  
57 section.

#### 58 **8.4.4. Permit.**

59 A. A permit must be obtained from the Code Enforcement Officer prior to any blasting with  
60 explosive devices or materials.

61 B. All blasting permits expire six (6) months from the date of issuance.

#### 62 **8.4.5. Authority.**

63 A. All blasting permits must be approved, approved with conditions, or denied by the Code  
64 Enforcement Officer

65  
66 B. Based on the reliability of the quantity estimate, the location of the project, and other factors  
67 that may warrant additional review, the Code Enforcement Officer may elevate a Level 1  
68 blasting operation application to a Level 2 blasting operation application.

#### 69 **8.4.6. Application Requirements.**

70 A. A blasting permit is required for all blasting operations.

71 B. Permits require the following:

72 (1) Evidence that notification of abutters has been sent in accordance with Section 8.4.7.C 1-  
73 3.

74 (2) Evidence that preblast surveys were offered to abutters in accordance with Section  
75 8.4.7.D.

76 (3) Evidence that drinking water well tests were offered to abutters in accordance with  
77 Section 8.4.7.E.

78 C. Blasting may not occur without approval or conditional approval of the Code Enforcement  
79 Officer.

80 D. Applications for Level 1 and Level 2 blasting operations must be accompanied by the fee  
81 established in Appendix A.

82 **8.4.7. Performance standards.**

83 A. Blasting operations are limited to the hours between 8:00 am. and 6:00 pm., Monday through  
84 Saturday, inclusive.

85 B. Blasting applicants shall maintain general commercial liability insurance in accordance with  
86 requirements established by the Town. The insurance policy must contain specific reference  
87 to blasting as an activity covered by the insurance.

88 C. Notification requirements:

89 (1) Prior to applying for a Level 1 blasting permit, the applicant shall notify all landowners  
90 and owners of public water and sewer services within 250 feet of the proposed blasting  
91 operation. Notice shall be sent by the United States Postal Service (USPS) certified mail  
92 at least ten (10) calendar days prior to the intended date of the commencement of the  
93 blasting operation.

94 (2) Prior to applying for a Level 2 blasting operations, the applicant shall notify all  
95 landowners and owners of public water and sewer services within 500 feet of the  
96 proposed blasting operation. Notice shall be sent by the United States Postal Service  
97 (USPS) certified mail at least ten (10) calendar days prior to the intended date of the  
98 commencement of the blasting operation.

99 (3) The abutter notice must include the proposed blasting schedule, a description of the  
100 blasting signals to be used during the operation, an address and telephone number where  
101 property owners may request further information and additional notification, information  
102 about obtaining a preblast survey at no cost to the property owner in accordance with  
103 section 8.4.7.D, and information about how to receive a 24-hour pre-blast notification

104 (4) No less than 48 hours prior to any blast, the applicant shall inform the Fire Department  
105 and Code Enforcement Officer of the impending blast, and include the time of the blast  
106 within 2 hours.

107 (5) No less than 24 hours prior to any blast, the applicant shall inform all property owners,  
108 who have requested to be so notified as per section 8.4.7.C.(3), of the impending blast.  
109 Such notification may be given by telephone or email and must state the time of the blast  
110 within 2 hours. The burden of proof as to whether the notification was in fact received  
111 rests with the person responsible for the blasting operation.

112 D. Preblast survey requirements:

113 (1) Level 1 blasting operations require the applicant to arrange for an independent firm to  
114 perform preblast surveys on all buildings within 250 feet of the blasting area. All costs  
115 of the preblast survey shall be borne by the applicant. Surveys must include a written  
116 description and either a video or photographic documentation of any preexisting  
117 conditions on the inside and outside of each building. At least three documented  
118 attempts must be made by the applicant to physically offer the survey before the  
119 landowner may be deemed non-respondent.

120 (2) Level 2 blasting operations require the applicant to arrange for an independent firm to  
121 perform preblast surveys on all buildings within 500 feet of the blasting area. All costs  
122 of the preblast survey shall be borne by the applicant. Surveys must include a written  
123 description and either a video or photographic documentation of any preexisting  
124 conditions on the inside and outside of each building. At least three documented  
125 attempts must be made by the applicant to physically offer the survey before the  
126 landowner may be deemed non-respondent.

127 (3) All preblast survey documentation must be provided to the Code Enforcement Officer  
128 and held by the independent firm, and following completion of the blasting operation,  
129 upon request, be made available to the property owner at the expense of the applicant.

130 E. Water tests:

131 (1) The applicant will offer an independent water testing company to perform water tests of  
132 all active drinking water wells within 500 feet of the blasting area. All costs of the  
133 water test shall be borne by the applicant. The test must document the flow rate of the  
134 well prior to blasting, as well as the levels of coli form bacteria, e-coli, nitrate, pH,  
135 copper, iron chloride, manganese, arsenic, calcium, and sodium. At least three  
136 documented attempts must be made to physically offer the water test before the abutter  
137 may be deemed non-respondent.

138 (2) The water tests shall be held by the independent water testing company, and upon  
139 request, be made available to the property owner at the expense of the property owner  
140 within 14 days of the request.

141 F. Monitoring:

142 (1) Instrumentation: All seismographs used for compliance with this section must meet the  
143 requirements written in USBM RI 8507, current revision. Calibration must be laboratory  
144 calibrated as necessary, but at least once every 12 months according to the manufacturer's  
145 recommendations. A copy of the latest calibration certificate must be available with any  
146 and all seismographs on site.

147  
148 (2) Level 1 blasting operations require either an independent firm, retained at the sole cost  
149 and expense of the applicant, or the applicant to monitor airblast and vibration. All  
150 instrumentation be in compliance with the specifications outlined in this section.  
151 Instrument(s) be placed at the closest point of the building in greatest proximity to the  
152 detonation to be recorded. A sketch showing the blast site, its relation to adjacent  
153 buildings, the locations of the seismograph(s) and pertinent distances will also be  
154 required. Written reports containing pertinent information and seismograph printouts for

155 each detonation shall be submitted weekly to the Code Enforcement Officer and the  
156 applicant.

157 (3) Level 2 blasting operations require either an independent firm, retained at the sole cost  
158 and expense of the applicant, or the applicant themselves, to monitor airblast and  
159 vibration for Level 2 blasting operations. No fewer than two seismographs shall be  
160 employed to monitor airblast and vibration for Level 2 blasting. All instrumentation shall  
161 be in compliance with the specifications outlined in this section. The independent firm is  
162 required to record each detonation, document the location of surrounding buildings, their  
163 distances and relation to the blast site, analyze readings for compliance, and report results  
164 to the blaster following each detonation. Written reports containing pertinent information  
165 and seismograph printouts for each detonation shall be submitted to the Code  
166 Enforcement Officer and the applicant.

167 (4) Ground vibration from all blasting operations must be measured in terms of peak particle  
168 velocity (inches per second) and frequency (Hertz). The permissible maximum ground  
169 vibration at any adjacent building must conform to values established in USBM RI 8507,  
170 current revision.

171 (5) Airblast at any building from all blasting operations may not exceed the values  
172 established in USBM RI 8485, current revision.

173 (6) Sufficient stemming, matting or natural protective cover to prevent flyrock from leaving  
174 the property or from entering protected natural resources or natural buffer strips must be  
175 used. Crushed rock or other suitable material must be used for stemming when available;  
176 native gravel, drill cuttings or other material may be used for stemming only if no other  
177 suitable material is available

178  
179 (7) Record maintenance: The applicant will provide a record of each blast to the Code  
180 Enforcement Office for inclusion in the property file. Written records must contain the  
181 following:

182 (a) Name of person responsible for the blasting operation.

183 (b) Location, date(s), and time of blast(s).

184 (c) Type of material blasted.

185 (d) Types of explosives used.

186 (e) Amount of explosives used.

187 (f) Types of protections used (mats, etc.)

188 (g) Seismograph and airblast readings (when and where measured)

189 G. When a blasting operation pursuant to an issued permit is suspended in an area for 90 days or  
190 more, re-notification in accordance with the standards written in section 8.4.7.C.(4) and  
191 8.4.7.C.(5) is required. Additional preblast surveys are not required with the re-notification  
192 unless the blasting operations have been suspended past the date of permit expiration.

193 H. Blasting must be conducted in compliance with all pertinent sections of the Town Code and,  
194 except as superseded by the provisions of NFPA 495: Explosive Materials Code as adopted



195 by the State of Maine. In any particular instance where these regulations are in conflict with  
196 any other rules, regulations, or ordinances or the Town the more restrictive regulation or  
197 provision prevails.

198  
199 **8.4.8. Appeal of denial of a blasting permit.**  
200 Where the Code Enforcement Officer has denied a blasting permit under this section, the  
201 applicant may appeal the denial to the Board of Appeals within 30 days of the Code Enforcement  
202 Officer’s decision.

203 **8.4.9. Conditions.**  
204 The Code Enforcement Officer and/or the Fire Chief may prescribe any reasonable conditions or  
205 requirements deemed necessary to minimize adverse effects upon the neighborhood or  
206 community.

207 **8.4.10. Penalties**  
208 Any material misstatement or omission of information required by this section or the violation of  
209 this section or any condition of a permit granted under this section shall constitute a land use  
210 violation and be penalized in accordance with Title 30-A, M.R.S §4452.

211 **ADD: 8.4 Fees to Appendix A**

212 **Chapter 8.4 BLASTING**

213	<u>Level 1 Blasting Permit</u>	<u>\$100</u>
214	<u>Level 2 Blasting Permit</u>	<u>\$200</u>

**KITTERY TOWN CODE TITLE 8  
BLASTING**

1 **AN ORDINANCE** relating to the municipality's authority for Town governance to give due and  
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine  
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,  
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in  
6 Sections 1.01 and 2.07(3) of the Town Charter; 30-A MRS §3001, pursuant to its powers that  
7 authorize the town, under certain circumstances, to provide for the public health, welfare,  
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or  
9 federal laws; and

10 **WHEREAS**, the Kittery Town Council seeks to add clarity, consistency, and protective  
11 standards to blasting operations within the town limits;

12 **WHEREAS**, codifying in Title 8 a permit requirement, notification standards, pre-blast  
13 assessments, post-blast documentation, and safety protocols, will directly provide for the public  
14 health, welfare, and safety of persons in the vicinity of blasting;

15 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001 AND TOWN CHARTER  
16 §2.07(3), THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENT TO TITLE 8 OF THE  
17 TOWN CODE, AS PRESENTED.

18 **INTRODUCED** and read in a public session of the Town Council on the \_\_\_\_ day of \_\_\_\_\_,  
19 20\_\_\_\_, by: \_\_\_\_\_ {NAME} Motion to approve by Councilor  
20 \_\_\_\_\_ {NAME}, as seconded by Councilor \_\_\_\_\_ {NAME} and  
21 passed by a vote of \_\_\_\_\_.

22 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,  
23 Maine on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, {NAME}, \_\_\_\_\_, Chairperson

24 **Attest:** {NAME}, \_\_\_\_\_ Town Clerk

**Maine Revised Statutes**  
**Title 30-A: MUNICIPALITIES AND COUNTIES**  
**Chapter 187: PLANNING AND LAND USE REGULATION**

**§4452. ENFORCEMENT OF LAND USE LAWS AND ORDINANCES**

**1. Enforcement.** A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building official, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance set forth in subsection 5, 6 or 7, may:

- A. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances set forth in subsection 5. A municipal official's entry onto property under this paragraph is not a trespass; [ 1989 , c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW). ]
- B. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and [ 1993, c. 23, §1 (AMD). ]
- C. When specifically authorized by the municipal officers, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the official is authorized to enforce. [ 1993, c. 23, §1 (AMD). ]

[ 1993, c. 23, §1 (AMD); 2007, c. 699, §24 (REV) . ]

**2. Liability for violations.** Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the laws or ordinances set forth in subsection 5 or 6 is liable for the penalties set forth in subsection 3.

[ 1991, c. 732, §2 (AMD) . ]

**3. Civil penalties.** The following provisions apply to violations of the laws and ordinances set forth in subsection 5. Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

- A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100, and the maximum penalty is \$2,500. [ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW). ]
- B. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500. [ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW). ]
- B-1. Notwithstanding paragraph B, the maximum penalty is \$5,000 for any violation of a law or an ordinance set forth in subsection 5, paragraph Q, if the violation occurs within an area zoned for resource protection. [ 1999, c. 370, §1 (NEW). ]
- C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:
  - (1) A threat or hazard to public health or safety;
  - (2) Substantial environmental damage; or
  - (3) A substantial injustice. [ 1989, c. 727, §1 (AMD). ]
- C-1. [ 2007, c. 92, §1 (RP). ]

C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the provisions of this paragraph apply. The court must order the violator to correct or mitigate the violation unless the correction or mitigation would result in a threat or hazard to public health or safety, substantial environmental damage or a substantial injustice.

(1) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of a tree or trees must include, but is not limited to, replacement of each tree cut with a tree or trees of varying size and species such that the visual impact from the cutting will be remediated, the tree canopy that was cut will be restored within a reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted.

(2) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of understory vegetation must include, but is not limited to, replacement of the understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible.

(3) For violations requiring correction or mitigation pursuant to subparagraph (1) or (2), the violator shall submit to the municipality a reforestation plan and 5-year management plan developed with and signed by a forester licensed pursuant to Title 32, chapter 76 or other qualified professional. The reforestation plan must include consideration of specified site conditions and address habitat and other riparian restoration, visual screening, understory vegetation and erosion and sedimentation control. The management plan must address how the replacement trees must be maintained to enable the trees to grow to a healthy, mature height.

For purposes of this paragraph, "timber harvesting" has the same meaning as in Title 38, section 438-B, subsection 1, paragraph C.

For purposes of this paragraph, "understory vegetation" means all saplings that measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs. [2011, c. 228, §1 (AMD).]

D. If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule. [1989, c. 727, §1 (AMD).]

E. In setting a penalty, the court shall consider, but is not limited to, the following:

(1) Prior violations by the same party;

(2) The degree of environmental damage that cannot be abated or corrected;

(3) The extent to which the violation continued following a municipal order to stop; and

(4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

F. The maximum penalty may exceed \$2,500, but may not exceed \$25,000, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

G. The penalties for violations of a septage land disposal or storage site permit issued by the Department of Environmental Protection under Title 38, chapter 13, subchapter 1, are as prescribed in Title 38, section 349. [1997, c. 794, Pt. A, §1 (AMD).]

H. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes,

but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. [1989, c. 727, §1 (NEW).]

[ 2011, c. 228, §1 (AMD) .]

**4. Proceedings brought for benefit of municipality.** All proceedings arising under locally administered laws and ordinances shall be brought in the name of the municipality. All fines resulting from those proceedings shall be paid to the municipality.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**5. Application.** This section applies to the enforcement of land use laws and ordinances or rules that are administered and enforced primarily at the local level, including:

A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State that is subject to the jurisdiction of the Maine Land Use Planning Commission; [2007, c. 699, §18 (AMD); 2011, c. 682, §38 (REV).]

B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

C. Local ordinances adopted pursuant to Title 22, section 2642; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 5, sections 4582-B, 4582-C and 4594-F; [2011, c. 613, §28 (AMD); 2011, c. 613, §29 (AFF).]

G. Local land use ordinances adopted pursuant to section 3001; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

H. [2007, c. 699, §18 (RP).]

I. [2007, c. 699, §18 (RP).]

J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3; [2007, c. 699, §18 (AMD).]

K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter 2; [2007, c. 699, §18 (AMD).]

L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter 3; [2007, c. 699, §18 (AMD).]

M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428 and laws regarding malfunctioning subsurface waste water disposal systems pursuant to Title 38, section 424-A; [2007, c. 568, §6 (AMD).]

N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B; [1999, c. 127, Pt. A, §46 (AMD).]

Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed; [2005, c. 240, §4 (AMD).]

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2; [2007, c. 112, §4 (AMD).]

S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; [2007, c. 661, Pt. A, §1 (AMD); 2007, c. 699, §18 (AMD).]

T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations; [2007, c. 2, §16 (COR).]

U. Standards under a wind energy development certification issued by the Department of Environmental Protection pursuant to Title 35-A, section 3456 if the municipality chooses to enforce those standards ; and [2007, c. 2, §17 (COR).]

*(Paragraph U as enacted by PL 2007, c. 699, §18 is REALLOCATED TO TITLE 30-A, SECTION 4452, SUBSECTION 5, PARAGRAPH V)*

V. (REALLOCATED FROM T. 30-A, §4452, sub-§5, ¶U) The Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103. [2007, c. 2, §18 (RAL).]

[ 2011, c. 613, §28 (AMD); 2011, c. 613, §29 (AFF); 2011, c. 682, §38 (REV) .]

**6. Septage and sludge permits issued by the Department of Environmental Protection.** A municipality, after notifying the Department of Environmental Protection, may enforce the terms and conditions of a septage land disposal or storage site permit or a sludge land application or storage site permit issued by the Department of Environmental Protection pursuant to Title 38, chapter 13, subchapter 1.

[ 1997, c. 38, §1 (AMD) .]

**7. Natural resources protection laws.** A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development under section 4453 as familiar with court procedures, may enforce the provisions of Title 38, section 420-C, Title 38, chapter 3, subchapter 1, article 5-A and Title 38, chapter 13-D by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

[ 2011, c. 655, Pt. FF, §9 (AMD); 2011, c. 655, Pt. FF, §16 (AFF) .]

#### SECTION HISTORY

1989, c. 104, §§A45,C10 (NEW). 1989, c. 287, §§3,4 (AMD). 1989, c. 727, §1 (AMD). 1991, c. 548, §D6 (AMD). 1991, c. 732, §§1-4 (AMD). RR 1993, c. 1, §77 (COR). 1993, c. 23, §§1,2 (AMD). 1995, c. 58, §1 (AMD). 1995, c. 704, §B1 (AMD). 1995, c. 704, §C2 (AFF). 1997, c. 38, §1 (AMD). 1997, c. 296, §8 (AMD). 1997, c. 794, §A1 (AMD). 1999, c. 127,

§A46 (AMD). 1999, c. 370, §1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 148, §1 (AMD). 2005, c. 240, §§4-6 (AMD). RR 2007, c. 2, §§16-18 (COR). 2007, c. 92, §§1, 2 (AMD). 2007, c. 112, §§4-6 (AMD). 2007, c. 568, §6 (AMD). 2007, c. 569, §1 (AMD). 2007, c. 661, Pt. A, §§1-3 (AMD). 2007, c. 699, §18 (AMD). 2007, c. 699, §24 (REV). 2011, c. 228, §1 (AMD). 2011, c. 613, §28 (AMD). 2011, c. 613, §29 (AFF). 2011, c. 655, Pt. FF, §9 (AMD). 2011, c. 655, Pt. FF, §16 (AFF). 2011, c. 682, §38 (REV).

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# TOWN OF KITTERY

## EMPLOYMENT AGREEMENT

WHEREAS, the Town of Kittery, a municipal corporation duly organized and existing under the laws of the State of Maine, (hereinafter Town), by and through its Town Council (hereinafter Council), desires to retain the services of Kendra L Amaral, (hereinafter Manager) to serve as Town Manager, and

WHEREAS, Kendra L Amaral desires to accept employment as Town Manager, and the undersigned desire to reduce the terms of employment to writing;

NOW, THEREFORE, in consideration of the mutual covenants herein, the undersigned agree as follows:

1. The Manager shall perform the functions and duties as set forth in applicable state statues, including but not limited to 30-A MRSA ss 2636 and the Kittery Town Charter Article III Sec. 3.04 and the Town Code of Ordinances as the same currently exist or may be amended and such other legally permissible and proper duties and functions as the laws may impose or the Council may assign. The Manager agrees to well and faithfully serve the Town in said capacity and to devote her time, attention and energies to the performance of her duties hereunder to the best of her ability.

2. The Town agrees to employ the Manager for a seven (7) year term beginning October 24, 2016 and shall continue until October 23, 2023 unless terminated pursuant to the terms of this Agreement or unless a specific term is provided for by a subsequent amendment to this Agreement. The Manager agrees to provide the Town with a minimum 45 days advance notice of her intention to terminate this agreement. The Council agrees to provide the Manager notice of their intention to commence negotiations for a successor agreement not less than one hundred eighty (180) days prior to expiration of this agreement.

3. **Salary** - The Town agrees to pay the Manager for services provided pursuant to this Agreement an annual salary as provided in Appendix A. The salary hereunder shall be payable at the same time and in the same manner as other employees of the Town. The Council and the Manager agree that a formal written evaluation of the Manager's performance as well as progress made on the list of goals and objectives, will serve as the primary determining factor in subsequent compensation increases after the first year of the contract. Annual compensation increases will be no less than the base "annual cost of living" increase granted to non-union employees.

4. **Performance Evaluation** - The Council shall provide the Manager with periodic opportunities to discuss Council-Manager relations and the performance of the Manager. Within 60 working days of employment, the Council and the Manager will establish an agreed upon detailed list of goals and objectives, which shall serve as the primary focus of the Manager's efforts above and beyond day to day management and



administration of the Town's business affairs. As a minimum, the Council shall conduct an employment evaluation prior to the first 6 month anniversary and an annual evaluation at the first year anniversary and every twelve (12) months, thereafter.

**5. Termination** - If the Manager is terminated without cause in the first six months of employment, the Town shall provide a minimum severance payment equal to three month's salary at the then current rate of pay. If termination without cause is after the first six months of employment, a minimum severance payment equal to nine (9) month's salary at the then current rate of pay shall be made. This severance shall be paid in a lump sum. Other options may be agreed upon by the Manager and the Council. If the Manager is terminated because of a conviction of any illegal act, then the Council is not obligated to pay severance under this section. Termination with cause will be in accordance to Kittery Town Charter and Maine State Statutes.

**6. Paid Time Off (PTO)** - The Town will provide 20 days of Personal Time Off (PTO). The Town recognizes the incoming Manager's request for vacation from December 4-11, 2016 for a pre-scheduled family vacation. A maximum of 10 days may be carried over from one year to the next on the Manager's anniversary date. PTO, in excess of the 10 days allowed for carryover, will be paid out at the end of each contract year.

**7. Health Insurance** – The Town will provide medical and dental insurance coverage for the Town Manager and family. The Town will pay 80% of the premium (hereinafter "Town's cost share") for the medical and dental insurance policy currently offered by the Town. If the Manager opts not to take the medical insurance, the Town agrees to pay 20% of the Town's cost share of the annual medical insurance premium each year. Payment will be made in July of the fiscal year following the fiscal year in which the Manager exercised this option – this payment will be pro-rated for any period less than 12 months. The Manager must provide proof of insurance coverage at the time of choosing to opt out. The Manager is eligible to join the Town's medical insurance plan at any annual registration date or at a qualifying event.

**8. Disability / Life / AD&D Insurance** – Disability life and accidental death and dismemberment insurance is provided by the Town.

**9. Flexible Spending Account / Section 125** – The Town agrees to provide the Manager the opportunity to participate in the Flexible Spending Account and Section 125.

**10. Bereavement** - The town will provide up to five (5) days, for a death within the immediate family.(spouse, domestic partner, children, parent, step-parents, step children, brother, sister, mother-in-law and father-in-law). For other relatives up to three (3) days may be allowed. The Manager wishing to utilize bereavement leave shall notify the Council Chairperson and said request shall indicate the number of days requested and the reason for the request.

**11. Retirement** – The Manager has the choice to join the Maine Public Employees Retirement System or the International City Manager's Association (ICMA) Retirement

Plan. The Town will contribute to either one but not both. The Town's contribution towards ICMA is 6% of the Manager's salary.

12. **Cell Phone** – The Town will provide a cell phone stipend of \$80.00 per month for the term of this contract.

13. **Automobile Allowance** – The Manager will be provided with an automobile allowance of \$350. per month in consideration of which she shall be responsible to provide her own transportation for all work related automobile travel. Throughout the term of employment, the manager shall secure, and provide the Town with proof of automobile liability insurance with limits not less than:

- \$500,000 combined single limit
- \$250,000 for each person
- \$500,000 each occurrence
- \$250,000 property damage

Limits may be achieved by a primary policy or by a primary policy plus umbrella policy.

14. **Public Official Liability Insurance** – The Town shall provide the Manager with Public Official Liability Insurance and any Bond required of the Town Manager, or any other position filled by the Town Manager subject to the provisions of State Statute, Town Charter and Town Ordinances.

15. **Professional Dues and Professional Development** – The Town hereby agrees to pay for the following expenses of the Manager for professional meetings and training programs: Membership dues and Annual Meeting of the International City Manager's Association (ICMA) and membership dues and meeting attendance at the Maine Town and City Manager's Association (MTCMA). Attendance at any other professional associations that the Manager and the Council deem to be in the best interests of the Town shall be subject to Council approval.

16. **Residency** – Pursuant to Article III Sec. 3.01 of the Town Charter, the Council hereby waives the requirement that the Manager become a resident of the Town and authorizes the Manager to have residency outside of the Town of Kittery.

17. **General Provisions** –

A. Except as expressly stated or otherwise provided for in this Agreement, the Manager shall be governed by the same customs, practices and policies governing other employees of the Town.

B. The parties acknowledge and agree that this Agreement was freely negotiated and entered into, and that in the event of a conflict between the provisions hereof and the provisions of any law or ordinance, the provisions of this Agreement shall prevail.

C. This Agreement may only be amended or modified, in writing.

D. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, the

remainder of this Agreement, or portion thereof, shall not be affected thereby, and shall remain in full force and effect.

E. The provisions of this Agreement shall be governed by Maine law.

IN WITNESS WHEREOF, THE Town of Kittery has caused this Agreement to be duly signed and executed on its behalf by the Council and Kendra L. Amaral has signed and executed this amended Agreement on the 10th day of December, 2018.

\_\_\_\_\_  
Kendra L. Amaral

TOWN OF KITTERY

\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor

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Councilor

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Councilor

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Councilor

\_\_\_\_\_  
ATTEST: Town Clerk

## **Appendix A**

### Compensation Schedule

Year 1: \$113,000

Year 2: \$116,107.50 (2.75% Annual Increase) + \$2,500 one-time bonus = \$118,607.50

Year 3: \$119,590 (3% Annual Increase) + \$5,000 salary adjustment = \$124,590

Year 4: Annual Increase + \$5,000 salary adjustment

Year 5: Annual increase in accordance with Section 3

Year 6: Annual Increase in accordance with Section 3

Year 7: Annual Increase in accordance with Section 3

## **REVISED**

**Meeting Date: December 10, 2018**

**From: Councilors Brock and Judy Spiller**

**New Charge for a revised Comprehensive Plan Committee**

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### **Summary**

The Comprehensive Plan specifies regular updating to assure that implementation remains on track and that its actions are consistent with the plan's vision. The Comprehensive Plan Update Committee is well positioned to play that role; however, it ceased to exist with Plan approval by the voters on November 6, 2018. What is proposed below is a revised charge for that committee, including as name change and an implementation function, encompassing updating, monitoring and assessing. Chair White has agreed to continue in that role on the new committee.

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### **The Comprehensive Plan Committee (CPC)**

The 2015-2025 Kittery Comprehensive Plan is a guide to decision-making about Kittery's future, based on the community's shared values and goals. It sets priorities, goals and actions steps for addressing the full range of issues facing the town. The Plan, approved by voters on November 6, 2016, states that priorities need to be continually updated. The Comprehensive Plan Update Committee ceased its official role with plan approval. To assure that the Plan's objectives and goals are implemented and where necessary, updated, the Committee is being reconstituted to serve those functions.

### **Charge**

CPAC oversees Comprehensive Plan implementation, including 1. regular review and assessment of priorities, goals, and action steps and 2. progress in achieving goals and implementing action steps. Where necessary, it may specify revision of priorities, goals and objectives and recommend options to address challenges. CPC may periodically identify specific issues in the Plan that require further exploration, and recommend to the Town Council strategies to address those issues.

### **Composition**

Voting members:

- Town Council Chair and Vice Chair
- 1 representative each respectively appointed annually by
  - Board of Appeals
  - Economic Development Committee
  - Planning Board
  - Port Authority
  - School Committee
- 3 citizens, serving three year terms and broadly representative of the community

Non-voting members:

- Superintendent of Schools
- Town Manager
- Town Director of Planning and Development

### **Meeting Schedule**

The committee determines meeting frequency.

### **Reporting**

In addition to the Town Manager's regular updates to Town Council, CPAC provides a written report to the Town Council each January, summarizing Comprehensive Plan progress, identifying challenges, and recommending strategies to achieve goals.