



Cape Elizabeth Town Council

Minutes Monday, December 13, 2021

7:00 p.m.

Town Hall Council Chambers

Nicole Boucher
Susan A. Gillis
Jeremy A. Gabrielson
Caitlin R. Jordan
Penelope A. Jordan
Gretchen R. Noonan
Timothy S. Reiniger

The meeting was convened at 7:00 p.m. by Jeremy A. Gabrielson.

Introduction of Newly-Elected Town Councilors and School Board Members Oath of Office Administered by the Town Clerk

Town Council

Jeremy A. Gabrielson
Susan A. Gillis
Timothy S. Reiniger

School Board

Heather W. Altenburg
Kathleen G. Curry-Sparks
Elizabeth K. Scifres

Roll Call by the Town Clerk

All members of the town council were present.

Debra M. Lane, Town Clerk

Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Item# 1-2022 Election of the Town Council Chairman

Moved by Penelope A. Jordan and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council elects Jeremy A. Gabrielson to serve as chairman for 2022.

(7 yes) (0 no)

Town Council Reports and Correspondence

Chairman Gabrielson noted the upcoming meeting, a continued coordination, of the town council and school board chairmen and finance chairmen on Wednesday, December 15.

Finance Committee Report

Chairman Gabrielson reported that expenses and revenues are tracking as anticipated with some accounts better than anticipated.

Citizen Opportunity for Discussion of Items Not on the Agenda

None

**Page 2 Town Council Minutes
December 13, 2021**

Town Manager's Monthly Report
Matthew E. Sturgis, Town Manager

Thank you to the citizens for their support over the last year through this difficult time during COVID-19.

Wishing everyone a healthy and happy holiday season!

Review of Draft Minutes of the Meeting held on November 8, 2021 and Special Meeting on December 1, 2021

Moved by Penelope A. Jordan and Seconded by Susan A. Gillis

ORDERED, the Cape Elizabeth Town Council approves the minutes of the meeting held on November 8, 2021 and special meeting on December 1, 2021 as written.

(7 yes) (0 no)

Item# 2-2022 Adoption of the Town Council Rules

Moved by Timothy S. Reiniger and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the Town Council Rules as presented.

(7 yes) (0 no)

See attachment.

Consent Calendar – Item #3-2022 – Item #20-2022

Councilor Penelope Jordan asked for Item #20-2022 to be removed from the consent calendar.

Moved by Timothy S. Reiniger and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council approves the consent calendar Item #3-2022 – Item #19-2022 as follows.

(7 yes) (0 no)

Item# 3-2022 Appointment of the Finance Committee

Nicole Boucher as chairman and the Council as a whole to serve as the finance committee.

Item# 4-2022 Appointment of Ordinance Committee

Penelope A. Jordan as chairman and Caitlin R. Jordan and Gretchen R. Noonan as members.

Item# 5-2022 Appointment of an Appointments Committee

Nicole Boucher as chairman and Susan A. Gillis and Timothy S. Reiniger as members.

**Item# 6-2022 Appointment of Representative to Greater Portland Council of
Governments General Assembly, Metro Coalition and Executive
Committee**

Susan A. Gillis, General Assembly and Metro Coalition
Matthew E. Sturgis, Executive Committee

**Page 3 Town Council Minutes
December 13, 2021**

Item# 7-2022 Appointment of Representative to PACTS Policy Committee

Matthew E. Sturgis

**Item# 8-2022 Appointment of Representative to MMA Legislative Policy Committee
and MMA Convention Delegate**

Timothy S. Reiniger for a term until December 2022.

Item# 9-2022 Appointment of Representative to Thomas Memorial Library Foundation

Gretchen R. Noonan

**Item# 10-2022 Appointment of Representative to Portland Jetport Noise Advisory
Committee**

Penelope A. Jordan

Item# 11-2022 Appointment of Representatives to Thomas Jordan Grants Subcommittee

Susan A. Gillis to 12/2024

Previously appointed:

Penelope A. Jordan to 12/2022

Caitlin R. Jordan to 12/2023

Item# 12-2022 Appointment of Vice Chair of Museum at Portland Head Light

Nicole Boucher

Council Chairman Jeremy A. Gabrielson is chairman per the by-laws.

Item #13-2022 Appointment to the ecomaine Board of Directors

Timothy S. Reiniger to 12/31/2024

Item #14-2022 Appointments to the Building Oversight Committee

Nicole Boucher

Gretchen R. Noonan

Item# 15-2022 Code of Ethics

ORDERED, the Cape Elizabeth Town Council approves the Code of Ethics for 2022 with the signatures of the town council to be placed on file.
See attachment.

Item# 16-2022 Schedule of Council Meetings for 2022

ORDERED, the Cape Elizabeth Town Council approves the 2022 meeting schedule and FY 2023 budget review schedule as presented.

**Page 4 Town Council Minutes
December 13, 2021**

		Regular Meeting	Workshop Meeting	
2021	December	13		Regular Council Meeting – Organizational Meeting for 2022
2021	December		15	Workshop – Council Goals Discussion & FOAA
2022	January	10	5	
2022	January		19	Joint Workshop with School Board (Beginning at 6:00 p.m.)
2022	February	14	7	
2022	March	14	21, 24	Workshops are Budget Review Sessions (Beginning at 6:00 p.m.)
2022	April	11	25, 26	Workshops are Budget Review Sessions (Beginning at 6:00 p.m.) <i>School Budget presentation on 4/25</i>
2022	May	9	4	May 9 Regular Council Meeting and Public Hearing on the FY 2023 Budget
2022	May	16		Special Council Meeting – Vote on the FY 2023 Budget
2022	June	13	6	
2022	July	11		
2022	August	8		
2022	September	12	7	
2022	October	12	5	Regular Council Meeting (Wednesday after the Monday Holiday)
2022	November	14		Regular Council Meeting
2022	November		15	Annual Town Council Organization Caucus for 2023
				Schedule Orientation of New Council Members
				Review of 2023 Meetings & FY 2024 Budget Calendars
2022	December	12		Regular Council Meeting – Organizational Meeting for 2023
2022	December		14	Workshop – Council Goals and Discussion & FOAA

Item #17-2022 Purpoodock Club Liquor Licenses

ORDERED, the Cape Elizabeth Town Council approves the special amusement permit, malt, vinous and spirituous license, and mobile service bar for the Purpoodock Club located at 300 Spurwink Avenue as presented.

Item #18-2022 Edward Jones Lease Extension

ORDERED, the Cape Elizabeth Town Council approves the proposed Lease Amendment 4 with Edward D. Jones & Co., LP D/B/A Edward Jones for the property located at 343 Ocean House Road. Said lease extension provides for an additional period of 5 years commencing on March 1, 2022 and expiring on February 28, 2027 with base rent increases and other provisions as presented. The town manager is authorized to sign the lease on behalf of the Town.
See attachment.

**Page 5 Town Council Minutes
December 13, 2021**

Item #19-2022 Acceptance of Grants from the Maine Bureau of Highway Safety

ORDERED, the Cape Elizabeth Town Council accepts and appropriates the following grant awards from the Maine Bureau of Highway Safety: 1) Click It or Ticket grant in the amount of \$5,000 account 0725-4450. Grant period November 15, 2021 to September 15, 2022. The grant will reimburse staff costs during enforcement operations. 2) Distracted Driving Enforcement grant in the amount of \$5,000 account 0725-4452. Grant period November 15, 2021 to September 15, 2022. The grant will reimburse staff costs during enforcement operations. The police department's operating budget will provide match requirements as allowed by the terms of the grant.

Item #20-2022 American Rescue Plan Act of 2021 Grant

Introduction – Mr. Sturgis

Moved by Penelope A. Jordan and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council accepts and appropriates a grant award of \$982,600 from the American Rescue Plan Act of 2021 with a final spend date of December 31, 2024. The following appropriations are approved:

- A. Kettle Cove Drainage Project** \$400,000 Account 2000-5101
- B. Surf Road Stormwater Management Project** \$475,000 Account 2000-5108
- C. IT Infrastructure - CETV** \$10,166 Account 2030-4040
- D. Fire/EMA First Responders Compensation Adjustment (starting 12/19/2021)** \$97,434
Departments 0230 & 0231

Total \$982,600

At each fiscal year-end through June 30, 2024, any unexpended appropriations will automatically carry forward to the next fiscal year until the projects are completed or the funding expires.

(7 yes) (0 no)

Public Hearing Planning Board's Recommendation Relating to Wireless Amendments

Chairman Gabrielson opened the public hearing at 7:19 p.m.
After hearing no comments the hearing was closed.

**Item #21-2022 Consideration of the Planning Board's Recommendation Relating to
Wireless Amendments**

Moved by Penelope A. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council approves the planning board's recommendation to amend Chapter 19 Zoning Ordinance relating to wireless amendments as presented.

(7 yes) (0 no)

See attachment.

**Page 6 Town Council Minutes
December 13, 2021**

Item #22-2022 Property Tax Assistance Program Report

Town Assessor Clinton Swett presented the report. Mr. Swett also reported the revaluation including field work will commence in the spring 2022. The revaluation was placed on hold in 2020 due to the pandemic.

During the discussion the council suggested a review of possibly increasing the benefit or extending the parameters in which someone would qualify. The item will be included during the FY 2023 budget review.

Moved by Gretchen R. Noonan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council acknowledges receipt of the report from the tax assessor relating to the 2022 property tax assistance program as required by Chapter 27 Property Tax Assistance Ordinance Sec. 9 Annual Report to the Town Council.

(7 yes) (0 no)

Item# 23-2022 Annual Appointments to Boards and Committees

Introduction – Appointments Committee Chairman Nicole Boucher

Moved by Nicole Boucher and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council approves the recommendations of the Appointments Committee as presented. New terms are effective January 1, 2022.

(7 yes) (0 no)

Board	Current Member	Term Expires	Recommendation	Address
Board of Assessment Review	John McAnuff*	12/31/2024	John C. Thibodeau	21 Salt Spray Lane
Board of Zoning Appeals	Matthew Caton*	12/31/2024	Adam Foster-Webster	41 Woodland Road
Board of Zoning Appeals	Aaron Mosher	12/31/2024	Katherine Kerkam	3 Franklin Circle
Community Services	Andrea Ernst	12/31/2024	Andrea Ernst	12 Bayberry Lane
Community Services	Jill Palmore	12/31/2024	Jill Palmore	39 Stonegate Road
Community Services	Terri Patterson	12/31/2024	Terri Patterson*	15 Surf Road
Conservation Committee	Emily Helliesen Day	12/31/2024	Emily Helliesen Day	11 Hamlin Street
Conservation Committee	Mitch Wacksman*	12/31/2024	Richard Sullivan	72 Two Lights Road
Energy Committee	Sam Milton	12/31/2024	Sam Milton	18 Crescent View Avenue
Energy Committee	Thomas S. Murley	12/31/2024	Nikolaas Dietschi	2 Park Circle
Energy Committee	Barbara Toomey	12/31/2024	David Kane	39 Trundy Road
Fort Williams Park Committee	Jim Kerney	12/31/2024	Jim Kerney	1015 Shore Road
Fort Williams Park Committee	Mark D. Russell	12/31/2024	Mark D. Russell*	8 Sweet Fern Road
Personnel Appeals Board	VACANT	12/31/2023		
Personnel Appeals Board	Dawn M. Harmon*	12/31/2024		

Planning Board	Daniel A. Bodenski	12/31/2024	Daniel A. Bodenski	304 Mitchell Road
Planning Board	Carol Anne Jordan*	12/31/2024	Matthew Caton	15 Hannaford Cove Road
Planning Board	Jonathan Sahrbeck	12/31/2024	Jonathan Sahrbeck*	60 Longfellow Drive
Recycling Committee	Matthew Faulkner	12/31/2024	Eve Downing	15 Rand Road
Recycling Committee	Aubrey Miller	12/31/2024	Jenna Pfueller	42 Longfellow Drive
Riverside Cemetery Committee	Wayne A. Brooking, Jr.	12/31/2024	Wayne A. Brooking, Jr.	223 Two Lights Road
Thomas Memorial Library Committee	Becky Fernald	12/31/2024	Tim Hebda	55 Richmond Terrace
Thomas Memorial Library Committee	Kathleen Kent	12/31/2024	Sara Hoffman	18 Aster Lane
Diversity, Equity and Inclusion Committee		12/31/2022	Maura Sullivan	8 Jewett Road
Diversity, Equity and Inclusion Committee		12/31/2022	Melanie Thomas	6 Starboard Drive
Diversity, Equity and Inclusion Committee		12/31/2023	Valerie Franks	3 Lindenwood Road
Diversity, Equity and Inclusion Committee		12/31/2023	Eliza Matheson	270 Fowler Road
Diversity, Equity and Inclusion Committee		12/31/2023	Donald Rudalevige	34 McAuley Road
Diversity, Equity and Inclusion Committee		12/31/2024	Monica Malcomson	61 Hunter Place
Diversity, Equity and Inclusion Committee		12/31/2024	Christina P. McAnuff	65 Stonybrook Road

***Termed Out**

Item #24-2022 Scheduling of the Citizens Petition Referendum Relating to Town Center Affordable Housing Amendments

Public Comment

Mary Ann Lynch, 2 Olde Colony Lane summarized the June and November voter turnouts for the last ten years. Based on the greater turnout and other considerations, the vote should be scheduled for November 8, 2022.

Moved by Penelope A. Jordan and Seconded by Caitlin R. Jordan

ORDERED, the Cape Elizabeth Town Council schedules the referendum vote resulting from the Citizens Petition entitled Cape Elizabeth Citizen Petition to send Town Center Affordable Housing Amendments to Referendum to the election scheduled for November 8, 2022.

Moved by Timothy S. Reiniger and Seconded by Susan A. Gillis

ORDERED, the Cape Elizabeth Town Council amends the motion to schedule the referendum vote resulting from the Citizens Petition entitled Cape Elizabeth Citizen Petition to send Town Center Affordable Housing Amendments to Referendum for March 8, 2022.

(2 yes) (5 no Councilors Boucher, Gabrielson, Caitlin Jordan, Penelope Jordan and Noonan)

Moved by Gretchen R. Noonan and Seconded by Susan A. Gillis

ORDERED, the Cape Elizabeth Town Council amends the motion to schedule the referendum vote resulting from the Citizens Petition entitled Cape Elizabeth Citizen Petition to send Town Center Affordable Housing Amendments to Referendum for June 14, 2022.

(2 yes) (5 no Councilors Boucher, Gabrielson, Caitlin Jordan, Penelope Jordan and Reiniger)

Original Motion: (5 yes) (2 no Councilors Gillis and Reiniger)

**Page 8 Town Council Minutes
December 13, 2021**

Item #25-2022 Fort Williams Park Committee Recommendation to Continue Pay and Display

Present-
Kathy Raftice, Director of Fort Williams Park
Chris Cutter, Fort Williams Park Coordinator

Moved by Caitlin R. Jordan and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee to continue pay and display parking at Fort Williams Park with the following rate increases:

2-hours \$4.00 to \$5.00

Season Pass \$15.00 to \$20.00

The new fees are effective 4/2022.

(7 yes) (0 no)

Item #26-2022 Fort Williams Park Committee Recommendation to Increase Commercial Vehicle Fees

Moved by Caitlin R. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee to set the following commercial vehicle rates for Fort Williams Park 2023 - 2025 as presented.

(7 yes) (0 no)

2023

Vans & Limos* Single Visit \$25.00 Season \$3,250

Minibuses* Single Visit \$50.00 Season \$6,500

Trolleys Single Visit \$75.00 Season \$10,000

Motor Coaches** >30 Seats Per Trip \$210.00 Volume Discount \$180.00

2024

Vans & Limos* Single Visit \$30.00 Season \$3,500

Minibuses* Single Visit \$60.00 Season \$6,750

Trolleys Single Visit \$85.00 Season \$10,150

Motor Coaches** >30 Seats Per Trip \$220.00 Volume Discount \$190.00

2025

Vans & Limos* Single Visit \$35.00 Season \$4,000

Minibuses* Single Visit \$65.00 Season \$7,500

Trolleys Single Visit \$95.00 Season \$11,350

Motor Coaches** >30 Seats Per Trip \$230.00 Volume Discount \$195.00

*Maine residential facility vans & minibuses are exempt from fees. **Motor Coach Volume Discount triggers at 75 visits for any operator (and is represented under season pass pricing for each years). No Season Pass option.

**Page 9 Town Council Minutes
December 13, 2021**

**Item #27-2022 Consideration of Proposed Use of Fort Williams Park – South
Portland/Cape Elizabeth Rotary Winterfest Fireworks**

Moved by Caitlin R. Jordan and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the recommendation of the Fort Williams Park Committee for the South Portland/Cape Elizabeth Rotary to host Winterfest fireworks in Fort Williams Park on Saturday, January 29, 2022 at 5:30 p.m. Details as outlined to be coordinated with town staff and Rotary members.

(6 yes) (1 no Councilor Boucher)

**Item #28-2022 Consideration of Amendment the Personnel Code to Add Juneteenth to
the List of Paid Holidays**

Introduction – Mr. Sturgis

Public Comment-

Melanie Thomas, 6 Starboard Drive supports the addition of Juneteenth as a paid holiday. It's an opportunity to listen, learn and celebrate.

Cynthia Dill, 1227 Shore Road supports the addition of Juneteenth as a paid holiday – it draws attention to the holiday and an opportunity to learn.

Moved by Nicole Boucher and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council adds Juneteenth to the list of paid holidays, changes Columbus Day to Indigenous Peoples' Day and December 25 to Christmas Day.

(7 yes) (0 no)

Article II Benefits
Sec. 3-2-1 Holidays

Paid holidays for all employees shall be as follows:

New Year's Day
Martin Luther King, Jr. Day
President' Day
Patriots' Day
Memorial Day
Juneteenth
Independence Day
Labor Day
~~Columbus Day~~ Indigenous Peoples' Day
Veterans' Day
Thanksgiving Day
Thanksgiving Friday
~~December 25~~ Christmas Day

**Page 10 Town Council Minutes
December 13, 2021**

**Item #29-2022 Update from the Town Manager Relating to the Results of an RFP for
Equipment in the Council Chambers Needed for Hybrid Meetings**

Public Comment

Melanie Thomas 6 Starboard Drive said it's difficult for residents to get to meetings for various reasons. Prefers Zoom. It's worth the investment.

It was a consensus of the town council that the town manager provide a funding proposal at the January 10, 2022 council meeting for consideration of installing equipment in the council chambers needed for hybrid meetings. The RFP estimates the project at \$64,000.

Item #30-2022 Wireless Infrastructure Market Augmentation (Wima) Study Oversight

Moved by Timothy S. Reiniger and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council refers oversight of the Wima (Wireless Infrastructure Market Augmentation) study to the ordinance committee.

(7 yes) (0 no)

Item# 31-2022 Acceptance of Annual Gifts and Donations

Moved by Gretchen R. Noonan and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council accepts gifts and donations received in 2021 with sincere appreciation.

(7 yes) (0 no)

Local Fuel Assistance

12/16/2020 Gregory Walsh & Louise Valati	\$ 400.00
1/4/2021 Jessie Timberlake	\$1000.00

Police Department

6/10/2021 Anne K. Hill	\$ 100.00
------------------------	-----------

Donation to a Family in Need

1/4/2021 Gregg Bechard Hannaford Gift Certificate	\$ 20.00
--	----------

Maintenance and Upkeep of the Trail System

12/2020 New England Mountain Bike Association	\$ 750.00
12/1/2021 Maggie Birlem, South Street	\$ 100.00

As part of the rehab of the Outer Loop Boardwalk, the Conservation Committee offered a \$100.00 Hannaford Gift Card to the neighborhood that moved the most board for the project. Maggie Birlem led the winning neighborhood and donated the \$100 prize back to the Conservation Committee.

12/31/2021 Wendymaps	\$ 43.00
----------------------	----------

**Page 11 Town Council Minutes
December 13, 2021**

Museum at Portland Head Light

Donation Box	\$3000.00
Donation from Jay Levine	\$ 500.00

Cape Elizabeth Garden Club
Wreaths for Municipal Buildings

Thomas Memorial Library

12/30/2020	Elizabeth Elliott	\$250.00
12/31/2020	Peter Cary	\$50.00
1/6/2021	Mellon Trust Check	\$500.00
1/12/2021	Nicholas Pappas	\$25.00
1/16/2021	Rotary Club	\$500.00
1/19/2021	Kimberley Maloney	\$150.00
1/29/2021	Tonda Olson	\$150.00
2/5/2021	Ronald Pfeifer	\$25.00
3/3/2021	Cape Democratic Committee	\$44.43
3/8/2021	Brentwood West Association	\$30.00
4/7/2021	Molly Bowman	\$30.00
4/9/2021	Lucille M. Mueller	\$25.00
4/16/2021	David Huyler Dexter	\$50.00
4/17/2021	Dianne Morse-Leonard	\$50.00
4/20/2021	James Zimpritch	\$282.98
4/27/2021	Sheila Zimmerman	\$200.00
5/8/2021	Peter B. Webster	\$100.00
5/10/2021	Jerry Harkavy	\$100.00
5/11/2021	Charles Lane	\$100.00
5/13/2021	Lyn Bailets	\$400.00
5/13/2021	Peter & Alice Rand	\$100.00
5/17/2021	Jeffrey & Susan Hobbs	\$50.00
5/20/2021	Ramey Tomson	\$25.00
5/23/2021	Patricia Powers	\$75.00
5/24/2021	Mary Giftos	\$100.00
5/26/2021	Linda Ayotte	\$50.00
5/31/2021	Michael & Camille Vande Berg	\$100.00
6/1/2021	Linda Jacobs	\$100.00
6/1/2021	Elizabeth Morse	\$250.00
6/1/2021	Thomas Rich	\$10,000.00
6/1/2021	Kevin & Claire Stack	\$100.00
7/9/2021	Richard Smith	\$250.00
7/11/2021	Gail Atkins	\$50.00
7/19/2021	Jeffrey M. Van Fleet	\$150.00
7/30/2021	Peter Darling	\$100.00
8/1/2021	Jessica Simpson	\$75.00
8/2/2021	Kathryn Judd	\$18.00
8/2/2021	Kate Mitchell	\$25.00
8/5/2021	Linda Percival	\$25.00
8/12/2021	Kenneth Pierce	\$100.00

**Page 12 Town Council Minutes
December 13, 2021**

8/12/2021	Jay Cross	\$100.00
8/14/2021	Peter Cary	\$100.00
8/29/2021	Steve & Jean Lavallee	\$100.00
8/31/2021	James Zimpritch	\$5000.00
9/1/2021	Carolyn Field	\$50.00
9/2/2021	Todd Abrahams	\$50.00
9/3/2021	Calen Colby	\$200.00
9/3/2021	JD Phelan	\$25.00
9/4/2021	Wifflepalooza	\$189.00
9/4/2021	Carolyn Vetro	\$10.00
9/6/2021	Mary Michals	\$25.00
9/9/2021	TMLF	\$5000.00
9/12/2021	Jane Dougall	\$25.00
10/11/2021	Marialice Wallace	\$50.00
11/15/2021	Ara Jerahian	In Kind Photograph (\$600.00)
11/17/2021	TMLF	\$5000.00
11/24/2021	Misc. Cash	\$2.25

Item #32-2022 Consideration of Extending the Limited Emergency for Remote Meetings

Moved by Caitlin R. Jordan and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council extends the Order Declaring a Limited Emergency Adopted by the Cape Elizabeth Town Council on August 30, 2021, revised October 13, 2021 extending until December 31, 2021, to June 30, 2022.

Moved by Gretchen R. Noonan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council extends the Order Declaring a Limited Emergency Adopted by the Cape Elizabeth Town Council on August 30, 2021, revised October 13, 2021 extending until December 31, 2021, to March 31, 2022.

(5 yes) (2 no Councilors Caitlin Jordan and Penelope Jordan)

See attachment.

Original motion as amended: (5 yes) (2 no Councilors Caitlin Jordan and Penelope Jordan)

Citizens may at this point in the meeting raise any topic that is not on the agenda that pertains to Cape Elizabeth local government.

Cynthia Dill, 1227 Shore Road congratulates Councilor Gabrielson and new town councilors. Supports a citizen committee to review affordable housing. Starting fresh with a new year.

Polly Wilcox, 17 Cape Woods Drive congratulates the new and incumbent council members. Some people can project when they speak, however others can't. Suggests another speaker in the back of the chambers.

Page 13 Town Council Minutes
December 13, 2021

Adjournment

Moved by Caitlin R. Jordan and Seconded by Penelope A. Jordan
ORDERED, the Cape Elizabeth Town Council adjourns at 8:50 p.m.
(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Attachment Item #2-2022

Town of Cape Elizabeth
Town Council Rules
Approved December 13, 2021

Article I Scheduling of Meetings

Section 1. Regular meetings Regular meetings of the Cape Elizabeth Town Council are held in the Town Hall at 7:00 p.m., on the second Monday of each calendar month. When the meeting date falls on a holiday, the regular meeting is held on the following Wednesday, at the same time and place. The date and/or location of any regular meeting may be changed by an order or resolve passed at a previous meeting upon the vote of five members of the council, provided, however, that any change in date will still provide for one regular meeting in each month. Any meeting may be postponed by the chairman due to severe inclement weather. The chairman shall reschedule the meeting to the earliest possible date.

Section 2. Special meetings Special meetings may be called by the chairman, and in case of the chairman's absence, disability, or refusal, special meetings may be called by three members of the Town Council. Notice of such meeting shall be served in person, electronically by e-mail, by telephone communication directly to the Town Council member or left at the residence of each member of the Town Council at least 48 hours before the time for holding said special meeting, unless all members of the council sign a waiver of said notice. An e-mail notice shall not serve as the sole notice unless prior to the meeting the recipient acknowledges receipt of the e-mail. The call for said special meeting shall set forth the matters to be acted upon and nothing else shall be considered at such special meeting.

Article II Agenda and Meeting Preparation

Section 1. Deadline to submit materials No item shall be in order for action at any meeting of the Town Council unless such item shall be filed in the office of the town clerk on or before noon of the first business day of the month for the regular meeting of the Town Council, and before noon of the business day prior to the day of any other meeting.

Section 2. Agenda preparation The town manager, with the advice and consent of the chairman shall prepare the agenda, which shall include the order of business. Any Town Council member or the town manager may sponsor items to be included in the agenda. The agenda may include reports from municipal boards and commissions that recommend Town Council action. Unless otherwise provided by ordinance, items submitted from citizens or others for inclusion in the agenda must be sponsored by a Town Council member or by the town manager. Sponsorship of an agenda item by the town manager or by a Town Council member shall not be deemed to be support on the merits of the sponsored item.

Section 3. Consent calendar The agenda may include a consent calendar providing for multiple items to be considered en bloc. When any item is included as part of a proposed consent calendar, any Town Council member may ask for any item to be considered separately. At the discretion of the chairman, any item removed from the consent calendar may be considered before or after the consideration of the items remaining on the consent calendar.

Section 4. Agenda order The order of the agenda for meetings shall be as follows:

Convening by the Chairman
Roll Call by the Town Clerk
The Pledge of Allegiance to the Flag
Presentations of any Town Council Recognitions
Town Council Reports and Correspondence
Other Reports on the Advance Agenda not Requiring Council Action
Citizens Discussion of Items Not on the Agenda-1st Opportunity
Town Manager's Report
Review of Minutes of Previous Meetings
Public Hearings
Agenda Items
Citizens Discussion of Items Not on the Agenda-Second Opportunity
Agenda Items Requiring Executive Sessions
Adjournment

Following any public hearing the Town Council shall consider the subject of the public hearing prior to moving forward to any additional item on the agenda.

Section 5. Agenda distribution The agenda shall be distributed to the members of the Council and made available to the public by the Wednesday preceding the date of the regular Council meeting and as soon as possible before a time set for any other meeting. Agendas shall be posted on the municipal website concurrent with distribution to the Town Council. Background material on issues before the Town Council shall be submitted electronically whenever feasible. Background material available electronically shall be posted on the municipal website unless the material relates to an item to be reviewed in non-public session.

Section 6. No new items after 10:00 p.m. No new item may be taken up for consideration at a Town Council meeting after 10:00 p.m.

Section 7. If meeting does not have a quorum If a meeting is adjourned because of the lack of a quorum, at least 24 hours notice of the time and place of holding another meeting shall be given to all members who are not present at the meeting from which adjournment is taken, unless such absent members sign a waiver of said notice.

Section 8. Electronic presentations Any person desiring to include as part of a presentation any material that requires projection shall provide the presentation to the town clerk by noon of the date of any meeting so that the presentation may be preloaded and ready to project. A copy of the presentation will also be maintained as a public record.

Article III Participation at Meetings and Conduct of Meetings

Section 1. Types of meetings. The Town Council meets in either business meeting format or workshop meeting format.

Section 2. Workshop Meetings The purpose of a workshop meeting is primarily for council dialogue involving reports and proposals from council members, committees and staff that may be considered at later Town Council meetings. The Town Council may give guidance to the chairman and to staff at workshop meetings but no decisions may be made that require formal votes. Notwithstanding the prior sentence, the Town Council may vote on procedural motions at a workshop meeting to determine a conflict of interest, to enter into executive session and to adjourn. Prior to Town Council discussion on any item, members of the public may speak on each agenda item for not more

than three minutes each and up to a total of 15 minutes. If there are more speakers than the time available, the chairman may allocate the speaking time in order to balance the debate. The public participation portion shall conclude when the Town Council begins its discussions.

Section 3. Rules of order and debate The chairman presides over all meetings of the Town Council. No one shall speak until recognized by the chairman. When speaking, the member shall respectfully address the chairman, confine discussion to the question under debate, and avoid personalities. No member speaking shall be interrupted by another, but by a call to order, to correct a mistake or by the chairman if there are technical issues with sound or video equipment.

The chairman shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the council by motion regularly seconded, and no other business shall be in order until a question on appeal is decided.

The chairman or a designee of the chairman shall summarize every item on the agenda following its reading by title.

The chairman shall call for and declare all votes, but if any member doubts a vote, the chairman shall cause a return of the members voting in the affirmative and in the negative without debate. When a roll call is taken, the roll is called in alphabetical order, except that the chairman shall be the final member to vote.

Every motion shall be reduced to writing, if the chairman shall so direct.

Any member may require the division of a question.

When a question is under debate, the chairman shall receive no motion but to:

- (1) adjourn
- (2) lay on the table
- (3) postpone to a day certain
- (4) refer to a committee or some administrative official
- (5) amend
- (6) postpone indefinitely, or
- (7) move the previous question

Motions shall have precedence in the order written above.

The chairman shall consider a motion to adjourn as always in order except on immediate repetition; and that motion, and the motion to lay on the table, or to take from the table, shall be decided without debate.

A motion for referral to a committee or administrative official, until it is decided, shall preclude all amendments of the main question.

All questions relating to priority of business to be acted upon shall be decided without debate.

In all cases where the parliamentary proceedings are not determined by the foregoing rules and orders, "Robert's Rules of Order," latest edition, shall be taken as authority to decide the course of proceedings.

After a vote is taken, it shall be in order for any member who voted on the prevailing side of a vote to have a reconsideration thereof at the same, or the next stated meeting, but not afterwards; and when a motion of reconsideration is decided, that vote shall not be reconsidered.

Upon the motion for the previous question being made and seconded, the chairman shall put the question in the following form: "Shall the main question be now put?" And all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion for the previous question by a majority vote, the sense of the council shall be forthwith taken upon all pending amendments, and then upon the main question.

No debate shall be allowed on a motion for the previous question. Neither is it susceptible of amendment. All questions or order arising incidentally thereon must be decided without discussion whether appeal be had from the chair or not.

Section 4. Public Participation at Regular Town Council Meetings The public is welcome to participate at Town Council business meetings. The participation may take the following forms:

a. Participation at a public hearing and on other agenda items

After an item has been introduced, any person wishing to address the council shall signify a desire to speak by raising his or her hand or by approaching the lectern. When recognized by the chairman, the speaker shall give his or her name and address or name and local affiliation, if the affiliation is relevant, prior to making other comments. All remarks should be addressed to the Town Council. Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present. For agenda items that are not formally advertised public hearings, the chairman or a majority of the Town Council may limit the total time of public comments to 15 minutes per agenda item. This time may be extended by a majority of the Town Council. The chairman may decline to recognize any person who has already spoken on the same agenda item. Once the council has begun its deliberations on an item, no person shall be permitted to address the council on such item.

If the Town Council has previously held within ninety days a public hearing on a similar item, the chairman or a council majority may limit or dispense with public comment at subsequent meetings when the item is considered.

b. Speaking at the meeting on topics not on the agenda

Persons wishing to address the council on an issue or concern local in nature not appearing on the agenda may do so before the town manager's report and/or after the disposition of all items appearing on the agenda.

Any person wishing to address the council shall signify a desire to speak by raising his or her hand or by approaching the lectern. When recognized by the chairman, the speaker shall give his or her name and address or name and local affiliation if the local affiliation is relevant prior to making other comments. All remarks should be addressed to the Town Council. Comments in each comment period shall be limited to three minutes per person and 15 minutes total; however, the time may be extended by majority vote of councilors present.

Issues raised during the non-agenda item comment period may be immediately responded to with brief answers by the chairman or by the town manager. After each comment period, the chairman will indicate that each person who did not receive an immediate response will receive a follow-up response no later than one week from the meeting. Copies of responses will be provided to all Town Council members.

Section 5. Decorum Persons present at council meetings and workshop meetings shall not applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting. Persons at business meetings may only address the Town Council after being recognized by the chairman and only at the lectern.

Section 6. Conflict of interest Each Town Council member shall disclose any potential conflict of interest immediately after the chairman introduces an item. The council member shall briefly explain their reason why they believe they may have a conflict of interest. The balance of the Town Council members after reviewing applicable statutes may by majority vote determine if the member has a conflict. If any member of the Town Council believes that another member has a statutory conflict of interest, they may raise a point of order at any time and the Town Council shall immediately suspend business to resolve the issue. If any member discovers part way into a discussion that they may have a conflict of interest, the council member may raise a point of order and the Town Council shall immediately suspend business to resolve the issue. All resolutions of conflict of interest issues may be by majority vote of the remaining Town Council members and after citing applicable statutory provisions. If the same issue is to be discussed at subsequent meetings, the recusal need not be revoted. The chairman will announce to those present the previous decision to recuse the council member.

Section 7. Members must vote Unless a Town Council member has been recused from voting for reason of conflict of interest, the Town Council member must vote when the yeas and nays are called.

Section 8. Suspension of rules The rules shall not be dispensed with or suspended unless five of the members of the council consent thereto. No rule or order shall be amended or repealed without notice, in writing, being given at the preceding meeting.

Article IV Miscellaneous Provisions

Section 1. Committees At the commencement of the council year, or as soon thereafter as possible, there shall be chosen the following committees, each committee to consist of such members of the council as the Town Council may designate:

1. Finance Committee
2. Appointments Committee
3. Ordinance Committee

The members of the council to serve on the appointments committee and ordinance committee shall be chosen by the council by a majority vote. All members of the council shall serve on the finance committee. Each member of the council, other than the chairman, shall serve on either the appointments committee or the ordinance committee, and the chairman shall be ex-officio a member of all standing committees. The chairperson of each of the Finance Committee, the Appointments Committee and the Ordinance Committee shall also be chosen by the full council by majority vote.

Section 2. When votes are effective All Town Council votes are effective immediately except that ordinance adoptions and amendments are effective as provided in the municipal charter.

Section 3. Chairman In the absence of the chairman, the finance committee chairperson shall assume the responsibilities of the chairman. If both are absent, the remaining council members shall choose a chairman pro-tem who shall have the responsibilities of the chairman. The "chairman" each year may ask that the position instead be referred to as "Town Council Chair," "Town Council Chairwoman," or "Town Council Chairperson." The Town Council shall respect the wishes of the incumbent chairman.

Section 4. Orientation Between the annual municipal election and the 2nd Monday in December, the current chairman assisted by the town manager shall organize an orientation session for any newly elected councilors and any continuing councilors who may wish to attend.

Section 5. Partisanship "The Council-Manager Charter of the Town of Cape Elizabeth" provides that elections for Town Council shall be conducted on a non-partisan basis and without party designations on the election ballot. To retain the non-partisan nature of the council, council members and others are asked to refrain from making statements announcing political party events or making other comments of a political partisan nature.

Section 6. Technology The Town Council utilizes technology to enable more access to local government. The use of messaging technology during Town Council meetings shall be limited to ensure that Town Council deliberations are conducted openly.

Revised: 12/10/1979, 5/14/1985, 12/9/1985, 2/8/1988, 5/25/1988, 10/11/1989, 6/10/1991, 12/9/1991, 6/9/2003, 12/11/2006, 1/8/2007, 8/9/2010, 12/12/2011, 12/9/2013, 4/9/2018

Attachment Item #15-2022

Approved by the Town Council

October 6, 2014, Revised April 9, 2018

Town of Cape Elizabeth Code of Ethics for the Town Council

Statement of Policy

The proper operation of the government of the Town of Cape Elizabeth (hereinafter "Town") requires that elected members of the Town Council (hereinafter "Councilors") be fair, impartial and responsive to the needs of the people they serve and to each other in the performance of their functions and duties; that decisions and policies be made in proper channels of the Town's governmental structure; that public office not be used for personal gain, family gain, or third party gain; and that Councilors shall maintain a standard of ethical conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, this Code of Ethics is hereby adopted as the standard of ethical conduct for the Town Council.

Section 1. Title

This policy shall be known as the Code of Ethics for the Cape Elizabeth Town Council.

Section 2. Legal Standards

It is the duty of every Councilor to support the Constitution of the United States and the Constitution of the State of Maine. There are also certain provisions of the general statutes of the State of Maine, which, while not set forth herein, should be considered an integral part of this Code of Ethics. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as they may be amended, are incorporated into this Code of Ethics by reference to the extent applicable:

- 17 MRSA § 3104 Conflict of Interest; Purchases by the State
- 17-A MRSA § 456 Tampering with Public Records or Information
- 17-A MRSA § 602 Bribery in Official and Political Matters
- 17-A MRSA § 603 Improper Influence
- 17-A MRSA § 604 Improper Compensation for Past Action
- 17-A MRSA § 605 Improper Gifts to Public Servants
- 17-A MRSA § 606 Improper Compensation for Services
- 17-A MRSA § 607 Purchase of Public Office
- 17-A MRSA § 608 Official Oppression
- 17-A MRSA § 609 Misuse of Information
- 17-A MRSA § 903 Misuse of Entrusted Property
- 30-A MRSA § 2605 Conflicts of Interest
- 30-A MRSA § 5122 Interest of Public Officials, Trustees or Employees

Section 3. Conflicts of Interest

All Councilors must be fair and impartial in carrying out their duties and responsibilities. All Councilors must ensure that their official actions are not intended to create actual or the potential for personal or financial gain, either directly or indirectly, for themselves, family members, personal friends, or other related parties. Any actual or potential conflicts between personal interests (financial, personal relationships, or otherwise) and Town business must be fully disclosed in a timely fashion to the Town Council. If the Town Council determines that an actual conflict of interest does exist, then the Councilor shall be recused from officially participating in any discussion or decision-making action on the issue.

If a Councilor has accepted money or other consideration from a citizen, group of citizens, business or other entity that has an interest in an issue before the Town Council, and if such money or other

consideration was received by the Councilor within a twelve-month period prior to Council taking any action on the issue in question, that Councilor should not participate in deliberations relating to that issue. This prohibition shall not apply to the sale of consumer goods or services at fair retail value. This conflict of interest provision does not prohibit a Councilor from acting as a private citizen, outside of any official duties.

Section 4. Gifts and/or Gratuities

The conduct of public business shall be free of any influence arising from gifts, favors, donations, or special privileges. It is the obligation of every Councilor to refuse personal gifts, favors, donations or special privileges in every instance where favor or special privilege would not have been extended but for the position of such Councilor; where there exists a reasonable belief that the giver's interests are likely to be affected by the actions of the Councilor; or where the gift is or may reasonably be considered to be designed to influence the actions of the Councilor.

Section 5. Appearance of Conflict of Interest and Improper Influence.

Councilors should conduct their official and personal affairs in such a manner as to avoid any appearance of conflict of interest and/or improper influence in the performance of their official duties. No Councilor shall seek personal or financial advantage by means of his/her public office, nor by his or her actions create the appearance of personal or financial advantage, or the appearance of personal or financial advantage on the part of relatives, personal friends or third parties having some affiliation with that Councilor. Councilors shall not directly or indirectly solicit any gift, gratuity or donation, or accept or receive any such gift if it could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties or the gift or gratuity was intended to serve as a reward for any official action on their part.

To the extent any Councilor believes that there is the appearance of a conflict, the Councilor shall disclose the facts and circumstances giving rise to the possible conflict and to determine what, if any, steps should be taken to address it.

Section 6. Representing Third Party Interests Before Town Agencies

No Councilor shall either appear on behalf of any third party interest before the Council or any Town board, commission or other agency (individually, "agency", collectively, "agencies"), or represent a third party interest in any action, proceeding, or litigation in which the Town or one of its agencies is a party, without explicitly stating that he/she is appearing as a citizen or representative of a citizen as opposed to as a member of the Council. Nothing herein shall prohibit a Councilor, on behalf of a constituent in the course of his or her duties as a representative of the electorate, or any Councilor, on behalf of his or her personal interest, from appearing before a Town agency. Notwithstanding the provisions of this Section 6, a Councilor may appear before an agency in his/her capacity as a Councilor while acting on behalf of the Town.

Section 7. Bias

If a Councilor believes that he/she is biased for or against an individual or entity that has a matter pending before the Council, and the Councilor believes that such bias will interfere with his/her ability to make a fair and impartial decision, then he/she shall recuse himself/herself from participating in any discussion or decision-making action on this issue.

Section 8. Standards of Conduct

The following specific standards of conduct further the policies and goals set forth in this Code of Ethics:

- A. Councilors shall take reasonable steps to preserve written communications in order to comply with Maine's "right to know" laws and, more specifically, a request made pursuant to the Freedom of Access Act ("FOAA"). To that end, Councilors shall preserve incoming and outgoing emails or other written communications that are subject to FOAA either (i) on their own

computers or filing system or (ii) by copying them to a Town-designated computer account, so that these communications are preserved and readily available in the event of a FOAA request.

- B. Councilors should conduct public business in as transparent a manner as possible. Although one-on-one conversations or meetings are legally permissible if not used to defeat the purpose of FOAA, to the extent information is exchanged that would be of value to the entire Council, such information should be shared at a public meeting.
- C. Councilors shall annually provide a list of any gifts received in the immediate prior year having a value of \$100 or greater, from any person or entity within the Town or having a matter pending before the Council, other than family members or close personal friends. In addition, if a person, business or other entity organized an event that benefitted the Councilor or his/her family or a related business in an amount of \$100 or more, the Councilor shall disclose the name of such person or entity. These disclosures shall be filed with the Town Clerk. For purposes of this section, "gifts" include payments made to a Councilor that exceed the fair market value of any goods or services provided in return.
- D. All Councilors shall be required to attest that they have read and understand this Code of Ethics and will comply with its provisions at the first meeting of the Council each year.

Section 9. Enforcement

All Councilors shall comply with this Code of Ethics. If any member of the Town Council believes that a violation has occurred or if a conflict of interest exists, he/she shall report the matter to the Town Clerk, who shall distribute the report to the Town Council. Pursuant to the Town Charter, the Town Council shall be the judge of whether any violation of this Code of Ethics has occurred and shall determine the appropriate remedy or response.

Section 10. Authority

The Town Council adopts this Code of Ethics pursuant to 30-A MRSA 2605(7).

Section 11. Applicability

This policy shall apply to all members of the Cape Elizabeth Town Council.

Section 12. Effective Date

This policy was adopted effective October 6, 2014 and revised April 9, 2018.

Section 13. Amendment

This policy may be amended or revised by a majority vote of the Town Council.

Section 14. Severability

If any provision of this policy is found to be unenforceable or invalid, the remaining provisions shall remain in full force and effect.

Section 15. Conflict with other Policies, Ordinances, or Jurisdictions

Whenever a provision of this Code of Ethics conflicts with or is inconsistent with another provision of this Code, or conflicts with or is inconsistent with the Town Charter, any Town Ordinance, state statute or regulation, or any other applicable law, the more restrictive provision shall apply.

Attachment Item #18-2022

Lease Amendment 4

This Agreement, made on November 15, 2021 by and between the TOWN OF CAPE ELIZABETH, 320 OCEAN HOUSE ROAD, CAPE ELIZABETH, MAINE 04107 (referred to herein as “Lessor), and EDWARD D JONES & CO, LP D/B/A EDWARD JONES 12555 MANCHESTER RD, ST LOUIS, MO 63131 (referred to herein as “Lessee”),

WITNESSETH

WHEREAS, Lessor and Lessee entered into that certain Lease Agreement dated January 31, 2002 (collectively hereinafter referred to as the “Lease”), for certain real property containing approximately 1,000 square feet located at 343 Ocean House Road, Cape Elizabeth, Maine 04107 (hereinafter referred to as the “Premises”),

WHEREAS, Lessor and Lessee entered into a Lease Amendment 1 dated December 20, 2006 thereby extending the term of this Lease for an additional period of Five (5) years beginning March 1, 2007, and ending February 29, 2012, and,

WHEREAS, Lessor and Lessee entered into a Lease Amendment 2 dated December 8, 2010 thereby extending the term of this Lease for an additional period of Five (5) years beginning March 1, 2012, and ending February 28, 2017, and,

WHEREAS, Lessor and Lessee entered into a Lease Amendment 3 dated December 6, 2016 thereby extending the term of this Lease for an additional period of Five (5) years beginning March 1, 2017, and ending February 28, 2022.

WHEREAS, Lessor and Lessee desire to amend the Lease;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

That the Lease is amended effective March 1, 2022;

1. RENEWAL TERM

The term of the Lease shall be extended for an additional period of Five (5) years commencing on March 1, 2022 and expiring on February 28, 2027.

2. BASE RENT

Base rent is to be paid at a monthly schedule of:

03/01/2022 – 02/28/2023 One Thousand Five Hundred Eighty Four and No/100 Dollars (\$1,584.00)
03/01/2023 -- 02/29/2024 One Thousand Six Hundred Fifteen and 68/100 Dollars (\$1,615.68)
03/01/2024 – 02/28/2025 One Thousand Six Hundred Forty-Seven and 99/100 Dollars (\$1,647.99)
03/01/2025 – 02/28/2026 One Thousand Six Hundred Eighty and 95/100 Dollars (\$1,680.95)
03/01/2026 – 02/28/2027 One Thousand Seven Hundred Fourteen and 57/100 Dollars (\$1,714.57)

3. RESTRICTIONS

Lessor shall not lease or sell any units within the Building or Property to the following user: Offices or entities that sell, barter, trade, buy, or dispenses marijuana, for medical use or otherwise.

All other terms, covenants and conditions of the Lease shall remain in full force and effect. In the event of any conflicts between the terms and conditions of the Lease and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail.

IN WITNESS WHEREOF, Lessor and Lessee have caused this agreement to be executed as of the day and year first written above.

Lessor:
TOWN OF CAPE ELIZABETH

Lessee:
EDWARD D JONES & CO., L.P.
D/B/A EDWARD JONES



By:_____

By:_____

Printed Name:_____

Printed Name: Leslie Tilzer

Its:_____

Its: Manager

Date:_____

Date: November 15, 2021

SSN or Fed ID #_____

Branch Number 11418

Wireless Amendments (combined)

SEC. 19-1-3. DEFINITIONS

Essential Services, major: Utility facilities including gas, electrical, communication, steam, fuel, water or sewage transmission, collection, or distribution systems, of a scale and character commonly found only in one or a few specialized locations in the Town. Examples include, but are not limited to, a water treatment plant, sewer treatment plant, electrical power generating facility and substation, but exclude telecommunication towers.

Essential services, minor: Small scale, support equipment for utility facilities including gas, electrical, communication, steam, fuel, water or sewage transmission, collection, or distribution systems. Support equipment may include poles, pipes, wires, transmitters, and service boxes that need to be near the property to which the service is provided. Telecommunication support equipment includes the attachment of antenna, control boxes and related equipment and wiring to existing utility poles located in the road right-of-way where the attachment does not increase the pole height more than 10' nor extend more than 3' from the face of the pole. Examples include, but are not limited to, a water meter pit, single home sanitary sewer pump station, residential scale transformer, and telecommunication support equipment referenced above.

FCC: The Federal Communications Commission. (Effective April 15, 2000)

SEC. 19-3-2. APPROVALS AND PERMITS REQUIRED

B. Site Plan Approval

No activity which requires Site Plan Review under Sec. 19-9-2, Applicability, shall commence until after site plan approval has been obtained from the Planning Board in accordance with the provisions of Article IX, Site Plan Review. (Effective June 10, 2010)

C. Building Permit

No construction, structural alteration, enlargement, or relocation of a building or structure shall commence until after the issuance of a Building Permit by the Code Enforcement Officer in accordance with Sec. 19-3-3, Building Permits.

No installation of an amateur or governmental wireless telecommunication facility antenna which extends 15' feet or more from the roof of a structure shall occur until after the issuance of a Building Permit by the Code Enforcement Officer in accordance with Sec. 19-3-3. No installation of a commercial wireless telecommunication antenna on an alternative tower structure shall occur until after the issuance of a Building Permit by the Code Enforcement Officer in accordance with Sec. 19-3-3, except that the Code Enforcement Officer may refer the antenna installation application to the Planning

Board for review under Sec. 19-9, Site Plan Review and Sec. 19-8-12, Tower and Antenna Performance Standards, if the antenna concealment is not complete. (Effective April 15, 2000)

ARTICLE VI. DISTRICT REGULATIONS

SEC. 19-6-1. RESIDENCE A DISTRICT (RA)

B. Permitted Uses

3. The following nonresidential uses:

i. Essential services, major

4. The following accessory uses:

j. Essential services, minor

E. Site Plan Review

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to issuance of any building permit, plumbing permit, or other permit:

1. Multiplex housing and eldercare facilities. As part of Site Plan Review for multiplex housing, Sec. 19-7-2 (E), Multiplex Housing Standards, shall also apply. (Effective November 14, 2015)
2. Nonresidential uses listed in Sec. 19-6-1.B.3, except home day cares, wind energy systems, short term rentals and day camps which shall not require site plan review (Effective December 4, 2015), (Effective November 5, 2016)
3. Nonresidential uses listed Sec. 19-6-1.C.2.
4. Any other use or activity listed in Sec. 19-9-2. Applicability, as requiring site plan review.

SEC. 19-6-2. RESIDENCE B DISTRICT (RB)

B. Permitted Uses

3. The following nonresidential uses:

g. Essential services, major

4. The following accessory uses:

l. Essential services, minor

F. Site Plan Review

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to issuance of any building permit, plumbing permit, or other permit:

1. Multiplex housing and eldercare facilities. As part of Site Plan Review for multiplex housing, Sec. 19-7-2 (E), Multiplex Housing Standards, shall also apply. (Effective November 14, 2015)
2. Nonresidential uses listed in Sec. 19-6-2.B.3, except home day cares, wind energy systems, short term rentals and day camps which shall not require site plan review (Effective December 4, 2015), (Effective November 5, 2016)
3. Nonresidential uses listed Sec. 19-6-2.C.2.
4. Any other use or activity listed in Sec. 19-9-2. Applicability, as requiring site plan review.

SEC. 19-6-3. RESIDENCE C DISTRICT (RB)

B. Permitted Uses

3. The following nonresidential uses:

h. Essential services, major

4. The following accessory uses:

l. Essential services, minor

F. Site Plan Review

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to issuance of any building permit, plumbing permit, or other permit:

1. Multiplex housing and eldercare facilities. As part of Site Plan Review for multiplex housing, Sec. 19-7-2 (E), Multiplex Housing Standards, shall also apply. (Effective November 14, 2015)
2. Nonresidential uses listed in Sec. 19-6-3.B.3, except home day cares, wind energy systems, short term rentals and day camps which shall not require site plan review (Effective December 4, 2015), (Effective November 5, 2016)

3. Nonresidential uses listed Sec. 19-6-3.C.2.
4. Any other use or activity listed in Sec. 19-9-2. Applicability, as requiring site plan review.

SEC. 19-6-4. TOWN CENTER DISTRICT (TC)

B. Permitted Uses

4. The following accessory uses:

- l. Essential services, major
- m. Essential services, minor

E. Site Plan Review

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to the issuance of any building permit, plumbing permit, or other permit:

1. Construction involving any permitted use other than farming and a single family dwelling, except that construction of or conversion to a single family dwelling in the Town Center Core Subdistrict shall be subject to site plan review by the Planning Board.

SEC. 19-6-5. BUSINESS DISTRICT A (BA)

B. Permitted Uses

4. The following accessory uses:

- m. Essential services, major
- n. Essential services, minor

F. Site Plan Review

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to the issuance of any building permit, plumbing permit, or other permit:

1. Construction involving any permitted use other than farming and a single family dwelling.
4. Any other use or activity listed in Sec. 19-9-2, Applicability, as requiring site plan review. (Effective July 8, 2009)

SEC. 19-6-6 BUSINESS DISTRICT B (BB)

B. Permitted Uses

4. The following accessory uses:

- i. [Essential services, major](#)
- i. [Essential services, minor](#)

F. Site Plan Review

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to the issuance of any building permit, plumbing permit, or other permit:

- 4. Any other use or activity listed in Sec. 19-9-2, Applicability, as requiring site plan review.

SEC. 19-6-8. FORT WILLIAMS PARK DISTRICT (FWP)

B. Permitted Uses

The following uses are permitted in the Fort Williams Park District:

- 6. [Essential services, major](#)
- 7. [Essential services, minor](#)

F. Site Plan Review

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to issuance of any building permit, plumbing permit, or other permit.

- 1. Nonresidential uses involving the construction or expansion of a building or structure.
- 2. Any other use or activity listed in Sec. 19-9-2, Applicability, as requiring site plan review.
- 3. [Essential services, major](#)

SEC. 19-6-10. TOWN FARM DISTRICT (TF)

B. Permitted Uses

C. Conditional Uses

The following uses may be permitted only upon approval by the Zoning Board as a conditional use, in accordance with Sec. 19-5-5, Conditional Use Permits:

1. Reserved
2. The following nonresidential uses:
 - a. Public utilities/essential utility services, except telecommunication towers. ~~Activities permitted under the terms of the Portland Water District lease, to be located only on the land leased to the Portland Water District for as long as such lease remains in effect.~~

F. Site Plan Review

The following uses and activities shall be subject to site plan review by the Planning Board, according to the terms of Article IX, Site Plan Review, prior to issuance of any building permit, plumbing permit, or other permit:

1. Public utilities/essential ~~utility~~ services, major

Attachment Item #32-2022

**Order Declaring a Limited Emergency
Adopted by the Cape Elizabeth Town Council
August 30, 2021
Revised October 13, 2021 to Extend Until December 31, 2021
Revised December 13, 2021 to Extend Until March 31, 2022**

WHEREAS, in the Spring of 2021 the COVID-19 Pandemic had seemed to be coming to an end with the advent of vaccines and good vaccination rates, but instead infection rates, and new variants, hospitalizations, and deaths from the COVID-19 virus have been increasing in recent months; and

WHEREAS, in the two (2) weeks between July 14 and July 28, 2021, the rate of COVID-19 infections confirmed by testing have more than doubled in the United States, and those trends continue; and

WHEREAS, on July 1, 2021, in the State of Maine, the average daily case total was 22.1;

WHEREAS, since that time the rate of COVID-19 infections confirmed by testing in the State of Maine has increased at a significant rate to an average number of 67.1 daily cases as of July 27, 2021, for an increase of 203.6 percent, and those trends continue; and

WHEREAS, a majority of the new infections in the United States and the State of Maine involve the Delta variant, a highly contagious SARS-CoV-2 virus strain; and

WHEREAS, the Delta variant has increased transmission, the severity of COVID-19 infections based on hospitalization and case fatality rates, and decreased susceptibility to therapeutic agents; and

WHEREAS, the Delta variant represents 47.6 percent of all sequenced samples collected in July in the State of Maine; and

WHEREAS, as a result of the Delta variant and the increase in COVID-19 infections, the United States Centers for Disease Control and Prevention announced on July 27, 2021, that fully vaccinated individuals should wear masks in indoor public settings in parts of the country that are experiencing a substantial or high transmission of COVID-19; and

WHEREAS, the Maine Center for Disease Control and Prevention similarly announced on July 28, 2021, that masks are recommended to be worn by fully vaccinated individuals in public indoor settings in almost all Maine counties, including Cumberland County; and

WHEREAS, the risk of COVID-19 virus transmission from vaccinated individuals to unvaccinated individuals (for example children under 12) remains unknown; and

WHEREAS, as a result of the above-described situation, the Town Manager has determined that masks must be worn by staff and visitors to all Town buildings; and

WHEREAS, Town buildings have adequate ventilation under normal circumstances, but does not provide sufficient space to socially distance the number of members that may potentially attend meetings, and every effort has been made to secure an appropriate venue; and

WHEREAS, the technology infrastructure and processes currently exist to continue to continue to allow remote participation in and public access to Town Council, Board, and Committee meetings in accordance with Maine law; and

WHEREAS, the Town of Cape Elizabeth is committed to continuing to provide opportunities for public engagement which are accessible and safe; and

WHEREAS, all Town of Cape Elizabeth boards and committees have or will be adopting the Remote Participation Policy as authorized in 1 M.R.S. section 403-B;

NOW, THEREFORE, BE IT ORDERED AND DECLARED by the Cape Elizabeth Town Council that a limited emergency continues to exist within the Town of Cape Elizabeth; and

BE IT FURTHER ORDERED, that as a result of the declared limited emergency and the existence of an “emergency or urgent issue” as described above, pursuant to 1 M.R.S. section 403-B and the Town of Cape Elizabeth’s recently adopted Remote Participation Policy, being physically present for meetings in Cape Elizabeth Town buildings is not practicable at this time, and therefore allows that all Town of Cape Elizabeth boards, committees, and other groups may conduct meetings by remote technology/methods only until the limited emergency is terminated; and

BE IT FURTHER ORDERED, that as a result of this declared limited emergency, the existence of an “emergency or urgent issue,” the fact that Town buildings may be unable to provide adequate social distancing for full public physical access to meetings, and in order to be consistent with board and committee meetings, the Town Council hereby strongly recommends that all other Town boards and committees also continue to meet by remote technology/methods only in accordance with the requirements of the Town’s adopted policy; and

BE IT FURTHER ORDERED that this Order is enacted as an Emergency so that it may take effect immediately, with an expiration of October 15, 2021.

Revised December 13, 2021 to extend until March 31, 2022.