



Cape Elizabeth Town Council

DRAFT Minutes Monday, April 12, 2021

7:00 p.m.

Zoom Online

James M. "Jamie" Garvin, Chairman
Nicole Boucher
Valerie J. Deveraux
Jeremy A. Gabrielson
Caitlin R. Jordan
Penelope A. Jordan
Gretchen R. Noonan

The meeting via Zoom, an online video and audio conferencing platform, was convened at 7:00 p.m. by Chairman Garvin.

In response to the recent outbreak of Coronavirus Disease 2019 (COVID-19) Governor Mills signed [LD 2167, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency](#), which is now PL 2019, c. 617.

Part G enacts Title 1, section 403-A, Public proceedings through remote access during declaration of state of emergency due to COVID-19. It authorizes conducting public proceedings through telephonic, video, electronic or other similar means of remote participation with specific conditions. The section is repealed 30 days after the termination of the state of emergency.

The Cape Elizabeth Town Council will meet as necessary to continue the town's work via an online platform as allowed by State authorization during the state of emergency due to COVID-19. The platform will allow for public comment as outlined in the Town Council Rules. The public is reminded they should continue to provide questions and comments to the town council relating to business of the town via email or mailing correspondence to their attention to town hall.

Roll Call by the Town Clerk

All members of the town council were present.

Debra M. Lane, Town Clerk
Maureen O'Meara, Town Planner
John Quartararo, Finance Director
Matthew E. Sturgis, Town Manager

The Pledge of Allegiance to the Flag

Town Council Reports and Correspondence

Councilor Noonan passed along her mother's appreciation to staff members Teresa Olsen, Tax Office and Janet Staples, ACP for their assistance with a recent transaction.

Finance Committee Report

Finance Chairman Jeremy Gabrielson reviewed the dashboard ending 3/31/2021. Upcoming budget workshops; April 26 (school budget presentation) and April 27 (wrap up and discussion of future capital projects).

Citizen Opportunity for Discussion of Items Not on the Agenda

None

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Town Manager's Monthly Report
Matthew E. Sturgis

The Memorial Day Parade is canceled due to COVID-19. The virtual celebration presented last year will again appear on the town's website for Memorial Day weekend.

Community Services received the highest day revenue of \$200,000 during a recent sign up for programming.

The Recycling Committee will appear April 14 at 7:00 p.m. for a virtual event through the Thomas Memorial Library – Talking Trash. Interested citizens are encouraged to sign up.

Chairman Garvin reported on the flag raising this evening at 6:00 p.m. at the Village Green; Councilors Noonan and Gabrielson also attended. Thanks to Jim Huebener, Jeff Holden and Tom Egan for their generous donations toward the flagpole. Thank you to Dr. Jacobsen for the easement to the green. On behalf of the Town, condolences to the family of Sherman Altenburg. Mr. Altenburg an active community member passed away unexpectedly on March 28.

Review of Draft Minutes of the Meeting Held on March 8, 2021

Moved by Jeremy A. Gabrielson and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council approves the minutes of the virtual meeting held on March 8, 2021 as written.

(7 yes) (0 no)

Consent Calendar Item #62-2021 – Item #66-2021

Item #64-2021 and Item #65-2021 were removed from the consent calendar for further discussion.

Moved by Jeremy A. Gabrielson and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council approves Items #62-2021, #63-2021 and #66-2021 as presented.

(7 yes) (0 no)

Item #62-2021 Acceptance of Anonymous Donation to the Police Department

ORDERED, the Cape Elizabeth Town Council authorizes the establishment of the Police Department Donation Fund, a non-lapsing fund, for receipt of donations to the Police Department and authorizes the expenditure of funds when received consistent with the donor's intention for use of the funds. The Town Council gratefully accepts the donation of \$5,000 from an anonymous donor.

**Item #63-2021 Acceptance of Grant Award from the Maine Bureau of Highway Safety –
Impaired Driving Enforcement Grant**

ORDERED, the Cape Elizabeth Town Council accepts and appropriates a grant award of \$1275.40 from the Maine Bureau of Highway Safety - Impaired Driving Enforcement grant to account 0725-4463. The grant will reimburse the purchase of eCitation printers that will work with the State's new eCitation ticketing system. Any match requirements will be met through the police department's operating budget or other police department resources, as allowed by the terms of the grant. The purchasing period of the grant ends September 30, 2021.

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Item #66-2021 School Budget Validation Referendum Election Warrant

ORDERED, the Cape Elizabeth Town Council approves the following School Budget Validation Referendum Election Warrant as follows:

**TOWN OF CAPE ELIZABETH SCHOOL BUDGET VALIDATION REFERENDUM
WARRANT**

Tuesday, June 8, 2021

County of Cumberland, ss.

To Paul W. Fenton, a constable of Cape Elizabeth. You are hereby directed to notify the voters of Cape Elizabeth of the election described in the warrant.

SCHOOL BUDGET QUESTIONS

School Budget Validation Referendum

Do you favor approving the Town of Cape Elizabeth school budget for the upcoming school year that was adopted at the latest school budget meeting of the Town Council?

Yes No

The following is a non-binding expression of opinion for the consideration of the School Board and Town Council.

I find the school budget adopted at the May 10, 2021 Town Council's school budget meeting to be:

___ TOO HIGH ___ ACCEPTABLE ___ TOO LOW

Election to be held on Tuesday, June 8, 2021 at the Cape Elizabeth High School. Polls open at 7:00 a.m. and Close at 8:00 p.m.

Absentee Ballot Processing:

Absentee ballots may be processed prior to Election Day as allowed by law beginning on the 4th day immediately prior to Election Day from 9:00 a.m. – 9:00 p.m. The start time may vary if an inspection is requested as prescribed by law. Election laws, including the processing of absentee ballots, are subject to any Executive Orders by the Governor of Maine during the COVID-19 Emergency. Questions are directed to the Town Clerk at 799-7665.

Absentee ballots will be processed on Election Day, on the hour every hour until close, beginning at 7:00 a.m. The Cape Elizabeth Town Democratic Committee, the Cape Elizabeth Town Republican Committee, and State Green Independent Party have also been notified, in writing, of the absentee ballot process.

The Registrar of Voters is available to accept new registrations and corrections to the voter list on Election Day at the polls and prior to Election Day. Questions should be directed to the Registrar of Voters at 799-7665. Proof of residency and identity is required.

Municipal Officers of Cape Elizabeth, Maine Dated at Cape Elizabeth this 12th day of April 2021.

The warrant and specimen ballots shall be posted at least 7 days prior to the election.

Item #64-2021 Recommended Policy Relating to Short-Term General Fund Borrowing

Introduction – Finance Director John Quartararo

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

ORDERED, the Cape Elizabeth Town Council refers to workshop a recommended policy relating to short-term general fund borrowing to further review the policy answering questions such as criteria, maturity dates, duration of loan, authority of town manager, amount of capital available in the general fund.

(7 yes) (0 no)

Item #65-2021 School Construction Bond Order

Moved by Jeremy A. Gabrielson and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council authorizes a bond order in the amount of \$300,000 for funds to be utilized the pay for the development of a concept design for the construction of the Pond Cove/Middle School as prepared by the Town's bond counsel. The amount borrowed would be repaid by either the issuance of a bond or a larger bond that would be authorized by referendum. The School Department, through the school budget would be responsible for repaying the debt holder.

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

See attachment.

Item #54-2021 Tabled from March 8, 2021 Recommendation of the Ad-Hoc Civil Rights Committee

Presentation – Melanie Thomas and Keyla Alston-Griffin, Co-Chairmen

Present – Rachel Davis, Staff

Moved by Penelope A. Jordan and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town Council refers to the ordinance committee a recommendation from the Ad-Hoc Civil Rights Committee to establish a standing committee.

(7 yes) (0 no)

**Item #42-2021 Tabled from February 8, 2021 & March 8, 2021
Short Term Rental Amendments**

Public Comment

Scott Rockwell, 119 Old Ocean House Road asked for clarification whether the Rental Intensity clause (page 8, line 12) refers to children coming home to visit. Is their visit considered one of the two stays allowed within a 7-day period for hosted?

Moved by Penelope A. Jordan and Seconded by Jeremy A. Gabrielson

ORDERED, the Cape Elizabeth Town Council approves the proposed amendments to Chapter 19 Zoning Ordinance Short Term Rentals as outlined in the 1/7/2021 draft, and the votes taken on March 8, 2021 to approve the Whereas statements and three amendments.

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Moved by James M. Garvin and Seconded by Valerie J. Deveraux

ORDERED, the Cape Elizabeth Town Council amends the motion in Sec. 19-8-14. C. 3. Rental Intensity line 16 to add after property owner of an unhosted primary residence and strike the remaining sentence on line 18 after (7) day period.

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

3. Rental Intensity. No more than one (1) rental/use of the Short Term Rental shall occur in a seven (7) day period, except that a Primary Residence hosted shall be allowed two (2) rental uses in a seven (7) day period. When a rental or non-compensated use of the property by any one (1) individual or group, including but not limited to personal or family use by the property owner of an unhosted primary residence, of less than seven (7) days occurs, the property shall remain vacant for the remaining portion of the seven (7) day period. Any tenancy of the property for less than thirty (30) days shall be considered operation of a Short Term Rental and require a Short Term Rental permit pursuant to the terms of the Zoning Ordinance. shall be deemed for a period of not less than seven (7) days regardless if the actual number of days the property is occupied is less than seven (7) days. Further, not more than one Short Term Rental agreement shall be entered for any given property for any consecutive seven day period.

Original Motion as Amended.

(7 yes) (0 no)

For the record, below are the approved Whereas statements and three amendments.

Attached is the drafted dated 1-7-2021, which does not include the three amendments.

WHEREAS, the Town Council has received complaints that short-term rental operations in residential neighborhoods have disrupted the peaceful quiet enjoyment that Cape Elizabeth residents expect;

WHEREAS, the bulk of short-term rental complaints have originated on properties which are not the primary residence of the property owner;

WHEREAS, the Town Council has determined that the existing regulations on short-term rentals has not adequately addressed the threat to the public welfare relating to compatibility with residential uses and preservation of the character of the neighborhoods in which they are located, and to the availability of housing stock in the Town;

WHEREAS, the Town Council has determined that a short-term rental operated by someone, in their primary residence, will be more diligent in managing the short-term rental and preserving the peaceful quiet enjoyment of their neighbors;

WHEREAS, the Town has adopted zoning in the Town Center and Business A Districts that require commercial uses on the first floor which promote commercial vitality, a pedestrian-friendly environment, and short-term rental operations on the first floor is incompatible with these commercial districts' purposes;

WHEREAS, the Town Council intends to improve enforcement by requiring that all short-term rentals obtain a permit, by reinforcing Town regulations and by adding third-party enforcement services;

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WHEREAS, the Town Council wants to preserve some opportunity for property owners to earn short-term rental income to defray taxes and housing costs;

WHEREAS, the Town Council seeks to balance the competing interests of property owners wishing to rent their residential properties to short-term rental guests for compensation against the interests of residents wishing to preserve the traditional peace and quiet of their residential neighborhoods; and to ensure the safety of occupants of short-term rentals;

WHEREAS, the Town Council has adopted a moratorium on the issuance of new short-term rental permits which will expire on June 30, 2021;

WHEREAS, the Town has engaged in a thorough and transparent public process with expansive opportunity for written comment and oral testimony that included a Town Council workshop on September 4, 2019, eight Ordinance Committee meetings, four Planning Board workshops, a Planning Board hearing open to the public on November 17, 2020, four Town Council workshops and four Town Council meetings, including a public hearing on February 8, 2021;

NOW THEREFORE, the Town Council adopts the Short Term Rental amendments.

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

ORDERED, the Cape Elizabeth Town Council amends the motion to allow the minimum stay length within a 7-day period for a primary residence hosted to 2 rentals (rather than 1) in Sec. 19-8-14.

C. 3.

(6 yes) (1 no Councilor Gabrielson)

Moved by Jeremy A. Gabrielson and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council amends the motion to change the heading in Sec. 19-8-14. C. 3. Minimum stay length to Rental Intensity and change the last sentence in Sec. 19-8-14.

C. 2. to reference the Rental Intensity requirements.

(7 yes) (0 no)

Moved by Jeremy A. Gabrielson and Seconded by Penelope A. Jordan

ORDERED, the Cape Elizabeth Town Council amends the motion to change the last sentence in Sec. 19-8-14. B. 1. to reference the Rental Intensity requirement.

(7 yes) (0 no)

Item #67-2021 Opportunity for Public Comments Relating to the Proposed FY 2022 Budget

Although there were no public comments, citizens still have an opportunity to provide comments prior to the final vote. The public hearing will be held on May 3 along with the adoption of the special revenue budgets. The general fund vote is scheduled for May 10.

Item #68-2021 Request for Town Council Workshop Relating to Short-Cut Roads

Introduction – Councilor Gabrielson

The Cottage Brook Condominium Association is asking for the review.

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Moved by Jeremy A. Gabrielson and Seconded by Gretchen R. Noonan

ORDERED, the Cape Elizabeth Town Council refers to workshop a review of the zoning ordinance relating to short-cut roads.

(7 yes) (0 no)

Item #69-2021 Recommendation to Use Unassigned Funds to Cover an Overage in the Communications Tower Project

Introduction – Mr. Sturgis

Moved by Penelope A. Jordan and Seconded by Nicole Boucher

ORDERED, the Cape Elizabeth Town Council authorizes the use of \$45,000 from the unassigned fund balance for the remaining project cost for the communications tower project for communications equipment of public safety and public works.

(7 yes) (0 no)

Item #70-2021 Proposed Agreement with Central Maine Power to Convert Municipal Street Lights to LED

Introduction – Mr. Sturgis

Moved by Nicole Boucher and Seconded by Jeremy A. Gabrielson

ORDERED, the Cape Elizabeth Town Council authorizes the Town Manager to enter into an agreement with Central Maine Power (CMP) to convert, supply, and maintain the outdoor lighting service provided by streetlights in Cape Elizabeth. The agreement is for 15 years, with the ability to terminate based on the terms and conditions as defined in the agreement. The cost to the Town to convert is \$0.00.

(7 yes) (0 no)

See attachment.

Item #71-2021 Executive Session – Continue the Annual Evaluation of the Town Manager

Without objection, due to the late hour the executive session will be rescheduled.

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

None

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

ORDERED, the Cape Elizabeth Town Council adjourns at 9:53 p.m.

(7 yes) (0 no)

Respectfully Submitted,

Debra M. Lane, Town Clerk

Attachment Item #65 April 12, 2021

TOWN OF CAPE ELIZABETH, MAINE

Vote authorizing expenditures of up to \$300,000
for cost of concept design for the new construction of Pond Cove/Middle School
and the issuance of bonds therefore

WHEREAS, subject to an approving vote of the voters of Cape Elizabeth, the Cape Elizabeth School Department proposes to construct a new elementary and middle school to replace the current Pond Cove Elementary School and Cape Elizabeth Middle School (the “Project”); and

WHEREAS, the School Department has requested that the Town authorize a borrowing to finance the cost of the concept design for the Project; and

NOW, THEREFORE, be it hereby voted by the Cape Elizabeth Town Council as follows:

VOTED: That the Town, acting by and through its School Department, be authorized to expend up to \$300,000 to fund the costs of the concept design for the Project.

VOTED: In order to provide funds for the Project, the Treasurer be and hereby is authorized to borrow up to \$300,000 in the name of and on behalf of the Town and that to effect such borrowing, the Treasurer be and hereby is authorized to issue the Town’s general obligation bonds (and notes in anticipation thereof) in the amount to not to exceed \$300,000), the proceeds of which loan are hereby appropriated to fund the costs of the Project.

VOTED: The bonds and notes in anticipation thereof shall be signed by the Treasurer, countersigned by the Chair of the Town Council and attested by the Town Clerk, all in the name of and on behalf of the Town.

VOTED: The form, maturity, interest rate, terms and other details of said bonds and loan agreement shall be as determined by the Treasurer and the Chair of the Town Council by their execution thereof, not inconsistent herewith.

VOTED: That to the extent available under Section 265(b)(2) of the Code, the Treasurer, with the advice of Bond Counsel, be and hereby is authorized to designate said bonds or notes in anticipation thereof as a “qualified tax exempt obligation”.

VOTED: The bonds and notes in anticipation thereof shall be either sold at public sale, or by negotiated sale in such manner as the Treasurer deems appropriate and in the best interest of the Town, and the Treasurer be and hereby is authorized to provide that any of the bonds and notes in anticipation thereof be made callable, with or without premium, prior to their maturity.

VOTED: That the Town covenants and certifies that no part of the proceeds of the bonds or notes in anticipation thereof shall be used, directly or indirectly, to acquire any securities or obligations, the acquisition of which would cause such bonds or notes in anticipation thereof to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”) or “private activity bonds” within the meaning of Section 141 of the Code.

VOTED: That the Treasurer be and hereby is authorized to covenant in the name of and on behalf of the Town and for the benefit of the holders of the bonds or notes in anticipation thereof, that the Town will take whatever steps, and refrain from taking any action, as may be necessary or appropriate to ensure that interest on the bonds or notes in anticipation thereof will remain exempt from federal income taxes.

VOTED: That the Treasurer be and hereby is authorized to negotiate, execute, and deliver, in the name of and on behalf of the Town such contracts, agreements (including a bond purchase agreement), loan agreements, instruments, certificates and other documents as may be necessary or appropriate as determined and approved by the Treasurer in connection with the issuance of the bonds or notes in anticipation thereof, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Treasurer such approval to be conclusively evidenced by his execution thereof.

VOTED: That the Treasurer be and hereby is authorized to engage a financial advisor to the Town in connection with the issuance and sale of the bonds and to select an underwriter for the bonds and to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith.

VOTED: That the Treasurer be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the bonds and notes in anticipation thereof, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, with the advice of the bond counsel for the Town, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the bonds or notes in anticipation thereof for sale be and hereby is approved.

VOTED: That the bonds heretofore authorized shall be transferable only on the registration books of the Town kept by the Transfer Agent, and said bonds of one maturity may be exchanged for an equal aggregate principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof (or such other minimum denomination as the Treasurer shall approve) upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the Town and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same.

VOTED: That the Treasurer be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such bonds heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of bonds, and the Treasurer be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order

to qualify the bonds for and participate in the Depository Trust Company Book-Entry Only System.

VOTED: That the Treasurer and Chair of the Town Council from time to time shall execute such bonds as may be required to provide for exchanges or transfers of bonds as heretofore authorized, all such bonds to bear the original signature of the Treasurer and Chair of the Town Council.

VOTED: That the officers executing the bonds be and hereby are individually authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of such bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

VOTED: That the Treasurer, Chair of the Town Council and Clerk and other proper officials of the Town be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the bonds or loan agreement hereinabove authorized.

VOTED: That if any of the officers of the Town who have signed or sealed the bonds or notes in anticipation thereof shall cease to be such officers before the bonds or notes in anticipation thereof so signed and sealed shall have been actually authenticated or delivered by the Town, such bonds or notes in anticipation thereof nevertheless may be authenticated, issued, delivered and implemented with the same force and effect as though the person or persons who signed or sealed such bonds or notes in anticipation thereof had not ceased to be such officer; and also any such bonds or notes in anticipation thereof may be signed and sealed on behalf of the Town by those persons who, at the actual date of execution, shall be the proper officers of the Town, although at the nominal date of such execution, any such person shall not have been such officer.

VOTED: That if the Treasurer, Chair of the Town Council or Town Clerk are for any reason unavailable to approve and execute the bonds or notes in anticipation thereof or any other documents necessary or convenient to the issuance, execution and delivery of the bonds or notes in anticipation thereof, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, be and hereby is authorized to act for such official with the same force and effect as if such official had performed such act.

VOTED: That the investment earnings on the proceeds of the bonds and notes in anticipation thereof, if any, and the excess proceeds of the bonds or notes in anticipation thereof (including premium), if any, be and hereby are authorized to be used to pay issuance costs for the bonds or notes in anticipation thereof, interest during construction, and debt service on the bonds or notes in anticipation thereof, in that order of priority.

VOTED: That the bonds or notes in anticipation thereof may, if so determined by the Treasurer, be combined with any other bonds or notes duly authorized by the Town of Cape Elizabeth and together issued as a single bond issue in the aggregate amount of the bonds or notes so authorized.

VOTED: That in lieu of issuing notes in anticipation of the bonds authorized hereby, the Town Manager is authorized to advance available funds from the Town's General Fund to the School Department to finance the costs of the Project, which advances will be established as an interfund loan, under such terms and conditions as the Town Manager shall establish, consistent with Town policy.

VOTED: That these votes shall constitute the Town's official declaration of intent for purposes of Section 1.150 of the Treasury Regulations promulgated under the Code, and to the extent that any costs of the Project are paid by the Town from the general fund or other fund, such payments may be reimbursed from the proceeds of said bonds or notes.

Attachment Item #70-2021 April 12, 2021

TERMS AND CONDITIONS

CMP will supply and maintain the outdoor lighting service described above in accordance with CMP's rates and Terms and Conditions on file with the Maine Public Utilities Commission as amended from time to time. CMP will give the Customer a copy of CMP's current outdoor lighting Terms and Conditions upon request. CMP will furnish, own and maintain standard distribution-type poles, laminated wood poles, and decorative poles. When such poles are furnished strictly for area lighting, the customer shall pay a special facilities charge. If any light fails to operate, CMP will repair or replace it, at its option, within a reasonable time after the customer gives CMP notice of the light failure.

The Customer will pay the charges for this outdoor lighting service from the date of installation until this Agreement is terminated. The Customer will furnish, own and maintain any poles other than the standard types offered by CMP. The Customer will provide CMP with notice of light fixture failure.

This Agreement shall commence upon signature by both CMP and the Customer, and shall continue in effect until fifteen (15) years _____ after installation of the outdoor lighting that is the subject of the Agreement; provided, however, that either party may terminate this Agreement upon thirty (30) days written notice to the other party. After the initial fifteen (15) year term, this Agreement shall continue in effect from month to month, unless either party provides thirty (30) days written notice that it does not wish to continue under this Agreement.

If the Customer terminates this Agreement less than fifteen (15) years after installation, or if the Customer fails to fulfill its obligation under this Agreement and CMP terminates this Agreement as a result thereof, the Customer will pay CMP the unused investment and removal costs of the equipment in accordance with CMP's outdoor Lighting Terms and Conditions. This Agreement shall also terminate if the municipality serving the Customer assumes the obligation for payment of the service described in this Agreement under CMP's Municipal Street Lighting Rate SL, by having an appropriate municipal official give CMP written notice thereof.

All of the facilities furnished by CMP are personal property and CMP shall retain title to them. CMP shall have reasonable time after termination of this agreement to remove these facilities.

The Customer will release, defend (at CMP's option), indemnify, and hold harmless CMP and its directors, officers, employees, contractors, agents, affiliates, successors and assign, from and against any and all liability, claim, cost and expense of any kind or nature, arising out of or related to the use of presence of the facilities on the Customer's premises. This obligation shall survive termination of this Agreement.

The provisions of this Agreement shall inure to and be binding on the parties' respective heirs, executors, administrators, and successors and assigns.

The parties reserve the right to amend this Agreement at any time to comply with any ruling or decision of any governmental body.

Additional Provisions for Underground Service

CMP will supply underground service for street and area lighting only in commercial developments, and, in conjunction with underground residential distribution, in housing developments and mobile home parks.

The Customer shall: (a) excavate and backfill the trench and provide all necessary duct lines and conduit; (b) contribute toward the initial cost of the underground feed in excess of 125 feet per light per circuit, measured from the base of the pole, in accordance with CMP's filed Terms and Conditions, and reimburse CMP for all necessary maintenance and repairs for the entire length of underground feed, (CMP will own the entire length of the underground feed, including the length over 125 feet).

CMP will also connect to customer-owned underground installations conforming to CMP specifications and will provide luminaries and brackets on customer-owned poles at the monthly rate contained in CMP's filed terms and conditions after installation, CMP will own underground line and maintain it. All of the Terms and Conditions for CMP installed lines shall apply, except the Customer shall be responsible for full cost of installation.

DRAFT
Short Term Rental Amendments
Town of Cape Elizabeth Zoning Ordinance

SEC. 19-1-3. DEFINITIONS

Accessory Dwelling Unit: A single subordinate dwelling unit accessory to and wholly contained within a principal building or structure and/or attached garage in which a single-family dwelling unit is the principal use.

Bed and Breakfast: A use that must be operated in conjunction with the use of a dwelling as a primary residence and that (1) provides up to nine (9) furnished bedrooms for rent to guests for 1 or more nights and having a total length of stay not to exceed 14 consecutive days, (2) is operated by the family or person residing permanently in the home; and (3) may serve 1 or more meals to guests only. (Effective March 9, 2009)

Boarding Room Homestay: A use that is accessory and incidental to the primary use of a dwelling as a residence and that (1) provides one or two furnished bedrooms for rent to ~~lodgers~~ guests for a minimum of 30 consecutive calendar days~~1 or more nights~~; (2) is operated by the family or person residing permanently in the home who are in residence, including overnight, during the guest rental period; (3) may serve 1 or more meals to ~~lodgers~~guests only, and (4) provides all parking on-site. A maximum of one boarding room homestay is allowed per multifamily building. ~~(Effective March 9, 2009)~~ A Boarding Room may not be a Short Term Rental.

Hotel: A building used primarily for occupancy of individuals who are lodged with or without meals, having ten (10) or more guest rooms, and intended to be rented principally to transients on a short-term basis.

Motel: A building or group of attached or detached buildings containing guest rooms or dwelling units, most of which have separate outside entrances and adjacent parking spaces and are intended to be rented principally to transients on a short-term basis.

Primary residence: An owner's permanent residence, which shall be documented by demonstration that the owner has a homestead exemption for the property under the Maine Homestead Property Tax Exemption statute, 36 M.R.S. §§ 681-689, as may be amended from time to time. The owner shall be the person who owns the real property, or who is the beneficiary of a revocable living trust that owns the property.

Short Term Rental: The use of a dwelling offered for rent for transient occupancy by tenants for a tenancy of less than 30 days, excluding motels, hotels and bed and breakfasts. (Effective December 14, 2012)
The advertising, offering for rent, use, or otherwise making available for transient occupancy a dwelling, or portion of a dwelling for a tenancy of less

than thirty (30) consecutive calendar days, excluding motels, hotels, and bed and breakfasts.

Short Term Rental Guest: A visitor of a Short Term Rental tenant who will not be sleeping overnight on the property, provided persons on the property after 11:00 PM local time shall be deemed tenants and not Short ~~T~~erm Rental Guests for the purposes of this Ordinance. (Effective December 14, 2012)

Special event facility: A building or portion of a building, outdoor areas, and related parking which is made available for consideration individuals or groups to accommodate private functions including but not limited to banquets, weddings, anniversaries and other similar events. Such use may include (1) kitchen facilities for the preparation or catering of food, (2) the sale and/or serving of alcoholic beverages for on-premises consumption, only during scheduled events and not open to the general public and (3) entertainment. A special event facility may be operated in conjunction with other uses. Overnight accommodations may be operated on a site that is also a special event facility, and are subject to all applicable provisions of the Zoning Ordinance. (Effective December 4, 2015)

Tenant: An occupant of land or premises who occupies, uses, and enjoys real property for a fixed time, usually through a lease arrangement with the property owner or with the owner's consent. When applied to a Short Term Rental, anyone sleeping overnight shall be presumed to be considered a tenant. (Effective December 14, 2012)

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

B. Permitted Uses

3. The following nonresidential uses:

g. ~~Short Term Rental. (Effective December 14, 2012)~~

4. The following accessory uses:

d. Homestay Boarding Room

i. Short Term Rental

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

B. Permitted Use

3. The following nonresidential uses:

e. ~~Short Term Rental (Effective December 14, 2012)~~

4. The following accessory uses:
 - d. . ~~Boarding Room. The renting of not more than two (2) rooms within a single family dwelling provided that there is no physical alteration of the building and no change in the external appearance of the structure.~~

i. Short Term Rental

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

B. Permitted Uses

3. The following nonresidential uses:
 - ~~f. Short Term Rental (Effective December 14, 2012)~~
4. The following accessory uses:
 - d. Homestay Boarding Room
 - i. Short Term Rental

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

B. Permitted Uses

3. The following nonresidential uses:
 - ~~m. Short term rental (Effective December 14, 2012)~~
4. The following accessory uses:
 - k. Short Term Rental

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

B. Permitted Use

3. The following nonresidential uses:
 - ~~o. Short Term Rental (Effective December 14, 2012)~~
4. The following accessory uses:
 - l. Short Term Rental

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

B. Permitted Uses

4. The following accessory uses:
 - c. ~~Boarding Room. The renting of not more than two (2) rooms within a single family dwelling provided that there is no physical alteration of the building and no change in the external appearance of the structure.~~

h. Short Term Rental**SEC. 19-7-8. OFF-STREET PARKING** (Effective May 12, 2002)**A. Applicability**

Off-street parking shall be provided for all new construction, expansions, and changes of use in accordance with the requirements and standards found in this section.

B. Minimum Requirements for Off-Street Parking

Off-street parking shall be considered an accessory use when required or provided to serve any legal use located in any zone except as set forth in the following sections. An off-street parking space shall be a minimum of nine (9) feet wide by eighteen (18) feet long may be open or covered. The Planning Board may allow up to twenty percent (20%) of the parking requirement to be met with “compact car” spaces that are a minimum of eight (8) feet wide by sixteen (16) feet long provided that such spaces shall be clearly marked as “compact car parking”. Each parking space must be sited to allow access and exit without obstruction. Handicapped parking shall be provided in compliance with the Americans with Disabilities Act and applicable State requirements. In order to determine compliance with this section, the owner or applicant shall submit a plan showing the physical layout of all required off-street parking areas. Any change in the evidence or conditions upon which the plan is approved shall nullify such approval.

1. Parking shall be provided on the lot occupied by the use for which the parking is required, or on an adjacent lot owned or controlled by such use. In addition, uses located within the Town Center, BA or BB District or a Short Term Rental (limited to paragraph a below) may provide all or part of the required off-street parking through any of the following:
 - a. Private off-street parking located on another lot that is located within one mile of the subject lot and that is controlled by long-term written lease or ownership by the applicant.

b. Off-street parking shared with other uses (consistent with paragraph 2 below) located within one mile of the subject lot, provided that the Planning Board finds that there is adequate parking capacity to meet the parking requirements of all uses sharing the parking due to variation in the time of parking demand and that the shared parking is available to the applicant through a written lease or other enforceable agreement.

4. The following minimum number of spaces, rounded up to the nearest whole number, shall be provided and maintained for each use on a lot, including each use within all buildings. The Planning Board may reduce by up to thirty percent (30%) the required parking for the reuse of a building existing as of June 4, 1997. In granting such a reduction, the Planning Board must find that:

c. Commercial

12. Short Term Rental 1 space per 2 tenants, with a minimum of 2 spaces (Effective December 14, 2012)

SEC. 19-8-11. USE OF RECREATIONAL CAMPING VEHICLE OR OTHER TEMPORARY RESIDENTIAL UNIT

The use of a travel trailer, motor home, or other recreational camping vehicle as a temporary or permanent dwelling, or a Short Term Rental is prohibited in all districts. A travel trailer, motor home, or other recreational camping vehicle may be used on an occasional basis for temporary occupancy by the lot #s owner. For the purpose of this section, occasional basis shall mean occupancy on not more than three (3) nights in any thirty (30) day period. Unoccupied travel trailers, motor homes, or recreational camping vehicles may be parked or stored on a lot in any district provided the lot is owned by the owner of the unit. A motor home or recreational camping vehicle which is the primary vehicle of temporary guests may also be parked on the lot for the duration of their stay.

SEC. 19-8-14. SHORT TERM RENTAL STANDARDS (Effective December 14, 2012)

A. Purpose

Cape Elizabeth residents prize the peace and quiet of their residential neighborhoods. Some property owners have capitalized on the desirability of their neighborhood by renting out their property, especially during the summer months and holidays. Neighborhood residents are concerned that short term rentals take on the character of a business operating in a residential neighborhood.

In order to preserve the fabric of residential neighborhoods, to minimize the negative impacts of transient occupation on adjacent residents, to maintain housing availability for long-term residents and to protect the public safety of visitors and residents, the operation of Short Term Rentals must be efficiently and effectively regulated to balance the respective interests of town residents. The purpose of this section is to balance the desire of property owners to rent their properties to short term tenants and the desire of residents to preserve the peaceful quiet and enjoyment of their residential neighborhoods.

B. Permitted Short Term Rentals Applicability

The following types of Short Term Rentals may be allowed after obtaining all required permits. Short Term Rental types not listed below are prohibited. Only one Short Term Rental may be operated on a lot in a calendar year, and limited to only one of Short Term Rental types listed below for the calendar year. For the avoidance of doubt, for example, if the owner of a Short Term Rental receives all required permits to be a "primary residence hosted" type of Short Term Rental in one calendar year, then the owner may not switch the type of Short Term Rental to "primary residence unhosted," (or any other type) until the following calendar year. Where operation of a Short Term Rental must include that the Short Term Rental owner is "in residence," the intent is that the owner shall be living on the lot, or abutting lot as the case may be, and managing the Tenants.

1. **Primary residence hosted.** A Short Term Rental may be operated by a property owner in their primary residence when the property owner is in residence, including overnight, during the tenancy of the Short Term Rental tenants with no limit on the total number of days operated as a Short Term Rental. Each Short Term Rental tenant must comply with the minimum seven (7) day stay requirement.
2. **Primary residence unhosted.** A Short Term Rental may be operated by a property owner in their primary residence when the property owner is not in residence during the tenancy of the Short Term Rental tenants. The property may be used as a Short Term Rental for no more than forty-two (42) days per calendar year.
3. **Seven (7) acres plus Short Term Rental.** A Short Term Rental may be operated by a property owner in their primary residence or non-primary residence when the property owner is in residence or not in residence during the tenancy of the Short Term Rental tenants, where the lot is seven (7) acres or more in size. (Land abutting the Short Term Rental lot in the same ownership may be counted toward the minimum lot size. Abutting shall mean any lot that shares a lot line or is located directly across a road right-of-way from the primary residence. Abutting land used to meet the seven (7) acres requirement may not be counted towards more than one Short Term Rental.) The property may be used as a Short Term Rental for no more than one-hundred eighty-two (182) days per calendar year.
4. **Short Term Rental Adjacent.** One Short Term Rental may be operated by a property owner in a non-primary residence when the Short Term Rental owner's

primary residence is located on the same lot as the primary residence or on an abutting lot. (Abutting shall mean any lot that shares a lot line or is located directly across a road right-of-way from the primary residence.) The property owner must be in residence during the tenancy of the Short Term Rental tenants. The property may be used as a Short Term Rental for no more than one-hundred five (105) calendar days per calendar year. If a property owner operates a Short Term Rental Adjacent, the owner shall not operate any other Short Term Rental on the lot, or abutting lot, during the same calendar year. For example, an owner operating a Short Term Rental Adjacent on a lot (or abutting lot) shall not be able to also obtain a permit for a Primary resident hosted Short Term Rental (or any other Short Term Rental) during the same calendar year.

C. Short Term Rental Requirements

1. Permit required. ~~No~~A Short Term Rental shall be advertised, rented or operated without first obtaining a Short Term Rental Permit. is permitted only after the issuance of a Short Term Rental permit. Notwithstanding the preceding sentence, a permit is not required for a Short Term Rental which, with any prior Short Term Rental of the property, does not exceed in the aggregate fourteen (14) days in any calendar year. A Short Term Rental permit shall be valid for the calendar year in which the permit is issued. A permit application received more than thirty (30) days after the permit deadline, which shall be January 2nd of the year the Short Term Rental will be operating, shall be considered late. The property must remain in compliance with the Short Term Rental permit for the entire calendar year in which the permit is issued. A Short Term Rental permit may only be issued to the property owner of the lot where the Short Term rental is located and a lessee of the lot may not operate a Short Term Rental.

Failure to obtain a Short Term Rental permit prior to advertising, offering for rent, or use of the Short Term Rental shall require payment of double the Short Term Rental permit fee. Once notified by the town that a Short Term Rental has been operated without a permit, a permit application shall be submitted within seven (7) calendar days or shall be considered an additional violation. The permit applicant must make a diligent effort to meet permit requirements.

The second failure to obtain a Short Term Rental permit for a property within a five (5) year period shall result in a prohibition from obtaining a permit for the property for one (1) year.

2. Advertising. It shall be unlawful to advertise occupancy or use of a Short Term Rental that would violate Sec. 19-8-14 of the Zoning Ordinance. For the purposes of this section, the term "advertise" shall mean any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed through various media included, but not limited to newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages. No Short Term Rental shall be advertised that does not have a current Short Term Rental permit. The Short Term Rental advertising must

be consistent with the terms of the Short Term Rental permit and must include the current Short Term Rental permit number. Advertising of the Short Term Rental must state that the Short Term Rental must be rented for a minimum period of seven (7) consecutive days.

3. Minimum stay length. No more than one (1) rental/use of the Short Term Rental shall occur in a seven (7) day period. When a ~~rental~~ rental or non-compensated use of the property by any one (1) individual or group, including but not limited to personal or family use by the property owner, of less than seven (7) days occurs, the property shall remain vacant for the remaining portion of the seven (7) day period. Any tenancy of the property for less than thirty (30) days shall be considered operation of a Short Term Rental and require a Short Term Rental permit pursuant to the terms of the Zoning Ordinance. ~~shall be deemed for a period of not less than seven (7) days regardless if the actual number of days the property is occupied is less than seven (7) days. Further, not more than one Short Term Rental agreement shall be entered for any given property for any consecutive seven-day period.~~

4. Registration record. The Short Term Rental owner must (a) maintain accurate, up-to-date records of all rental transactions involving the Short Term Rental, including the number of tenants and the length of their stays, and upcoming reservations; and (b) present said information to Town inspection officials upon request. Failure of the Short Term Rental owner to provide this information within five (5) business days of a Town request for the same shall be considered a violation of this section.

5. Multi-family and multiplex units. No Short Term Rental may be operated on a lot containing a multifamily dwelling unit unless all of the dwelling units are held in common ownership. No Short Term Rental shall be operated on a property containing five (5) or more dwelling units.

DE. **Review Procedure**

1. The Code Enforcement Officer shall have the authority to issue a Short Term Rental permit.
2. The Code Enforcement Officer shall provide a Short Term Rental application to be completed by the applicant and submitted to the Code Enforcement Officer accompanied by the Short Term Rental permit fee as established by the Town Council in the Town Fee Schedule. The form shall include a non-exclusive checklist of code requirements that the property owner shall demonstrate compliance with.
3. The Ceode Enforcement Officer shall determine if the form has been properly completed before any permit is issued.

4. The first time that a Short Term Rental permit is submitted for a property, no permit shall be issued until the Code Enforcement Officer has inspected the proposed Short Term Rental property for compliance with the Short Term Rental Standards and compliance with building code requirements. Thereafter, renewal of a Short Term Rental permit shall require inspection by the Code Enforcement Officer of the Short Term Rental property no less than once every five (5) years. When the Code Enforcement Officer does not conduct an annual inspection, the Short Term Rental owner shall certify that there have been no material changes since the last inspection by the Code Enforcement Officer. Any third party inspection information submitted with the completed form shall have been conducted within the twelve months prior to the permit being issued.
5. The Code Enforcement Officer shall review the permit application for compliance with the Short Term Rental Standards.
6. If the Code Enforcement Officer determines that the proposed Short Term Rental application complies with the Short Term Rental Standards, a Short Term Rental permit shall be issued. ~~A permit shall be valid for one (1) year from date of issuance.~~ The permit may be subject to suspension by the Code Enforcement Officer if the Short Term Rental property becomes non-compliant with the Short Term Rental Standards, and may be revoked as provided in 19-8-14.(GF).

ED. Submission Requirements

The Short Term Rental permit application shall include the following information:

1. Location. The street address and map/lot number of the Short Term Rental property. If the property is not located on a public road, the form shall include directions to the property from a public road.
2. Contact Person/Owner Responsibility. The name of the owner of the Short Term Rental property and contact information, including address and telephone number. In addition, if someone other than the owner is acting as the local contact person, contact information for that person shall also be provided. If there will be different contact persons for different time periods during the year, the form shall include the applicable contact person for each time period. Regardless of who enters the Short Term Rental agreement, or who may be designated as the owner's contact person, the property owner shall be responsible for compliance with the Short Term Rental Ordinance provisions.
3. Availability. The registration form shall include when, during the calendar year, the Short Term Rental will be available for rental. If this changes, the owner shall notify the Code Enforcement Officer.

4. All information needed to demonstrate compliance with the standards listed in Subsection ~~FE~~ below.

FE. Standards

The Code Enforcement Officer shall issue a Short Term Rental permit upon the applicant satisfying the above requirements if the following standards are met:

1. Code compliance. An applicant's property, without limitation, comply with the following building safety requirements ~~code sections of the~~ (International Residential Code, ("~~IRC~~,")) and the International Building Code, ("~~IBC~~"):
 - a. ~~IRC Section R-314, Smoke Alarms:~~ A smoke alarm is required in each bedroom. A smoke alarm is also required outside of each bedroom and in the immediate vicinity. A smoke alarm is also required to be on each story of the dwelling, including basements and habitable attics. The alarms shall be interconnected as much as reasonably possible. (Reference IRC Section R314);;
 - b. ~~IRC Section R-315, Carbon Monoxide Alarms:~~ If a house has an attached garage or a fuel fired appliance, a carbon monoxide alarm shall be installed outside each bedroom and in the immediate vicinity. (Reference IRC Section R315);
 - c. ~~IBC Section 906, Portable Fire Extinguishers:~~ At least one (1) portable fire extinguisher shall be mounted in a prominent location. One (1) size/type 2/A is required or two (2) size/type 1/A extinguishers. The building shall be considered to be an R-1 Occupancy (Boarding House) for the purpose of determining the type and location of portable fire extinguishers;
 - d. ~~IBC Section 1006.2, 1006.3 and 1006.4, Means of Egress Illumination.~~ Emergency Lighting: At least one (1) hardwired emergency light with battery backup is required per 1200 square feet of living space. The lights must be positioned to illuminate the path of egress to the maximum extent. There also must be exterior lighting that is permitted to be solar powered. Exception: The house lighting has a backup power source that automatically activates.

The applicant shall provide floor plans of the dwelling unit that shows the location of the alarms, fire extinguisher(s) and emergency lighting

2. Building evacuation plan. A building evacuation plan shall be prominently posted in the Short Term Rental property during the rental period.
3. Sanitary waste disposal. The applicant shall submit information demonstrating that adequate sanitary waste disposal is available in compliance with the Town of Cape Elizabeth Subsurface Wastewater Disposal Ordinance, as determined by the Code Enforcement Officer, or that the property is served by public sewer.

~~The information shall include the total number of bedrooms included in the property, any additional sleeping space, and the total number of tenants that the property accommodates. The total number of tenants used to determine adequacy of sanitary waste disposal shall not be less than the total number of tenants that the property is advertised to accommodate. For the purpose of evaluating the adequacy of a subsurface disposal system, every two tenants shall be equivalent to one bedroom.~~

4. Parking. The applicant shall include a depiction of how parking will be provided for tenants and guests on the ~~same~~ lot where the Short Term Rental is located, and/or include a written agreement for offsite parking at a specified location, to comply with the Off-Street Parking Standards, Sec. 19-7-8. Garage parking spaces not allowed for tenant use shall not be used to meet the Short Term Rental parking requirement. On-street parking by Short Term Rental tenants or guests is prohibited. No bus shall be parked at the Short Term Rental property during any rental period.
5. Rental Agreement Addendum. The Short Term Rental permit application shall be submitted with an addendum, to be attached to Short Term Rental agreement between owner and tenant, that shall be provided to all tenants. The Town shall not be responsible for enforcement of the rental agreement ~~of~~ addendum. The rental agreement addendum shall include the following:
 - a. Primary and secondary ~~c~~ontact person and contact information; A contact person must be available to tenants at all time of rental period (24/7).
 - b. Emergency responder contact information;
 - c. Building evacuation plan;
 - d. Maximum number of tenants and guests;
 - e. Parking arrangements, including a prohibition of tenants and guests parking on-street or in a manner that impedes access by emergency vehicles to the property or any other dwelling in the neighborhood;
 - f. Maximum number of tenants and guests allowed at the property;
 - g. Good neighbor guidelines;

h. Copy of the Miscellaneous Offenses Ordinance.

6. Limit on rental intensity. The maximum tenant capacity of a Short Term Rental shall be limited to no more than two (2) tenants per bedroom, plus two (2) additional tenants for no more than one (1) additional sleeping space.

If a Short Term Rental property is operated on a lot of ~~thirty-thousand (30,000)~~ sq. ft. or less in size ~~and property owner is not either living on an abutting lot or in a separate dwelling in the same lot,~~ the Short Term Rental permit shall not allow ~~more than two tenants per bedroom, shall not allow use of non-bedroom areas for sleeping, and shall not allow~~ occupancy by more than eight (8) tenants at any time. The number of ~~S~~short ~~T~~ term ~~R~~ rental guests shall be limited to eight (8) at any time. On site parking shall be limited to four (4) parking spaces.

7. Response requirement. Failure of the owner/contact person to respond to a Short Term Rental tenant or guest inquiry during the Short Term Rental tenancy, including check-in, within thirty (30) minutes shall be considered a violation of Sec. 19-8-14, Short Term Rental Standards.
8. Good neighbor conduct. The Code Enforcement Officer shall consider any complaints received about behavior at the Short Term Rental that diminishes the peaceful quiet enjoyment of property by residents within one thousand feet (1,000') of the Short Term Rental property line. Disruptive outdoor behavior may include but not be limited to smoking, swearing, lewd gestures or conduct, late hour noise, pet control, substance use, parking and speeding. The Code Enforcement Officer may deny issuance of the permit based on complaints that the Short Term Rental owner, tenants or guests have diminished the peaceful quiet enjoyment of neighborhood residents. An appeal of the Code Enforcement Officer's decision to issue or deny a Short Term Rental permit based on this standard shall be heard by the Town Council.

GF. Suspension and Revocation of Permit

In addition to the provisions of Sec. 19-3-6, Violations, a permit for a Short Term Rental may be suspended or revoked if the Code Enforcement Officer determines that one or more substantiated complaints regarding Short Term Rentals of a property have been made in a three (3) -year period. The Police Department may provide a report of conditions observed in plain sight to the Code Enforcement Officer, but enforcement of the Zoning Ordinance shall remain with the Code Enforcement Officer.

1. Complaint. Any individual or town official may file and/or initiate a complaint against a Short Term Rental permit holder. If the Police

Department or the Code Enforcement Officer receives a complaint, they shall visit the property. The Police Department shall generate a report of the facts its officers have observed upon a visit, and statements made to them regarding the Short Term Rental. The Police Department shall then forward the report to the Code Enforcement Officer.

When the Code Enforcement Officer receives a report from the Police Department, or the Code Enforcement Officer has responded to a complaint or independently investigated, the Code Enforcement Officer shall inspect the property and shall collect information related to the complaint, including notifying the property owner and requesting information regarding the complaint. Within five (5) days of receiving a Police Report or complaint, the Code Enforcement Officer shall determine if the complaint is substantiated. A complaint is substantiated when the Code Enforcement Officer concludes that one or more violations of the Short Term Rental provisions occurred.

2. First Substantiated Complaint. Once the Code Enforcement Officer has made a finding of a substantiated complaint, the Code Enforcement Officer shall notify the property owner in writing. The notification shall require the property owner to meet with the Code Enforcement Officer within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected. The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer. Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a second violation of the Short Term Rental provisions. In addition, the Code Enforcement Officer may suspend the Short Term Rental permit for a term not to exceed thirty (30) days.

3. Second Substantiated Complaint. Once the Code Enforcement Officer has made a finding of two (2) substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the Short Term Rental permit shall be suspended for ~~the a period remainder of permit year but not less than six (6) months. When less than six (6) months remains in the calendar year, no Short Term Rental Permit may be submitted in the next calendar year until six (6) months after the second substantiated complaint. Late permit fees shall apply. of not less than thirty days, nor more than one hundred twenty days.~~

The notification shall require the property owner to meet with the Code Enforcement Officer within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Code Enforcement Officer, to identify ways in which the violation(s) will be corrected. The owner will agree to take all necessary measures to correct the violation(s), which measures shall be memorialized in a written agreement at the conclusion of the meeting and shall be fully implemented within one (1) week of said meeting unless another date is agreed to by the Code Enforcement Officer. Failure of the property owner to enter into such an agreement at the conclusion of the meeting will be deemed a violation of the Short Term Rental provisions.

4. Third Substantiated Complaint. Once the Code Enforcement Officer has made a finding of three (3) substantiated complaints, the Code Enforcement Officer shall notify the property owner in writing that the Short Term Rental permit has been revoked for ~~three (3) one calendar~~ three (3) years.
5. Appeal. An appeal to the Zoning Board of Appeals as an Administrative Appeal may be taken by any person aggrieved by a determination of the Code Enforcement Officer pursuant to Section 19-5-2(A).
- ~~76. Effective Date. The Short Term Rental provisions of the ordinance shall be fully effective as to all contracts for short Term Rentals executed on or after 30 days from date of enactment, and shall further apply to all contracts in effect on such date to the extent the application of these provisions would not result in a substantial impairment of such existing contracts.~~

The Short Term Rental amendments shall be effective July 1, 2021. Any Short Term Rental permit in effect and issued prior to July 1, 2021 shall expire on June 30, 2021. On June 1, 2021, the Code Enforcement Officer will begin accepting for review a Short Term Rental permit application that is in compliance with the Short Term Rental amendments that become effective on July 1, 2021. All Short Term Rental permits issued after June 30, 2021 shall expire on January 2, 2022.

The 2021 permit fee for any property with an existing short term rental permit shall be \$250. The 2021 permit fee for any property that does not have a short term rental permit shall be \$500. Commencing in 2022, the Short Term Rental Permit fee shall be determined in the Town Fee Schedule.

