Chapter 8 FIRE PROTECTION AND PREVENTION

Article 1 Fire Code

Section 8-1-1 Adoption of International Fire Code, 2003 edition That a certain document, two (2) copies of which are on file in the Cape Elizabeth Town Offices, being marked and designated as the *International Fire Code, 2003 edition*, including the Appendix Chapters, as published by the International Code Council, be and is hereby adopted as the Fire Code of the Town of Cape Elizabeth in the State of Maine regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and the collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the Town of Cape Elizabeth are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in Section 8-1-2 of this Ordinance.

Section 8-1-2 Additions, Insertions and Changes That the following sections of the *International Fire Code, 2003* are hereby revised as follows:

Chapter 1 Administration

Section 101.1 Title – Insert Town of Cape Elizabeth

Section 103.1 General – Add at the end of the paragraph: *The words "fire code official"*, where used, shall mean the fire chief or his/her duly authorized agent. The words "department of fire prevention", where used, shall mean the fire department. Section 108.3 Qualifications – delete language after "The board of appeals shall" and replace with *be the Cape Elizabeth Town Council*.

Section 109.3 Violation penalties – delete language after "shall be guilty" and add *as allowed by Section 8-2-6 of Chapter 8 Fire Protection and Prevention of the Town of Cape Elizabeth Ordinances*.

Section 111.4 Failure to comply – delete the wording "shall be liable" and add *as allowed by Section 8-2-6 of Chapter 8 Fire Protection and Prevention of the Town of Cape Elizabeth Ordinances*.

Section 8-1-3 Underground Utility Lines, Flammable Type. The following requirements shall be included in the Town Fire Prevention Code:

Section 1. Discontinued Service. When gas or other flammable service to any building is discontinued, the existing service line shall be terminated and blocked from the building under the supervision of the Chief of the Fire Department at or near the street line. At the request of the owner of any building to which gas or other flammable service has been discontinued at any time prior to or following the

enactment of these provisions, the person, firm or corporation which has provided such service shall terminate the service line for such service under the supervision of the Chief of the Fire Department at or near the street line and shall seal off the line from the building at that point by replacing a section of pipe with compacted backfill, capping the line or other equivalent methods as approved by the Fire Chief.

Section 2. Cutoffs and Fire Valves. When any new gas or other flammable service is to be provided to any building after the enactment of these provisions, the service line for such service shall be provided with a cutoff outside the exterior wall of such building at or near the street line, and a fire valve and excess flow valve shall be installed at the point where the service pipe enters the building.

Section 3. Supervision of Works. The discontinuance of any flammable utility service line within the town and the provision of any new flammable service line to any building shall be subject to the provision of the Chief of the Fire Department. Such supervising officer shall be advised when any such action is proposed and shall inspect the same before any such opening or trench is filled. Such supervising officer may impose reasonable requirements regarding sealing off, backfill, compaction and repaving in order to assure a safe and workmanlike installation and a proper finished surface. Any powers given the Chief of the Fire Department under these provisions may be exercised by the duly authorized representative of such supervising officer.

Section 8-1-4 Saving Clause That nothing in this Article or in the International Fire Code hereby adopted shall be construed to affect any lawsuit or proceeding impending in any court, or any rights accrued, or liability incurred, or any causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Article.

Section 8-1-5 Date of Effect That the Town Clerk shall certify to the adoption of this Article and cause the same to be published as required by law; and this Article shall take full force and be in effect thirty (30) days after this date of final passage and approval.

Sec. 8-1-3. Underground Utility Lines, Flammable Type. The following requirements shall be included in the Town Fire Prevention Code:

Section 1. Discontinued Service. When gas or other flammable service to any building is discontinued, the existing service line shall be terminated and blocked from the building under the supervision of the Chief of the Fire Department at or near the street line. At the request of the owner of any building to which gas or other flammable service has been discontinued at any time prior to or following the enactment of these provisions, the person, firm or corporation which has provided such service shall terminate the service line for such service under the supervision of the Chief of the Fire Department at or near the street line and shall seal off the line from the building at that point by replacing a section of pipe with compacted backfill, capping the line or other equivalent methods approved by the Fire Chief.

- **Section 2. Cutoffs and Fire Valves.** When any new gas or other flammable service is to be provided to any building after the enactment of these provisions, the service line for such service shall be provided with a cutoff outside the exterior wall of such building at or near the street line, and a fire valve and excess flow valve shall be installed at the point the service pipe enters the building.
- **Section 3. Supervision of Works.** The discontinuance of any flammable utility service line within the town and the provision of any new flammable service line to any building shall be subject to the provision of the Chief of the Fire Department. Such supervising officer shall be advised when any such action is proposed and shall inspect the same before any such opening or trench is filled. Such supervising officer may impose reasonable requirements regarding sealing off, backfill, compaction and repaving in order to assure a safe and workmanlike installation and a proper finished surface. Any powers given the Chief of the Fire Department under these provisions may be exercised by the duly authorized representative of such supervising officer."
- **Sec. 8-1-4. Saving Clause** That nothing in this Article or the Fire Prevention Code hereby adopted shall be construed to affect any lawsuit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this Article; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Article.
- **Sec. 8-1-5. Date of Effect.** That the Town Clerk shall certify to the adoption of this Article and cause the same to be published as required by law; and this Article shall take full force and be in effect thirty (30) days after this date of final passage and approval.
- **Article II. Violations.** [Adopted eff. 11/12/76, under R.S. 1964, T. 30, Sec. 2151.]
- **Sec. 8-2-1. Tampering with Fire Alarms.** No person except a duly authorized electrician and his assistants shall tamper with the town fire alarm, bells, signal or Fire Department system or cut any wire or break or interfere with any circuits thereof.
- **Sec. 8-2-2. Fire Alarms.** No person shall willfully or maliciously give or cause to be given a false alarm of fire by ringing an alarm bell or by pulling in an alarm at any box of the fire alarm system or shall willfully or maliciously break, destroy or tamper with in any way the apparatus comprising the fire alarm system.
- **Sec. 8-2-3. Driving on Fire Hose Prohibited.** No person shall drive any vehicle over any fire hose within the Town of Cape Elizabeth, laid at the occurrence of a fire or at any alarm of fire.
- **Sec. 8-2-4. Obstruction of Firefighter.** No person shall assault or in any manner willfully obstruct, intimidate or hinder or attempt to obstruct, intimidate of hinder any firefighter while in the lawful discharge of their official duties.

Sec. 8-2-5. Exposed Fires Prohibited. No person shall kindle, maintain or assist in maintaining any bonfire or other exposed fire within the Town, excepting under specific permission from the Fire Chief or otherwise as provided by statute; such burning shall be done in metallic receptacles approved by him, or under proper safeguards as he may direct as to time and weather conditions, and on condition that such permittee keep sufficient control of said fire and be responsible for all damages thereof, and that all embers shall be extinguished and the hot ashes removed or wet down at the close of said fire.

Sec. 8-2-6. Penalty. Any person who violates any provision of Article I or II of this Chapter 8 shall, severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), or by imprisonment for not less than one (1) day nor more than five (5) days or both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Article III. Mutual Fire Aid Agreements. [Adopted eff. 1/27/71 under R.S. 1964, T. 30, Sec. 3777.]

Sec. 8-3-1. Mutual Aid Authorized. The chief, or the chief's duly authorized representative, of the Fire Department of the Town of Cape Elizabeth, upon request for aid from a duly authorized representative of a municipal or incorporated volunteer Fire Department of another municipality, within or without the state, is hereby authorized to send to such other municipal or incorporated volunteer Fire Department such equipment and/or personnel belonging to the Fire Department of the Town of Cape Elizabeth as he shall deem feasible for the purpose of rendering aid in extinguishing a fire within such other municipality.

Sec. 8-3-2. Liability. During the course of rendering such aid to another municipality, the aiding municipality shall, as between municipalities having similar ordinances or other regulations, be responsible for and shall assume the risk or any personal injury or property damage caused to or by its own personnel or equipment, and for any payments required to be made to any member of its Fire Department or the member's surviving spouse or other dependents, on account of injuries or death so required by the Worker's Compensation Act of the State of Maine, all without affecting the right of the aiding municipality to recover damages from any other person or entity legally liable therefore.

Sec. 8-3-3. Town Manager to Execute Agreement. The Town Manager may execute, with authorization of the Town Council, for and on behalf of the Town of Cape Elizabeth, a mutual aid agreement in accordance with the provisions of the above sections

with any other municipality of municipalities having a similar ordinance or other regulation.

- **Article IV. Alarm Systems Ordinance**. [Adopted eff. 1/9/80, under R.S. 1964, T. 30, Sec. 2151.]
- **Sec. 8-4-1. Title.** This ordinance shall be known and may be cited as the "Alarm Systems Ordinance of the Town of Cape Elizabeth, Maine."
- **Sec. 8-4-2. Purpose.** This ordinance recognizes the need for regulations of the installation and use of Alarm Systems in order to assure compatibility of equipment with the facilities of the Public Safety Communications Center, to avoid use of improper equipment, to assure adequate installation of equipment, to minimize false alarms or other interference with the orderly conduct of Town business and to clarify the rights and responsibilities of the property owner and of the Town.
- **Sec. 8-4-3 Definitions.** As used herein, the following terms shall have the following meanings:
- (a) "Alarm system" means any mechanism, equipment or device designed to automatically transmit a signal, message or warning indicating fire, burglary, health emergency or like need for public safety assistance, from a private facility through telephone facilities to the Public Safety Communication Center.
- (b) "Appropriate", with respect to a Chief or Department, means the Fire Department for fire or rescue alarms and the Police Department for alarms of unlawful entry, theft or other criminal activity.
- (c) "Center" means the Public Safety Communications Center for the Town of Cape Elizabeth, Maine.
- **Sec. 8-4-4. Permit Required**. No person shall install, operate, maintain, alter, or replace an Alarm System within the Town after December 31, 1979, without an effective permit therefore signed by the Chief of the appropriate Department.
- **Sec. 8-4-5. Application Procedure**. Application for an Alarm System permit shall be made to the appropriate Department by the owner of the premises to be protected, upon forms prepared by the Town, accompanied by prepayment of the first annual service fee and tender of an agreement signed by the applicant releasing and discharging the Town of Cape Elizabeth, its officers, agents and employees, from any liability arising from the failure of such Alarm System to operate properly, or from any other act or omission by the Town, its officers, agents and employees excepting any knowing and intentional act or omission. The application shall require the full name, telephone number and address of

the owner of the premises to be protected, of his designated agent with the Town, and of the proposed installer who must have the capacity to maintain and service such Alarm System from a point within the Greater Portland area; the application shall also require a description of the principal use of the premises to be protected, a description of the proposed system and the location for its installation, and such other data as the Chiefs may reasonably require in order to assure the use of appropriate equipment and its proper installation. The appropriate Chief shall issue any permit with such conditions as he deems reasonably designed to assure the foregoing objectives, and the Chiefs shall establish procedures and guidelines for processing such applications.

Sec. 8-4-6. Service Fee. The annual service fee for each Alarm System shall be fixed and may be changed by order of the Town Council and is initially fixed at \$25.00. Such fee shall apply to each Alarm System connected from the same premises or by the same owner, and to any dialer Alarm System programmed to activate the Center telephone. For any Alarm System installed after June 30th of the calendar year, the fee shall be one-half the regular annual fee. Such fee shall be for the calendar year and, after the initial prepayment, shall be payable prior to January 31st of each year. Alarm Systems not connected to the Center shall pay a \$25.00 annual registration fee to the Town. It shall be collected in the same manner as service fees for alarm systems connected to the Center.

Sec. 8-4-7. Prohibited Systems. No system shall be permitted which automatically transmits to the Center telephone lines except to a number designated by the permit issued or as otherwise approved by the appropriate Chief. Each alarm shall be reported individually, and no system shall be permitted which uses a constant signal for one type of alarm and a pulsating signal for another.

Sec. 8-4-8. Use Regulated. No Alarm System shall be placed in operation until its location, equipment and installation have been finally approved by the appropriate Chief as conforming to the terms of the permit and the provisions of this ordinance. Thereafter the appropriate Chief may inspect, or cause the inspection by a qualified person of, any Alarm System to determine that its condition, location and use comply with its permit and this ordinance, and to assure that it will not interfere with the operation of the Center; access shall be permitted at all reasonable hours for such purpose. Any deficiency noted shall be reported to, and promptly corrected by, the owner. Information concerning any Alarm System shall be maintained confidentially and release of any such information by any person to one not concerned with the maintenance or operation thereof, or the enforcement of this ordinance, shall constitute a violation of this ordinance.

Sec. 8-4-9. Alarm Response. The property owner or his designated agent, as kept on file at the Center, shall respond to each alarm at the request of the appropriate Department for the purpose of securing the premises.

Sec. 8-4-10. False Alarms. Any permit holder whose system causes the transmittal of a non-emergency alarm more than three (3) times in any calendar year, after a 30-day start-up period for new installations, shall pay a fee of \$25.00 for each instance of a non-emergency alarm in excess of that number, upon demand by the appropriate Chief;

the appropriate Chief shall give suitable written warning to any permit holder, or to his designated agent, whose alarm sends a third non-emergency alarm in any calendar year. Non-emergency alarms shall include, but shall not be limited to, false alarms caused by malfunctioning equipment, accidental or negligent activation of the alarm, or improperly monitored equipment. In the event an alarm is activated as a result of a natural or unnatural event beyond the property owner's control (i.e. disruption of electrical service due to storm, motor vehicle accident, and the like), no fee shall be imposed at the direction of the appropriate Chief.

Sec. 8-4-11. Permit Revocation. The appropriate Chief may revoke the permit for any Alarm System in the event that:

- (a) Payment of any fee therefore is not made within sixty (60) days after the due date therefore;
- (b) Any deficiency therein reported to the owner is not corrected within a reasonable time;
- (c) Such Alarm System persistently causes an excessive number of non-emergency alarms or otherwise persistently interferes with the orderly operation of the Center;
- (d) The owner refuses reasonable access for inspection of such System;
- (e) Such System is placed in operation without final approval by the appropriate Chief, or
- (f) Any date provided in the application for such System is found to have been falsified willfully or through gross negligence of the applicant. Such revocation shall not be effective until the appropriate Chief has given the permit holder or his designated agent actual notice of the reason therefore and reasonable opportunity to justify the same.
- **Sec. 8-4-12. Appeal**. In the event of the refusal to issue or the revocation of any permit hereunder, the permit holder may appeal to the Town Manager within twelve (12) business days after actual notice of such decision is given to the permit holder or his designated agent. The Town Manager may affirm, modify or rescind such decision, and his action thereon shall be final and conclusive without right of further appeal.
- **Sec. 8-4-13. Civil Violation**. In addition to the foregoing grounds for revocation of a permit hereunder, the following events shall each constitute a civil violation, punishable in proceedings before the District Court by a fine not exceeding \$300.00.
- (a) The installing, operation, maintenance, alteration or replacement of an Alarm System in the absence of an effective permit therefore signed by the Chief of the appropriate Department;
- (b) The falsification of any data provided in an application for an Alarm System, done willfully or through gross negligence;
- (c) The release of any information concerning any Alarm System to one not concerned with the maintenance or operation thereof or with the enforcement of this ordinance.