

**TOWN OF ACTON, MAINE
WARRANT TO
JAMES J. DRISCOLL
A RESIDENT IN THE TOWN OF ACTON
YORK, SS
GREETINGS:**

In the name of the State of Maine you are hereby requested to notify and warn the inhabitants of said Town of Acton, qualified to vote in Town affairs to assemble at the Acton Elementary School on November 10, 2015 at 6 o'clock in the evening to act on the following articles, to wit:

ARTICLE 1: To choose a moderator for said meeting.

Richard Nass was elected moderator, by written secret ballot.

ARTICLE 2: Shall the Town of Acton Zoning Ordinance be amended to **RETAIN** in the Ordinance only the following version of Section 4.2.2.6 SPECIAL EXCEPTIONS and to **REPEAL** all other versions of 4.2.2.6?

4.2.2.6 SPECIAL EXCEPTIONS

The Planning Board may approve a Conditional Use Permit for a single family residential structure and any accessory structures in the Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- a. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built;
- b. The lot on which the structure is proposed was established and recorded in the York County Registry of Deeds before the adoption of the Resource Protection District (9/29/2011);
- c. All proposed buildings, sewage disposal systems and other improvements are:
 1. Located on natural ground slopes of less than 20%; and
 2. Located outside of 75 feet, horizontal distance, of a stream or upland edge of a wetland;
- d. The total ground-floor area of all principal and accessory structures within the Resource Protection Buffer is limited to a maximum of 1,500 square feet.

If Article 2 Passes; Article 3 Does Not Require A Vote

If Article 2 Fails; Article 3 Is Adopted As Written

Board of Selectmen Recommends: Article 2 Be Adopted As Written (3-0)

Warrant and Finance Committee Recommends: Article 2 Be Tabled, Meaning To Set Aside (6-0)

**Ted Kryzak made a motion to approve Article 2 as written; seconded by Bill Shields.
Motion Failed.**

ARTICLE 3: Shall the Town of Acton Zoning Ordinance be amended to **RETAIN** in the Ordinance only the following version of Section 4.2.2.6 SPECIAL EXCEPTIONS and to **REPEAL** all other versions of 4.2.2.6?

4.2.2.6 SPECIAL EXCEPTIONS

The Planning Board may approve a Conditional Use Permit for a single family residential structure and any accessory structures in the Resource Protection District, outside of the Shoreland Zone, provided that the applicant demonstrates that all of the following conditions are met:

- a. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built;
- b. The lot on which the structure is proposed was established and recorded in the York County Registry of Deeds before the adoption of the Resource Protection District (9/29/2011);
- c. All proposed buildings, sewage disposal systems and other improvements are:
 1. Located on natural ground slopes of less than 20%; and
 2. Located outside of 75 feet, horizontal distance, of a stream or upland edge of a wetland;
- d. The total ground-floor area of all principal and accessory structures within the Resource Protection Buffer is limited to a maximum of 1,500 square feet.

Board of Selectmen Recommends: Article 3 Ought Not To Pass (3-0)

Warrant and Finance Committee Recommends: Article 3 Ought Not To Pass (6-0)

Larissa Crockett made a motion that Article 3 ought not to pass; seconded by Tom Cashin. Motion Carried.

ARTICLE 4: Shall the Town of Acton Zoning Ordinance be amended as follows?

To add the following language after the first paragraph of Section 1.4.11.3 Reconstruction or Replacement:

An “Historical Structure” as defined in Section 3.2 of this ordinance, which is not located in the Shoreland Zone, shall be exempt from the setback requirements of the preceding paragraph provided that:

1. The use of the structure after reconstruction and replacement is the same as the use of the structure prior to reconstruction or replacement.
2. The architecture and general appearance of the structure are not altered.
3. The dimensions of the structure are not increased.
4. The structure is reconstructed or replaced in its original location.

In the event that a reconstructed or replacement structure has not previously been designated an Historical Structure under the ordinance the Planning Board shall apply the criteria set forth in the definition of “Historical Structure” in Section 3.2 to determine whether the reconstructed or replacement structure qualifies for the exemption from setback requirements provided herein.

To add the following definition to Section 3.2:

Historical Structure-A structure which has been designated as an historical structure or landmark by a governmental agency such as the Maine Historic Preservation Commission or other comparable state or federal entity or which appears in the National Register of Historical Places or has been designated an historical structure by a majority vote of the Town Meeting or by a majority vote of the Planning Board in a proceeding under Section 1.4.11.3 of this Ordinance based upon a determination that the structure meets **any one** of the following criteria:

- a) it is a significant example of the cultural, historic, architectural or related aspect of the heritage of the Town of Acton, State of Maine, New England region or the United States; or
- b) it is the site of a significant historic event or activity; or
- c) it is identified with a person or persons who significantly contributed to the cultural, historic, architectural or related aspect of the development of the Town of Acton, State of Maine, New England region or the United States; or
- d) it exemplifies a significant architectural type, style or design; or
- e) it is identified as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the Town of Acton, State of Maine, New England region or the United States; or
- f) it represents a significant cultural, historic, architectural or related theme.

Board of Selectmen Recommends: Article 4 Be Approved As Written (3-0)

Warrant and Finance Committee Recommends: Approval of Amendment as Drafted (4-0)

Ted Kryzak made a motion to approve Article 4 as written; seconded by Bill Shields. Motion Passed.

ARTICLE 5: Shall the Town of Acton adopt the Solid Waste Ordinance as amended below?

AN ORDINANCE CONTROLLING SOLID WASTE WITHIN THE TOWN OF ACTON

Section 1: Purpose

This Municipality has a statutory obligation to provide a solid waste disposal facility for domestic and commercial waste generated within the Municipality, pursuant to 38 M.R.S.A §§ 1301. et seq. Solid waste contains valuable recoverable resources including energy, which if recovered reduce the cost of solid waste disposal. ~~Because energy recovery technology is complex, most energy recovery facilities have high capital costs and long payback periods. To remain cost effective and operate efficiently during their useful lives, energy recovery facilities require a guaranteed steady supply of waste during their entire useful life. Consequently, municipalities need to provide the facility with a steady supply of solid waste for a relatively long period.~~

This Municipality must exercise its legal authority to control the collection, transportation or its delivery to a specific facility, and disposal of solid waste generated within its borders ~~to ensure delivery of a steady supply of waste to the energy recovery facility designated herein.~~ As solid waste disposal costs continually increase, it is necessary to exercise local control of as many cost factors as possible. This will be accomplished by separating wastes, recycling and by reducing the volume of waste to be ~~placed and covered in our landfill or~~ hauled away for remote disposal.

Section 2: Definitions

- A. Collection Facility:** The Collection Facility, commonly referred to as the ~~transfer station or~~ compactor, is the designated storage disposal site for wastes that are to be shipped to the Pine Tree Waste Facility.

- B. Disposal Facility:** The area designated as the storage or disposal site for those wastes that are not disposed of at the collection facility or recycling center.
- C. ~~Energy Recovery~~ Waste Disposal Facility:** The Pine Tree Waste Facility in Westbrook, Maine, which processes and recovers ~~energy and/or useful~~ materials from waste generated in the municipality, is designated as the “~~Energy Recovery~~ Waste Disposal Facility.”
- D. Commercial Hauler:** Any person, firm, or corporation who picks up or hauls refuse of any kind as a business or for compensation to be deposited at the Transfer Station.
- E. Hazardous Waste:** Waste with inherent properties which make such waste dangerous to manage by ordinary means, including, but not limited to: chemicals, explosives, pathological wastes, radioactive wastes, toxic wastes or any other wastes defined as hazardous by Federal, State or Local laws, regulations or orders.
- F. Municipality:** The Town of Acton, Maine.
- G. Recyclable:** Materials which the town is separating as part of its recycling program, including but not limited to; glass, tin cans, aluminum cans, plastics, reusable (furniture, appliances, tools, toys, and other equipment).
- H. Recycling Center:** The area designated as the storage or disposal site for those items that have been designated as recyclable.
- I. Mixed or Split Load:** Municipal solid waste generated by two or more municipalities and transported by a single waste vehicle for disposal at the Pine Tree Waste Facility and chargeable to the respective municipalities.
- J. ~~Waste Disposal Facility~~ Transfer Station:** The facility designated as the site for storage or disposal of all acceptable wastes generated in the Town of Acton. It includes the collection facility, disposal facility and the recycling center.
- K. Liquid Wastes:** All unwanted or discarded material with sufficient liquid content to be free flowing. This includes, but is not limited to: ~~waste motor oil~~, gasoline, kerosene, diesel fuel, antifreeze, solvents, hydraulic oil, transmission fluid, paint, septic tank waste or any other liquids containing chemicals that may be harmful to the environment.
- L. Unacceptable Wastes:** The following materials will normally not be accepted for disposal at the waste disposal facility.
- Any asbestos material
 - Barrels or cans with liquid contents in them (contents must be removed)
 - Liquid wastes. (except for used motor oil)
 - Tires (except at times specified by the Selectmen in a Public Notice)
 - Dead animals or parts thereof (including animal wastes)
 - Ammunition/explosives
 - Chemicals
 - Pathological wastes
 - Pesticides

- Other hazardous wastes
- Other materials as designated by the Board of Selectmen

As acceptable storage or disposal means become available, the Selectmen may change the above list of materials that are, normally, not accepted at the Waste Disposal Facility.

- M. Demolition Debris: Wood, sheetrock, plywood, paneling and insulation generally originating from demolition of a building or structure.**

Section 3: Designation

In accordance with the provisions of 38 M.R.S.A. §§ 1304-B, the municipality hereby designates the Pine Tree Waste Facility located in Westbrook, Maine as its ~~Energy Recovery~~ Waste Disposal Facility for the purposes cited in Section 1 of this ordinance.

Section 4: Regulated Activity

- A.** The accumulation, collection, transportation and disposal of wastes generated within the Municipality shall be regulated in the following manner:
- All Combustible Waste, which is acceptable for Pine Tree Waste and generated within the Municipality, shall be deposited at the ~~Acton Transfer Station~~ Compactor.
 - All other Acceptable Waste generated within the municipality and all Recyclables shall be deposited at the Disposal Facility.
 - Mixed or split loads are prohibited under this ordinance.
- B.** No person shall deposit any material or wastes on any private or public properties without authorization by the property owner.
- C.** No person, firm, business, or corporation shall deposit any waste material at the Collection Facility or at the Disposal Facility that comes from outside the Town of Acton.
- D.** No person, firm, business, or corporation shall deposit any waste material at the Collection Facility or at the Disposal Facility without first having obtained a permit sticker from the Transfer Station Attendant and placed that sticker on the vehicle being used to deposit material according to Municipal rules.
- E.** No person other than residents or property owners of the Town of Acton, and no firm, business, corporation, or other legal entity not located in the Municipality shall deposit any waste material at the Collection Facility or at a Disposal Facility without first having obtained a permit or license to do so from the Municipal Officers. At their option, the Municipal Officers may require non-residents, or any non-resident legal entity to contract with the Municipality for the right to deposit at the Disposal Facility.
- F.** To reduce costs and to adhere to State and Federal environmental regulations, it is necessary to require separation of wastes being deposited at the waste disposal facility.

Section 5: Recycling Program

- A.** Recyclable materials constitute a good portion of the solid waste stream and when properly

handled, can help defray the Town's cost of waste disposal. ~~A Recycling Committee has been established under the direction of the Board of Selectmen to oversee and implement a Recycling Program for the Town of Acton.~~

- B. All recyclable materials shall be deposited at the Recycling Center. Materials shall be clean and free of any food, oil, or chemical contamination.
- C. All commercial haulers shall be required to separate recyclable materials and deposit such at the Recycling Center.

Section 6: Collection Facility

Only wastes that are to be compacted and shipped to Pine Tree Waste shall be deposited at the Collection Facility. All other wastes or recyclable materials shall be deposited at the disposal facility or recycling center. Cans, bottles, glass, and other non-combustible materials are not to be deposited in the trash compactor.

The following wastes are unacceptable to the Pine Tree Waste Facility and shall not be disposed of at the collection facility:

- Abandoned or junk vehicles, trailers, agricultural equipment and boats and parts thereof
- Tires
- Hazardous waste
- Demolition or construction debris
- Putrefied waste
- Pathological waste
- Water treatment residues or by-products of any kind
- Tree stumps
- Brown goods (stereos, TVs, miscellaneous electronics), other than items commonly disposed of in ordinary household waste will not be deemed to be unacceptable waste if included in the small amounts customarily found in waste from residential sources so long as the disposal and processing of such material by Pine Tree Waste at the facility is permitted by applicable laws, statutes, rules, regulations, and orders of all governmental entities have jurisdiction and sewer sludge of any kind
- Tannery and sewer sludge of any kind
- Waste oil or solvents
- Box springs, bedsprings, mattresses
- White goods such as freezers, refrigerators, washing machines, or parts thereof
- Liquid wastes or sludge
- Stuffed furniture
- Fish nets
- Automotive batteries
- Wire, rope, cable and banding metal
- Carpets, rugs, and underlayment of any dimension
- Rope, fiber greater than 6 feet
- Hose greater than 6 feet
- Wood greater than 24" in any direction
- Wire fencing
- Pesticides and other organic fluids

- Rolled material (e.g., rolled roofing) of any tube length exceeding a rolled diameter of 4”
- Firearms, ammunition, and explosives
- Other waste which is in the good faith judgment of Pine Tree Waste’s delivery coordinator (a) could reasonable be expected to cause jam-ups, slowdowns, stoppages, failures or damage to the facility, (b) is an item similar in kind or effect to those enumerated above
- Any wastes deemed unacceptable for processing at the facility by federal, state or local law, ordinance, regulation rule or order

Section 7: Disposal Facility

The disposal facility currently comprises the following sites: compost pile, metal, demolition, white goods site, waste oil, e waste, brush and recycling building. Materials must be separated and disposed of in the designated areas. Directions and assistance shall be provided by an attendant.

Section 8: Property Rights

Prior to disposal of waste into the compactor, the Transfer Station Attendant at his/her discretion may open the bag to ensure all contents are acceptable waste. All acceptable waste collected for transfer to the energy recovery facility, or deposited at disposal facility, shall become the property of the Town. No one may salvage, remove or carry off any such waste without prior approval of the Board of Selectmen or its designee.

Section 9: Administration

This ordinance shall be administered by the Board of Selectmen. Their powers and duties are as follows:

- A. To adopt reasonable rules and regulations as needed to enforce this ordinance
- B. To consider all license applications and to grant or deny each application within 60 days after receipt of a completed application at the municipal offices or within such other time as they and the applicant shall agree is reasonable
- C. To review any alleged violation of this ordinance, and to impose appropriate penalties thereof after notice and hearing as required by this ordinance
- D. To institute necessary proceedings, either legal or equitable, to enforce this ordinance

Section 10: Licensing of Commercial Haulers

- A. No commercial hauler shall accumulate, collect, transport or dispose of Acceptable Waste or Waste Unacceptable at Pine Tree Waste generated within the Municipality without obtaining a license from the Board of Selectmen.
- B. Any person, firm or corporation required by this Ordinance to obtain a license shall make application to the Board of Selectmen providing the information required. Each application shall be accompanied by a nonrefundable application fee of \$25.00.

- C.** The application shall contain all information required by the Board of Selectmen, including, but not limited to, description of the activity, e.g. collection, transport, or disposal of acceptable type and amount of waste handled in each service area, a description of the facility operated and used, and an equipment inventory, including, for vehicles, a description of the make, model and year of each vehicle used for the collection or transportation of solid waste, which information shall be revised annually upon license renewal. Proof of irrevocable liability insurance in the amount of \$1,000.000 and worker's compensation insurance coverage shall be included. The liability insurance shall name the Town of Acton as an additional insured. If the Board of Selectmen determines the application to be incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The Board of Selectmen shall be informed immediately of any changes in, or additions to equipment, including vehicles.
- D.** Licenses are not transferable.
- E.** All licenses shall expire one (1) year from the date of issue unless otherwise stated on the license, or revoked or suspended sooner in accordance with the provisions of this ordinance.
- F.** In the event the Board of Selectmen denies a license application, they shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in Section 11.
- G.** In the event the Board of Selectmen grants a license application, the applicant shall pay a fee of \$250.00 for each vehicle licensed. This fee is in addition to the application fee. The Board of Selectmen may prorate this fee where appropriate. The Board of Selectmen may not refund any portion of this fee if the license is suspended or revoked.
- H.** The Board of Selectmen may grant a special license to a licensee for a limited period and upon such terms and conditions as it deems appropriate using a procedure that it deems appropriate for a replacement vehicle in the event of an emergency or a vehicle breakdown.
- I.** The Board of Selectmen may deny a license application upon a finding that applicant:
- Does not have the financial capacity and technical ability to conduct the activity described in the application
 - Has not made adequate provision for the control of offensive odors, or has not made adequate provision to prevent air and water pollution
 - Has not previously secured any necessary state or federal permits
 - Has failed to respond to inquires relative to source of waste or location of waste generators, including names, addresses and phone numbers of customers, during periods of time when the Board of Selectmen, or their designee, is monitoring tonnage being hauled by waste haulers. Failure to respond within 14 days of an inquiry shall be reason for denial
 - Failure to transport waste loads in covered containers or vehicles, such containers or vehicles shall be kept tightly covered and secured to prevent any spillage on public ways
 - Has failed to comply with any other provisions of this ordinance
- J.** Any license issued may be suspended or revoked by order of the Selectmen after benefit of a hearing in accordance with the procedures in Section 11, for the following causes:

- Violation of this ordinance
- Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this ordinance
- Violation of any license condition
- Falsehoods, misrepresentations or omissions in the license application

Section 11: Fees

The Board of Selectmen may establish fees for the disposal of materials in the Disposal Facility.

Section ~~11~~ 12: Hearings

- A. Anyone denied a license or whose license is suspended or revoked pursuant to Section 10 is entitled to a hearing before the Board of Selectmen, if such request is made in writing within 10 days of the denial, suspension or revocation. Such hearings shall be held within thirty (30) days after receipt of the written request for a hearing.
- B. The licensee or applicant shall be notified in writing as to the time and place of the hearing at least ten (10) days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence, and to cross-examine witnesses. But the hearing is not subject to rules of evidence or formal rules for Adjudicatory proceedings.
- C. A determination shall be made by the Board of Selectmen within ten (10) days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant or licensee by registered mail, return receipt requested.
- D. The Board of Selectmen's final determination relative to the denial or suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice unless, at the time of final determination, the Board of Selectmen made it effective immediately. The Board of Selectmen's determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof together with a statement that such decision may be appealed as provided in this ordinance.
- E. Any controversy or claim arising out of or relating to the Municipal Officers' determination may be appealed to Superior Court pursuant to M.R. Civ. P., Rule 80B, within thirty (30) days after the Board of Selectmen's final determination.

Section ~~12~~ 13: Enforcement; Penalties

This Ordinance shall be enforced by the Board of Selectmen, or their designees. Any person violating any provision of this Ordinance commits a civil violation for which a forfeiture of not less than \$100.00 nor more than \$500.00 shall be adjudged. Each day of violation constitutes a separate offense. Any violation is deemed to be a nuisance and the Board of Selectmen may bring an action for equitable relief.

It shall be the duty of the law enforcement official designated by the Board of Selectmen to cause the removal of any deposit or accumulation of refuse, rubbish, or waste material of a similar nature deposited upon unauthorized property after the effective date of this ordinance.

Section 14: Transfer Station Manager

The Board of Selectmen shall appoint a Transfer Station Manager to manage all aspects of operation at the Transfer Station and provide supervision of the attendants.

Section 13 15: Caretaker

The municipal officers shall provide ~~Caretakers~~ attendants under the supervision of the Transfer Station Manager for the Collection Facility and Disposal Facility and shall enumerate their powers and duties. The ~~caretaker attendant~~ may designate certain areas for the deposit of component parts of said waste material, including but not limited to metals, wood wastes, leaves/yard wastes, stumps, and demolition debris. No person shall deposit such component parts elsewhere than designated by said ~~caretaker attendant~~.

- Open and close the gate at the beginning and end of the operating day
- Oversee the dumping, by users, of the solid waste to insure refuse is placed in the designated area
- Erect such movable signs, as necessary, to direct users to the proper dumping location
- Personally direct traffic if necessary, during periods of heavy traffic
- Place such litter barriers, as required, during periods of strong winds
- Pick up litter from litter fences, along the road, and over site in general, daily
- Provide assistance to those using the site including helping infirm or handicapped persons with their waste
- Make arrangements to contact a doctor, hospital or ambulance in the case of personal injury.
- In case of unforeseen problems or in doubt as to the correct procedure, contact supervising municipal official
- Observe and enforce safety rules and regulations

~~The Board of Selectmen and the Contractor, responsible for the Collection Facility, shall agree in writing as to the specific duties of each caretaker.~~

Section 14 16: Exemptions

This Ordinance in no way prevents any property owner, business or corporation from disposing of any materials or wastes on their own property that is allowed by state or federal laws, rules, or regulation.

Section 15 17: Conflict/Severability

- A. The provisions of this law shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary thereto, or in conflict therewith.
- B. The provisions of this ordinance shall be severable and if any phrase, clause, sentence or provision, or the application thereof to any person or circumstances shall be held invalid, the remainder of this ordinance and the application thereof shall not be affected thereby.

Section 16 18: Effective Date

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

secure such license, which shall become effective on the date specified therein.

Adopted 03/13/1992; Amended by Town Meeting 04/28/2015; Amended by Town Meeting 11/10/2015

Board of Selectmen Recommends: Approve Article 5 As Written (3-0)

Warrant and Finance Committee Recommends: Recommend Adoption As Drafted (3-1-2)

**Ted Kryzak made a motion to approve Article 5 as written; seconded by Bill Shields.
Motion Passed.**

ARTICLE 6: Shall the Town of Acton vote to adopt the Acton Fire-Rescue Ordinance as listed below?

Acton Fire-Rescue Ordinance

The purpose of this Ordinance is to establish the “Acton Fire-Rescue Department” as a municipal department of the Town of Acton, pursuant to the home rule authority granted in Title 30-A M.R.S.A § 3001.

ARTICLE 1 - NAME

1.1. The organization shall be known as the “Acton Fire-Rescue Department” (the “Department”).

ARTICLE 2 - PURPOSE

2.1. Town of Acton Protection: The primary purpose of the Department shall be to prevent and extinguish fires within the Town of Acton, to handle emergencies affecting the health, safety and welfare, and to provide rescue, and medical transport services for all persons within the Town of Acton, and elsewhere by prior agreement.

2.2. Cooperation with Other Communities: The Department may also assist other municipalities as its resources are available and may be needed in a cooperative effort for all of these purposes, and will comply with any written agreements signed by the Selectmen. The Selectmen shall have authority to enter into written agreements with other municipalities on a recommendation of the Fire Chief.

ARTICLE 3 - ORGANIZATION

3.1. The Department shall be a “Municipal Fire-Rescue Department” established pursuant to Title 30-A M.R.S.A. §3151(1) and (1-A) as amended to prevent and extinguish fires, and to provide emergency medical services as authorized by this ordinance through the operation of a municipal rescue and ambulance service as an integral function of the Department. It shall be a department within the Town of Acton.

ARTICLE 4 - MEMBERSHIP

4.1. Members: The membership shall include individual residents and non-residents of the Town of Acton, who are at least 18 years old, and who have been accepted as members of the Department.

- 4.2. Number of Members: The Fire Chief shall determine the number of members necessary for the effective operations of the Department.
- 4.3. Application for Membership: All applications for membership in the Department must be approved by the Fire Chief. Members must meet all membership standards described in the Acton Fire-Rescue Department Member Qualifications and Expectations document which may be amended by the Fire Chief. All new memberships will be probationary for a twelve month period, followed by a review of their performance by the Fire Chief or his designate before full membership status is achieved. Full membership shall be considered for approval only after successful completion of the probationary period.
- 4.4. Junior Fire-Rescue Members: Any resident or non-resident of Acton, of the age 14 to 17, may be accepted as a Junior Fire-Rescue Member in accordance with section 4.3, after meeting the membership standards described in the Member Qualifications and Expectations and all requirements of Maine law. EMS requirements require a minimum age of 16.
- 4.5. Compensation: Members may be compensated consistent with the Department's appropriation provided through the Town budget process and the applicable provisions of the Department's Position Classification and Pay Scale. (Quarterly for stipends and weekly for on-shift crew members.) (See Acton Fire-Rescue Positions Pay Plan)
- 4.6. Department Roster: The Department shall maintain an Active Roster

ARTICLE 5 - RULES AND REGULATIONS/STANDARD OPERATING GUIDELINES

- 5.1. The Acton Fire-Rescue Rules and Regulations/Standard Operating Guidelines ("SOG Documents"). The SOG document will include information from current departmental Job Descriptions, Employee Handbooks and SOG's. The SOG Document provides a detailed description of operating rules for emergency situations, member qualifications and training standards, and officer responsibilities.
- 5.2. Amendments: The SOG Documents may be amended by the Fire Chief. All amendments must be consistent with this Ordinance, Maine state law, and other applicable laws, ordinances and regulations.

ARTICLE 6 - DISCIPLINE, SUSPENSION AND DISMISSAL

- 6.1. Causes for Discipline or Suspension: Causes for discipline, suspension and/or dismissal include those matters described in applicable provisions of the Town and Department's Personnel Policy.
- 6.2. Grievance Procedure: All grievances will be handled in accordance with applicable provisions of the Town and the Department's Personnel Policy as it may be amended. All members will be treated as employees under that policy for the purposes of grievances only.
- 6.3. Disciplinary Procedure: All discipline, suspensions, and dismissals shall be handled in accordance with applicable provisions of the Town and the Department's Personnel Policy as it may be amended.

- 6.4. Town Personnel Policy : The Town Personnel Policy shall supersede the Fire Rescue Personnel Policy in the event of any conflict.

ARTICLE 7 - APPOINTMENT OF OFFICERS

- 7.1. Appointments: The Fire Chief (3 years), 2 Deputy Chief's (1 year each) shall be recommended to the selectmen for appointment by a seven (7) member Fire-Rescue Commission, consisting of the following:
- 7.1.1. Three (3) active Department members elected/appointed by the Department.
 - 7.1.2. Selectmen's Liaison with the Department.
 - 7.1.3. Warrant and Finance Committee's Liaison with the Department.
 - 7.1.4. A retired or active member of a municipal fire and rescue department appointed by the selectmen.
 - 7.1.5. A member of the public, to be selected by the other six members of the Commission.
 - 7.1.6. Members of the F-R Commission shall be appointed upon the adoption of this ordinance and a new commission appointed at the start of every fiscal year.
- 7.2. Appointment of other Officers and Officials: The Department shall create and fill any additional officer positions.
- 7.3. Nominating: The Department will maintain a "Nominating Committee" and prepare a list of qualified candidates for consideration of the commission described in section 7.1 prior to the expiration of their terms of appointment. The Nominating Committee shall also maintain a list of members qualified to fill additional officer positions created by the Department.
- 7.4. Qualifications for Officers: See the Member Qualifications and Expectations for the qualifications for all Officer Positions.

ARTICLE 8 - POWERS AND DUTIES OF FIRE CHIEF, OFFICERS AND OFFICIALS

- 8.1. Chain of Command: The Chain of Command shall be in Accordance with the Fire-Rescue organizational chart. All other officers and officials shall follow the chain of command. The Fire Chief shall determine who has the higher rank between officers with the same rank.
- 8.2. Fire Chief: The Fire Chief shall exercise the duties and powers described in Title 30-A M.R.S.A. §3153 (see sections below), as it may be amended from time to time, except as described in this Ordinance, and as follows:
- 8.2.1. Generally, direct and control all officers and members of the Department in the performance of their duties.
 - 8.2.2. Provide a training program for fire-rescue personnel within the municipality in cooperation with appropriate governmental agencies.

- 8.2.3. Provide for the maintenance of all fire and rescue equipment owned by the municipality and buildings used by the municipal Fire-Rescue Department.
 - 8.2.4. Prepare and submit annually to the Board of Selectmen a line item budget related to fire protection and rescue activities. The budget will be reviewed by the officers for input prior to presentation to the Board of Selectmen.
 - 8.2.5. Suppress disorder and tumult at all department activities and, generally, to direct all operations to prevent further destruction and damage.
 - 8.2.6. Exercise the powers relating to municipal fire protection and rescue as described in Article 5.
 - 8.2.7. Obtain assistance from persons at the scene of a fire to extinguish the fire and protect persons and property from injury.
 - 8.2.8. Pull down and demolish structures and outbuildings if the Fire Chief judges it necessary to prevent the spread of fire.
 - 8.2.9. Exercise the power of the fire inspector with respect to dangerous buildings described in 25 M.R.S.A §2360, as it may be amended from time to time.
 - 8.2.10. Exercise the power to bring civil actions, with the approval of the Board of Selectmen, described in 25 M.R.S.A §2361, as it may be amended from time to time.
 - 8.2.11. Issue fire permits as the Fire Warden in accordance with Maine Department of Conservation rules and regulations.
 - 8.2.12. Exercise any other powers and duties described in this Ordinance and powers of fire chief, officers and fire wardens generally as described in Maine State, Maine EMS and/or federal laws and regulations.
- 8.3. Officers Duties: See the Member Qualifications and Expectations for the duties of all officers and other officials.

ARTICLE 9 - DEPARTMENT ASSETS AND FUNDS

- 9.1. Municipal Appropriation: All funds raised or appropriated for the Department at town meeting shall be treated as municipal funds under Title 30-A M.R.S.A. §5652 et seq, as amended.
- 9.2. Other Funding: All funds raised or donated to the Department in the Town of Acton's or the Acton Fire-Rescue Department's name, by Department personnel or any Auxiliary Association, which are held or deposited in an account bearing the Town's tax identification number for department equipment or other purposes, shall be treated as municipal funds pursuant to Title 30-A M.R.S.A. §5652 et seq, as amended. The Selectmen may authorize or approve expenditure of these funds in accordance with its Policy on Purchases regarding Donated Funds, as it may be amended from time to time. Funds raised or donated in the name of any

association or auxiliary to the department and held in an account bearing a tax identification number other than that of the Town of Acton's are not subject to the requirements regarding municipal funds pursuant to the provisions of Title 30-A M.R.S.A. §5652 et seq as amended.

- 9.3. Other Assets and Equipment: Other assets and equipment of the Department shall be considered property of the Town of Acton.
- 9.4. Acceptance. of Gifts: If any funds or other assets and equipment are given to the Town or Department as conditional gifts, then the Selectmen at town meeting shall comply with all conditions of Title 30-A M.R.S.A. §5654, as amended. All unconditional gifts shall be considered at town meeting in accordance with Title 30-A M.R.S.A. §5655, as amended.

ARTICLE 10 – PRIVILEGES AND IMMUNITIES

- 10.1. Members of the Acton Fire-Rescue Department shall be entitled to the privileges and immunities provided by the Maine Tort Claims Act, Title 14, M.R.S.A. §8101 et. seq.
- 10.2. When assisting other municipalities, members of the Acton Fire-Rescue Department shall have the same privileges and immunities as when acting in their own municipality.

ARTICLE 11 - VALIDITY / SEVERABILITY / CONFLICT

- 11.1 The invalidity of any provision of this ordinance shall not invalidate any other part or provision of this ordinance. If any of the provisions of this Ordinance are inconsistent with the provisions of other Ordinances of the Town of Acton, or any of the provisions of this Ordinance are inconsistent with the provisions of State or Federal law or regulation, the more stringent requirements shall be applicable and controlling. If any inconsistencies exist between the provisions of this Ordinance and the provisions of the By-Laws, Rules and Regulations of Acton Fire-Rescue Department, the provisions of this Ordinance shall govern.

ARTICLE 12 - AMENDMENTS

- 12.1. This Ordinance may only be amended at any Acton Town Meeting.

ARTICLE 13 – EFFECTIVE DATE

- 13.1. This ordinance shall take effect upon adoption by the Acton Town Meeting and the proper transfer of assets from the Acton Ambulance Association to the Town of Acton.

Board of Selectmen Recommends: Approve Article 6 As Written (3-0)

Warrant and Finance Committee Recommends: Adoption of the Ordinance As Written (5-0)

**Ted Kryzak made a motion to approve Article 6 as written; seconded by Bill Shields.
Motion Passed.**

Signed this 2nd day of November 2015.

ss/ Theodore Kryzak Jr.

ss/William Shields

ss/Edward Walsh

**Minutes Respectfully Submitted,
Jennifer Roux - Town Clerk
11/17/2015**