



Town of Camden
Select Board & Planning Board
June 28th, 2023 – 3:00 PM
French Conference Room

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- 1) Introductions
- 2) Goals and Objectives of the Workshop – Led by Ethan Shaw, Chair, Camden Planning Board
- 3) Short-Term Rentals - Review of materials, discussion and options moving forward – Led by Ethan Shaw
- 4) Public Comment - STRs
- 5) Pier Moratorium – Review, discussion and options moving forward – Led by Jeremy Martin, Planning and Development Director
- 6) Public Comment – Pier Moratorium

MEMORANDUM

To: Town of Camden Select Board Members
Planning Board Members
Audra Caler, Town Manager

From: Jeremey Martin, Planning and Development Director

Date: June 28, 2023

Re: Joint Workshop Between Select Board & Planning Board- Exploring Regulation of Short-Term Rentals (STRs)

The Town of Camden's Planning Board has been discussing the issue of short-term rentals (STRs) and has held numerous workshops to identify goals and objectives for the regulation of STRs. These workshops and their discussions follow up on prior efforts of the Camden Lodging Alliance to get the Town to more adequately address and regulate STRs. As everyone knows there is a critical shortage of housing (of all types) in Camden and throughout the region. There is concern that STRs are negatively impacting the availability of housing and rental opportunities. Included for your reference and review is a summary of past Planning Board workshop discussions on STRs, a copy of the existing STR regulations for the Town of Camden, and examples of how they are regulated in other towns. The latest Planning Board public workshop on regulating STRs was held June 15, 2023. These workshops can be viewed on the Town of Camden's YouTube page. For more in-depth information on short-term rentals, the Agenda Packets for each of these workshops can be accessed by visiting the Town of Camden's Town Calendar website and selecting the agenda packet for any of the Planning Board's workshops.

The Planning Board will brief the Select Board on the Planning Board's initial development of goals and objectives and is looking for comments on moving forward. The Planning Board has determined that the issues around STRs are significant enough that they warrant further review and regulations. Again, the Planning Board has spent significant time on this issue and has reviewed and prepared a lot of background supporting material. To be as efficient as possible, the Planning Board is providing you with information so the workshop can be as productive as possible. The attached materials include a goals/objective document, an outline summary detailing how four (4) other Maine communities regulate STRs, and the Town's current regulations on STRs. Based on the Planning Board's discussions and their goals and objectives document, the Planning Board strongly believes that the Town should take further steps to regulate STRs.

Camden currently has regulations that apply to STRs, and those regulations are attached for your reference. STRs are currently minimally regulated through **Chapter 215, Rentals-Short-Term**, and through the definition of "dwelling unit" in **Chapter 290, Zoning**. Chapter 215 requires the registration of dwelling units that are used as STRs if they are not someone's primary residence. The definition of "dwelling unit" notes that "...a dwelling unit may not be rented for periods of less than seven consecutive days." Enforcement of these existing regulations is extremely challenging. At this point in time, the Planning Board has been discussing the creation of additional regulations on STRs to either be included within *Chapter 290* or elsewhere in the Town's Code of Ordinances, such as a revised *Chapter 215*. Again, Enforcement of these existing regulations is very difficult, if not impossible for several reasons. Based on information obtained from consulting firms that assist communities with regulating STRs it is estimated that depending on the time of year, there are between 270 and 325 STRs in Camden.

Short-Term Rental (STR) Goals

Purpose: The Planning Board proposed to study the issue of short-term rentals in the Town of Camden and to explore how they might better regulate them to minimize negative impacts to the community. At a recent public workshop, the Board reached a consensus to develop goals to regulate short-term rentals to provide a road map toward the development of new regulations. While the Planning Board certainly acknowledges the many positive social and economic benefits offered by the different types of short-term rentals in our community, they also recognize the importance of addressing the negative impacts.

Nation-wide, many communities are faced with the question of how to respond to the growing impacts that are created by the increase in STRs. These communities grapple with issues such as a shortage of long-term rental properties, a lack of workforce housing stock, and a lack of neighborhood cohesiveness and compatibility that occur from the increase in unregistered and unregulated STRs.

Although there are various types of STRs offered in the Town of Camden, the primary type that is of concern is the *nonprimary un-hosted rentals* (nonprimary rentals simply mean that the property is not the owner's primary residence). The Board believes that better regulating this type of STR, in addition to the other types of STRs, would minimize negative impacts to our community.

Achieving a consensus on identifying the goals for regulating STRs is central to the creation of effective regulations that address the negative impacts generated from this land use activity. The Planning Board realizes the Town has a responsibility to protect the health, safety and welfare of its residents, and it is vital that life-safety issues are addressed for all tenants of short-term rentals. In addition to life-safety issues, the Planning Board's identified concerns in regulating STRs is to mitigate negative impacts created by:

- The removal of regular single-family homes from the market (*i.e.*, homes that would have otherwise been available for purchase by future year-long residents of our community, or that would be made available for long-term rentals) that are purchased for the sole purpose of creating short-term rentals;
- The worsening issue of a lack of workforce housing for those who want to live and work in our unique and beautiful community; and
- The incremental loss of character that occurs due to unregulated or inappropriately regulated short-term rentals, which negatively impacts neighborhood stability and cohesiveness.

Additionally, the Planning Board is very cognizant of the need to create a fair and equitable system for regulating STRs and has discussed the importance of protecting the traditional practice of our local primary residents that have historically offered their own residences as seasonal vacation rentals, as well as the importance of protecting our existing lodging industry (inns, hotels, and motels) when developing an effective regulatory process for short-term rentals.

The following Goals and Objectives have been identified and agreed upon by members of our Planning Board in the regulation of STRs in the Town of Camden:

Goal:

“Increase the available housing stock of long-term rentals and/or properties offered for sale in the Town of Camden.”

Objective:

“Address the proliferation of short-term rentals by minimizing the conversion of long-term rental properties into short-term rental properties resulting in a reduction of housing stock in the local market.”

Goal:

“Ensure the safety of STR occupants and the public.”

Objective:

“Create more robust requirements that ensure increased homeowner and tenant accountability through a more formal application, registration, monitoring, inspection and enforcement process for STRs in Camden.”

Goal:

“Protect the Town’s sense of community and it’s desirability as both a renowned vacation destination and an attractive place to live and work.”

Objective:

“Improve compatibility between STRs and established neighborhoods by limiting the potential for complaints, addressing complaints related to noise, parking and waste generated from STRs effectively.”

Goal:

“Protect the traditional practice of Town residents offering their primary residences as seasonal vacation rentals themselves.”

Objective:

“Differentiate between nonprimary un-hosted STRs”.

Goal:

“Successfully address the current unequal playing field between our existing commercial lodging industry and unregulated short-term rentals.”

Objective:

“Develop and implement a fair and equitable regulatory framework that increases the Town’s capacity to adequately monitor and enforce life safety standards for short-term rentals.”

The Town of Camden’s Comprehensive Plan, approved by the Camden Voters on June 13, 2017, identifies primary issues of concern and provides statements of goals and implementing policies to address these concerns. The goals and objectives developed by the Town of Camden’s Planning Board are supported by those goals and implementing policies provided for in the Town’s Comprehensive Plan. Comprehensive Plan goal statements, recommendations, questions, and strategies on how to achieve them focus on such issues as *the encouragement of a year-round population and concerns over vacant structures for most of the year, the creation of more opportunities for affordable housing; and efforts to promote a more positive view of workforce housing in our community.* These policies, goals, recommendations, and strategies to address these issues can be found in Comprehensive Plan’s **Chapter 4 Downtown, Chapter 11 Housing, and Chapter 20 Planning and Community Development.**

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

CHAPTER 290

Article III

290-3.2 Definitions

Terminology

§ 290-3.1 Word usage.

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural and vice versa. The word "lot" shall include "parcel" and "plot." The word "shall" is used to indicate the mandatory, and the word "may" is used to indicate the permissive. The words "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

§ 290-3.2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DWELLING UNIT

A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one person or family at a time, and containing living, sleeping, toilet and cooking facilities. The term shall include mobile homes and rental units that contain cooking, sleeping and toilet facilities regardless of the time period rented. Recreational vehicles are not residential dwelling units. A dwelling unit may not be rented for periods of less than seven consecutive days.

[Amended 11-10-2009]

Chapter 215

Rentals, Short-Term

[HISTORY: Adopted by the Town of Camden 6-8-2021. Amendments noted where applicable.]

§ 215-1 Purpose.

The Town of Camden is committed to maintaining its small-town character, scenic beauty, and natural resources that are the foundation of its economic strength and quality of life. The purpose of this chapter is to safeguard the public health and safety of the residents of the Town of Camden and their visitors and guests while preserving the residential character of neighborhoods, minimizing nuisances, and providing equity with other residential and commercial uses. This chapter is an attempt to protect the public's health and safety in residential neighborhoods and to ensure compliance with applicable zoning ordinance requirements and to ensure the orderly growth and stability of the Town's neighborhoods.

§ 215-2 Authority.

This chapter is enacted under the home rule authority granted to the Town per the provisions of Title 30-A M.R.S.A. § 3001.

§ 215-3 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DWELLING UNIT

A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one person or family at a time, and containing living, sleeping, toilet, and cooking facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the period rented. Recreational vehicles are not residential dwelling units. A dwelling unit may not be rented for periods of less than seven consecutive days.

FAMILY

One or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding home, rooming house, or hotel.

HOSTED SHORT-TERM RENTAL

A short-term rental where the owner(s) of the property resides on the property where the short-term rental is located and the property is the property owner's primary residence. For this provision, "primary residence" shall mean a dwelling unit occupied by the same resident for a minimum of six consecutive months plus one day.

SHORT-TERM RENTAL

The use of a dwelling unit or portion thereof for rent to a person, persons, or a family for less than 30 days and a minimum of seven days.

UNHOSTED SHORT-TERM RENTAL

A short-term rental where the owner(s) of the property do not reside on the property where the short-term rental is located and it is not the owner(s) primary residence. For this provision, "primary residence" shall mean a dwelling unit occupied by the same resident for a minimum of six consecutive months plus one day.

§ 215-4 Registration; procedure.

- A. All unhosted short-term rentals shall be registered with the Town of Camden on an annual basis, before the rental of a dwelling or portion thereof. Registration forms, along with applicable fees, shall be filed annually with the Town Clerk.
- B. Registration forms shall include, but not be limited to, the following information:
 - (1) Name and mailing address of the property owner.
 - (2) Physical address and Map and Lot number of the property to be rented.
 - (3) Local contact name and phone number for purposes of twenty-four-hour emergency contact.
 - (4) Identification of the dwelling unit or portion thereof that is to be rented.
 - (5) Determination of compliance with Chapter **290**, Zoning, of the Code of the Town of Camden.
- C. The property shall comply with all applicable laws, codes, and ordinances.
- D. A registration card shall be issued to the property owner upon submission of the completed form and payment of any fees as may be set from time to time by the Select Board. The card shall certify that the applicant has met all requirements in this article and Chapter **290**, Zoning.
- E. An approved registration card shall be posted on the premises of the vacation rental unit for convenient inspection by a vacation rental occupant; the approved registration card shall also be posted on any web-based online rental platform where the property is listed for rent.
- F. Registration does not relieve the property owner from the obligation to obtain any additional permits necessary for the use.
- G. Inspections. (Reserved)

§ 215-5 Transferability.

Any registration issued hereunder shall not be transferable.

§ 215-6 Enforcement; violations and penalties; appeals.

- A. Enforcement authority. The provisions of this chapter shall be enforced by the Code Enforcement Officer or the Police Chief, or their designee.
- B. Violations. Any person who violates the provisions of this chapter or fails to seek a license renewal which is required by this chapter shall commit a civil violation from which a penalty of \$50 may be adjudged, upon a complaint by the municipality to the District Court or the Superior Court. Each day of continued violation shall constitute a separate offense that subjects the violator to a penalty of \$50 for each day of violation. If found in violation by the Courts, the violator shall pay all court and legal fees as may be incurred by the Town of Camden.
- C. Appeals. An appeal from the action of the Code Enforcement Officer or Police Chief, or their designee, may be sought through the provisions of Article **VII** in Chapter **290**, Zoning.

Outline of Short-Term Rental (STRs) Regulations For: Kennebunkport, Bar Harbor, Cape Elizabeth, and Falmouth, Maine

The Planning Board has researched how other similar municipalities within Maine are regulating short-term rentals in their community. The purpose of this document is to provide the Select Board with an overview of existing short-term regulations from four of the towns selected by the Planning Board. The outline below provides the Purpose for regulating STRs, and the general structure of the ordinance for each of the above-referenced towns:

1. Kennebunkport Zoning Ordinance:

https://www.kennebunkportme.gov/sites/g/files/vyhli3306/f/uploads/short-term_rentals_ordinance.pdf

Purpose: Require short-term rental disclosure and licensing to ensure residential neighborhoods are not unduly impacted by the operation of STRs. This can be accomplished by a licensing program that enables the town to monitor and track the proliferation of STRs and includes modest performance standards intended to protect property owners, renters, and neighbors and to limit the number of STRs. The historic nature and long-standing tradition of STRs within the Goose Rocks Beach neighborhood will not be subject to licensing limits but will be subject to all other requirements in the article.

Ordinance Structure:

Definitions

General Requirements

Review Procedure

- Application completeness

- Application license fee

- Town clerk authority

- Inspection

- Transitional provisions for licensing or pre-existing STR

- Issuance of rental license

Submission Requirements

- Location

- Contact person(s)

- Renewals

- Show compliance with standards

Standards

- Code Compliance

- Smoke alarms

- Carbon monoxide alarms

- Portable fire extinguishers

- Floor plans

- Sanitary waste disposal

- Parking

- Good neighbor guidelines

- Occupancy limits

Suspension and revocation of license

- Providing false or misleading information

- Failure to provide registration records

Limitations on annual licenses for STR units

Violations and penalties; enforcement

Additional regulations (may adopt more)

2. Bar Harbor Land Use Ordinance:

<https://ecode360.com/BA1953/laws/LF1451886.pdf>

Purpose: Adopted ordinance to regulate STRs by creating and defining STRs, Vacation Rental-1, Vacation Rental-2 uses and establishes standards for the new uses that include provisions for the transition from V-1 to V-2, and to cap the rental period to 2 nights, and cap number of STRs town-wide to 9% of total residential dwelling units, allow V-1 and V-2 only in certain identified districts.

Ordinance Structure:

Land use activities and standards by districts:

- Allowed uses

- Allowed activities

Site Plan Review

- Terms

- Maximum number of V-1 registrations

- Maximum number of V-2 registrations

- Transfer of registration prohibited

- Transition to V-1 and V-2

- Transition Process

- Continuance of registration for V-1 and V-2

Definitions

3. Cape Elizabeth Zoning Ordinance:

<https://www.capeelizabeth.com/ShortTermRentalOrdinanceStandards>

Purpose: Residents prize peace in their neighborhoods. Neighborhood residents are concerned that STRs, especially during summer months and holidays, are negatively impacted by the STR taking on the character of a business operating in a residential neighborhood. To preserve the fabric of residential neighborhoods, minimize the impacts of transient occupation on adjacent residents, maintain housing availability for long-term residents, and protect the public safety of visitors and residents, the operations of STRs 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 STR tenants and the desire of residents to preserve the peaceful quiet and enjoyment of their residential neighborhoods.

Ordinance Structure:

Permitted STRs

- Primary Residence Hosted

- Primary Residence Un-hosted

- Seven acres plus STRs

- STR Adjacent

Short-Term Rental Requirements

- Permit required

- Advertising

- Rental intensity

- Registration record

- Multi-family and Multiplex

Review procedure

Submission Requirements

Standards

- Code Compliance
- Building excavation plan
- Sanitary waste disposal
- Parking
- Rental agreement addendum
 - Primary and secondary contact
 - Emergency responder contact information
 - Building evacuation plan
 - Maximum tenants and guests
 - Parking arrangements
 - Maximum tenants and guests allowed at the property
 - Good neighbor guidelines
 - Copy of the Miscellaneous Offenses Ordinance
- Limit on rental occupancy
- Response requirement
- Good neighbor conduct

Suspension and Revocation of Permit

- Complaint
- First substantiated complaint
- Second substantiated complaint
- Third substantiated complaint
- Appeal
- Effective date

4. Falmouth Ordinance:

https://www.falmouthme.org/sites/g/files/vyhliif556/f/uploads/ordinance_21-2022_0.pdf

Purpose: To authorize and require registration for use of legally existing dwelling units for short-term rental guests, for compensation, for periods less than 30 consecutive days. Intended to monitor the impact on residential neighborhoods by the operation of STRs and to provide a registration program that enables the Town to monitor and track short-term rentals.

Ordinance Structure:

Definitions

- ADU
- Advertising
- Bed and Breakfast Est
- Dwelling unit
- Dwelling, single-family detached
- Dwelling, two family
- Dwelling, multi-family
- Family
- Hotel
- Mobile Home
- Motel
- Non-owner occupied
- Owner
- Owner-occupied
- Primary Residence

Short-term rental

Tenant Occupied

Applicability

Registration required

Information / Documentation Required

Nonrefundable registration fee

Street address

Name of all owners, contact information

Type of STR (Single, Two, ADU)

Whether STR occupies an entire dwelling unit or two-family or multifamily

If STR is on a property containing both single-family detached and ADU and the owner in

one

Is STR owner-occupied, tenant occupied or non-owner occupied

Is the property owner's primary residence

Street address all other STR where the owner has an ownership interest

Emergency contact respond w/in 60 minutes

Certificate of Insurance- property insurance, general liability insurance....

Enforcement, Penalties

Fine \$1k a day and an additional \$1.5k for each additional offense, other violations \$500 per day.

MEMORANDUM

To: Town of Camden Select Board Members
Planning Board Members
Audra Caler, Town Manager
From: Jeremey Martin, Planning and Development Director
Date: June 28, 2023
Re: Joint Workshop Between Select Board & Planning Board- **Pier Moratorium**

In March of 2023, the Select Board extended for another six (6) months the existing Moratorium on new residential piers and other structures in the Outer and Coastal harbors. This extension ends in September. For your reference, attached is a copy of the Moratorium. Following the enactment of the Moratorium, the Select Board charged the Harbor Committee with reviewing the Moratorium language and proposing changes to the regulations of piers and other structures. The Harbor Committee spent many meetings on this issue and developed their final recommendations (copy attached.) Since regulations of piers are addressed in **Chapter 108, Harbor and Waterways**, as well as **Chapter 290, Zoning**, both *Chapters* must be amended to have consistent regulations and standards for piers and other structures. Changes to Chapter 290 require the Planning Board to hold a public hearing, and the Planning Board held workshops and a public hearing on the proposed recommendations of the Harbor Committee. At the Planning Board hearing, there were numerous comments on the negative impacts of piers. The Planning Board heard and valued those comments, but sent the recommendations proposed by the Harbor Committee to the Select Board with the intent of getting those changes to voters in June. The Planning Board felt that it was important to move the process along as the State Law that governs moratoria requires that the Town make considerable progress in addressing the issues identified in the voter-enacted moratorium. The Select Board decided not to move those proposed changes to voters and extended the Moratorium another six months, which ends in September.

As mentioned above, the Planning Board heard the concerns raised at the hearing and understood that the Select Board did not move the proposed changes to voters. The Board then discussed the Moratorium at subsequent workshops and felt that although the Harbor Committee process was open to the public there was no formal hearing process for the public to weigh in on those proposed changes. After much discussion, there is a consensus amongst the Planning Board that no new piers should be allowed in the Outer and Coastal Harbors. To accomplish this, there would need to be changes to *Chapter 108* and *Chapter 290*. This would require the Harbor Committee and the Planning Board to hold workshops to draft consistent changes that would prohibit new residential piers and the Planning Board would then have to hold a public hearing on those changes which would then be sent to the Select Board for further deliberation and a public hearing if the Select Board decides to send those changes to voters. It is important to note that there have been a total of two extensions of the moratorium, the latest of which is set to expire in early September.

MORATORIUM ORDINANCE

REGARDING RESIDENTIAL PIERS, DOCKS, FLOATS, RAMPS AND OTHER STRUCTURES IN CAMDEN'S OUTER AND COASTAL HARBORS

The TOWN OF CAMDEN, MAINE hereby adopts a Moratorium Ordinance as follows:

Whereas, Camden's Outer and Coastal Harbors are valuable and unique natural, but limited, resources which are subject to increasing demands on the limited water area; and

Whereas, the Outer Harbor and Coastal Harbor are unexpectedly under threat of increased development pressure from structures, such as piers, docks, floats and ramps serving residential properties; and

Whereas, structures such as piers, docks, floats or ramps may have adverse impacts on the intertidal zone and ecosystem, and

Whereas, structures such as piers, docks, floats and ramps may adversely affect small recreational boating and access to a substantial degree, and

Whereas, structures such as piers, docks, float and floats may interfere with public access to and the use of the intertidal zone and harbor waters, and

Whereas, sea level rise is a significant threat to the Outer Harbor, Coastal Harbor, the shoreline, and structures such as piers, docks, floats and ramps; and

Whereas, as the Town's Harbor Committee and Planning Board previously recommended changes to the Harbor and Waterways Ordinance; and

Whereas, the development of additional structures such as piers, docks and floats serving residential properties in the Outer Harbor and Coastal Harbor, pursuant to existing Zoning and Harbor and Waterways ordinance requirements, could pose serious harm to the public, the natural environment, abutting properties, mooring placement, recreational boaters and public access; and

Whereas, the development of additional residential structures such as piers, docks, floats and ramps floats in the Outer Harbor and Coastal Harbor may overburden public services, such as mooring placement and public access; and

Whereas, Town Ordinances do not adequately address the impacts and significance of sea level rise on these structures and the environment; and

Whereas the Town will need at least 180 days to develop and implement the necessary amendments to the Zoning and Harbor and Waterways Ordinances of the Town to adequately address this development pressure: and

Whereas, in the judgement of the Town, these facts create an emergency within the meaning of 30-A M.R.S section 4356 and require this Moratorium Ordinance as immediately necessary to prevent overburdening the Outer Harbor and Coastal Harbor, and to prevent serious harm; and

Now, therefore, it is hereby Resolved to adopt a Moratorium Ordinance to prohibit installation, construction or modification of structures such as, piers, docks, floats, or ramps serving residential properties within the bounds of the Outer Harbor and Coastal Harbor, as defined in the Camden Harbor and Waterways Ordinance. The term of this ordinance shall be for 180 days from the Effective Date. The Effective Date and date of applicability for the Outer Harbor shall be March 15, 2022, the date of introduction of the Moratorium Ordinance discussion by the Camden Select Board. The Effective Date and date of applicability for Coastal Harbor shall be March 21, 2022. This Moratorium Ordinance shall not apply to any permit for a pier and float system issued by the Select Board on or before March 15, 2022. This Moratorium Ordinance shall not apply to routine repairs or maintenance of existing piers, docks, floats or ramps located within the Outer Harbor or Coastal Harbor.

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Camden Harbor Committee

Report & Recommendations

re:

Residential Piers, Docks, Floats, Ramps and Other Structures in Camden's Outer and Coastal Harbors

Executive Summary

Responding to a request by the Camden Select Board, and following the town citizens' approval of a moratorium on the construction of new piers, docks, floats, ramps, and other structures in Camden's Outer and Coastal Harbors, the Camden Harbor Committee has completed a review of the town's existing ordinances. While many of the requirements contained in Camden's Harbor & Waterways Ordinance adequately address the threats identified in the moratorium, the committee has several recommendations for additional measures to address these threats, including raising the allowed heights of piers in the Outer Harbor and requiring that all new piers have the ability to be raised to accommodate climate change and rising sea levels. Note that these recommendations only address those issues specified by the Select Board and identified in the moratorium.

Background and Methodology

In June 2022 the citizens of Camden approved a moratorium on residential pier construction, installation, and modification in Camden's Outer Harbor and Coastal Harbor (see Appendix A for a map of each harbor). The term of the moratorium was for 180 days, with an option for the Select Board to extend it in 180-day increments if necessary. For the Outer Harbor, the term started March 15, 2022, and was to end on September, 11 2022. The Coastal Harbor moratorium started on March 21, 2022, and was to end on September 17, 2022. The Select Board tasked the Harbor Committee with examining the scope of the threat posed by additional residential piers and making recommendations for changes, if any, to the existing town ordinance.

Initial discussion regarding the moratorium began at the Harbor Committee meeting of July 6, 2022. The methodology to be used was decided at the August 3, 2022, Harbor Committee meeting. The concerns noted in the moratorium were seen to fall under the following four categories: density, habitat, public access, and climate change/sea level rise.

The Select Board held a public hearing on September 9, 2022, and voted to extend the moratorium for an additional 180 days after deciding that significant progress was being made in addressing the elements of the moratorium.

In this report, the word “pier” refers to a fixed pier, usually constructed with an attached ramp or gangway that leads to a float. The word “float” refers to a floating structure, usually used as a temporary or seasonal berth for vessels, regardless of whether or not it is connected to a fixed pier or attached directly to shore.

Density

Density refers to how tightly packed the piers, docks, floats, ramps and other structures are in the Outer and Coastal harbors. If the density is too high, existing scenic, aesthetic, recreational, or navigational uses of the harbors may be impacted.

Outer Harbor:

The applicable sections of the Harbor & Waterways Ordinance that pertain to density in the Outer Harbor include:

1. Article 6 Section 2 C 4: No pier shall be constructed within 30 feet horizontal distance of the point where the property line intersects the harbor line.
2. Article 6 Section 2 C 5: No pier shall be built within 300 feet as measured along the shoreline from an existing or from an approved pier, wharf, or breakwater.

Coastal Harbor:

The Harbor & Waterways Ordinance does not address the density of piers in the Coastal Harbor. Currently there are no piers on the northern side (north of Northeast Point) and three piers in the southern Coastal Harbor (south of Curtis Island). Much of the Coastal Harbor is so rugged or deep that a pier is impractical; the topography of the area provides a de facto limit on the number of piers that could be constructed.

In the Outer Harbor, the existing 300’ separation requirement between piers effectively limits the number of piers that can be built. Applying these ordinance

restrictions, Will Gartley provided aerial photographs of the Outer Harbor with current piers and all potential new piers shown (see Appendix B). According to his analysis, there is a maximum of four residential piers that could be allowed in the Outer Harbor under current ordinance restrictions: three on the west side of the harbor and one that could be located between Dillingham Point and Laite Beach. (This last pier would have a very shallow float at low tide and would be of limited use to the residents of this property.) Gartley noted that there is the potential for a new municipal pier at Laite Beach, but again this pier would have a very shallow float at low tide and so would be unlikely to ever be constructed. The committee's opinion is that a maximum of four new residential piers in the Outer Harbor will not have a significant impact on the scenic, aesthetic, recreational, or navigational use of the harbor.

New projects requiring a NRPA (Natural Resources Protection Act) permit require applicants to demonstrate that a proposed project will not unreasonably interfere with existing scenic, aesthetic, recreational and navigational uses. The Army Corps of Engineers measures several different criteria, including landscape compatibility, scale and contrast, and special dominance. The committee reviewed the Army Corps' criteria and determined that it provides sufficient protection for managing the density of piers. Therefore, the committee recommends that ordinance language be clarified to require that all new pier, dock, float, ramp, and other structures proposed in the Outer Harbor or Coastal Harbor obtain a permit from the town if the project does not require a NRPA permit. If a town permit is required, then the Harbor Committee would review the application just as it would every other proposal for a new pier, dock, float, ramp, or other structure.

Recommendations:

While the existing Harbor & Waterways Ordinance has largely proven effective at managing the density of piers, docks, ramps, floats, and other structures in the Outer Harbor and Coastal Harbor, the Harbor Committee advises that the ordinance be amended to include land-attached floats in Section 6A as projects that require an application to the Code Enforcement Officer or the Town of Camden. Such a permit would therefore require Harbor Committee and Planning Board review as it relates to density prior to Select Board approval or denial.

Habitat

Camden's Harbor and Waterways Ordinance does not directly address the issue of the impact that new pier construction may have on habitat. However, all applications to construct a pier are subject to review by the Department of Environmental Protection (State of Maine) and Army Corp of Engineers (federal). Each department gets reports

from several other agencies assessing the impact on the environmental, habitat, and aesthetic concerns of construction. The reviewing agencies include the Maine Department of Marine Resources, Maine Historic Preservation Commission, and the appropriate native American tribes.

The Harbor Committee reviewed the last two pier applications (one in the Outer Harbor and one in the Coastal Harbor) to determine if existing reviews provide adequate habitat protection for Camden's harbors. Each application includes reviews related to:

- Soil erosion
- Wetlands and waterbodies protection rules
- Transmission of soil from land to marine environment
- Avoidance: is there a practical alternative to building the pier?
- For projects requiring a NRPA permit, an approved project must first demonstrate that the pier will not unreasonably harm significant:
 - Wildlife habitat
 - Freshwater wetland plant habitat
 - Threatened or endangered plant habitat
 - Aquatic or adjacent upland habitat
 - Travel corridor
 - Freshwater, estuarine, or marine fisheries
 - Other aquatic life

Recommendations:

While the existing Harbor & Waterways Ordinance has largely proven effective at managing the impact on habitat caused by the construction of piers, docks, ramps, floats, and other structures in the Outer Harbor and Coastal Harbor, the Harbor Committee advises that the ordinance be amended to include land-attached floats in Section 6A as projects that require an application to the Code Enforcement Officer or the Town of Camden. Such a permit would therefore require Harbor Committee and Planning Board review as it relates to habitat prior to Select Board approval or denial.

Public Access

Any structure connected to private property and extends over and into public waterways has an impact on public access. The question is: Does the structure substantially interfere with public access? Is this impact negative or positive?

The applicable sections of the Harbor & Waterways Ordinance rules that pertain to public access in both the Outer Harbor and Coastal Harbor include:

1. Section 6 F 2 E: Substantially block or interfere with public rites of passage and uses of the shores and flats.
2. Section 6 F 2 F Adversely affect small recreational boating activities to a substantial degree.

In reviewing the potential impact of new pier construction on public access, the Harbor Committee invited Bill Kelley, Camden's town attorney, to discuss the existing public rights to the harbor and intertidal zones. Kelley explained that the public's right to access the intertidal zone on private land is exclusively for "fishing, fowling, or navigation" (rowing a kayak under a pier is considered navigation and allowed). This right dates back to the King of England in the 1600s and has been consistently upheld in Maine courts through many cases.

The effect of additional piers on public access is minimal. In the Outer Harbor, neither the current piers nor any of the four possible future piers interferes in any way with the public access points to the harbor. While some boaters may choose to paddle around the piers, others choose to paddle under them and may even consider it fun (see Appendix C). Paddling under and behind the piers may provide a calmer paddling experience, as the piers tend to attenuate the wave action. The committee noted that the existing pier height limit of 6' actually hinders navigation at high tide, as there is not enough room under the pier to paddle even a kayak or small boat.

There are so few piers on the Coastal Harbor that public access does not seem to be affected at all.

Recommendations:

Change ordinance rules to raise the maximum heights of piers from 6' to 8' in the Outer Harbor.

Climate Change/Sea Level Rise

Climate change is expected to raise sea levels as much as 4 feet in the next 100 years. Storms are expected to be more frequent and more severe, and the impacts of storm surge are expected to be more significant and may pose a more immediate and important concern.

The Harbor & Waterways Ordinance rules do not specifically address the impacts of climate change in either the Outer Harbor or Coastal Harbor. However, the ordinance does place restrictions on the heights of piers, which are increasingly affected by sea level rise (in some instances, a pier may be submerged due to a severe storm surge and/or rising sea level).

Outer Harbor:

The applicable sections of the Harbor & Waterways Ordinance rules that cover pier heights in the Outer Harbor include:

1. Article 6 Section 2 C 2: The height of the pier walkway shall not exceed 6 feet above mean high water.

Coastal Harbor:

The applicable sections of the Harbor & Waterways Ordinance rules that cover pier heights in the Coastal Harbor include:

1. Article 6 Section 3 B 3 The height of the pier walkway shall not exceed 10 feet above mean high water.

The main question is: Can piers be constructed so they can be retrofitted for climate change? Will Gartley says that granite cribbing piers can be retrofitted simply by adding more cribs to raise them. Piling piers can have added caps to raise them but are more limited in how high they can be raised.

Recommendations:

In the Outer Harbor, raise the height limit from 6' to 8'.

Require piers in the Outer and Coastal Harbors to be constructed in a manner that allows them to be raised and/or structurally reinforced in the future to mitigate the increased adverse impacts of sea level rise or storm surge.

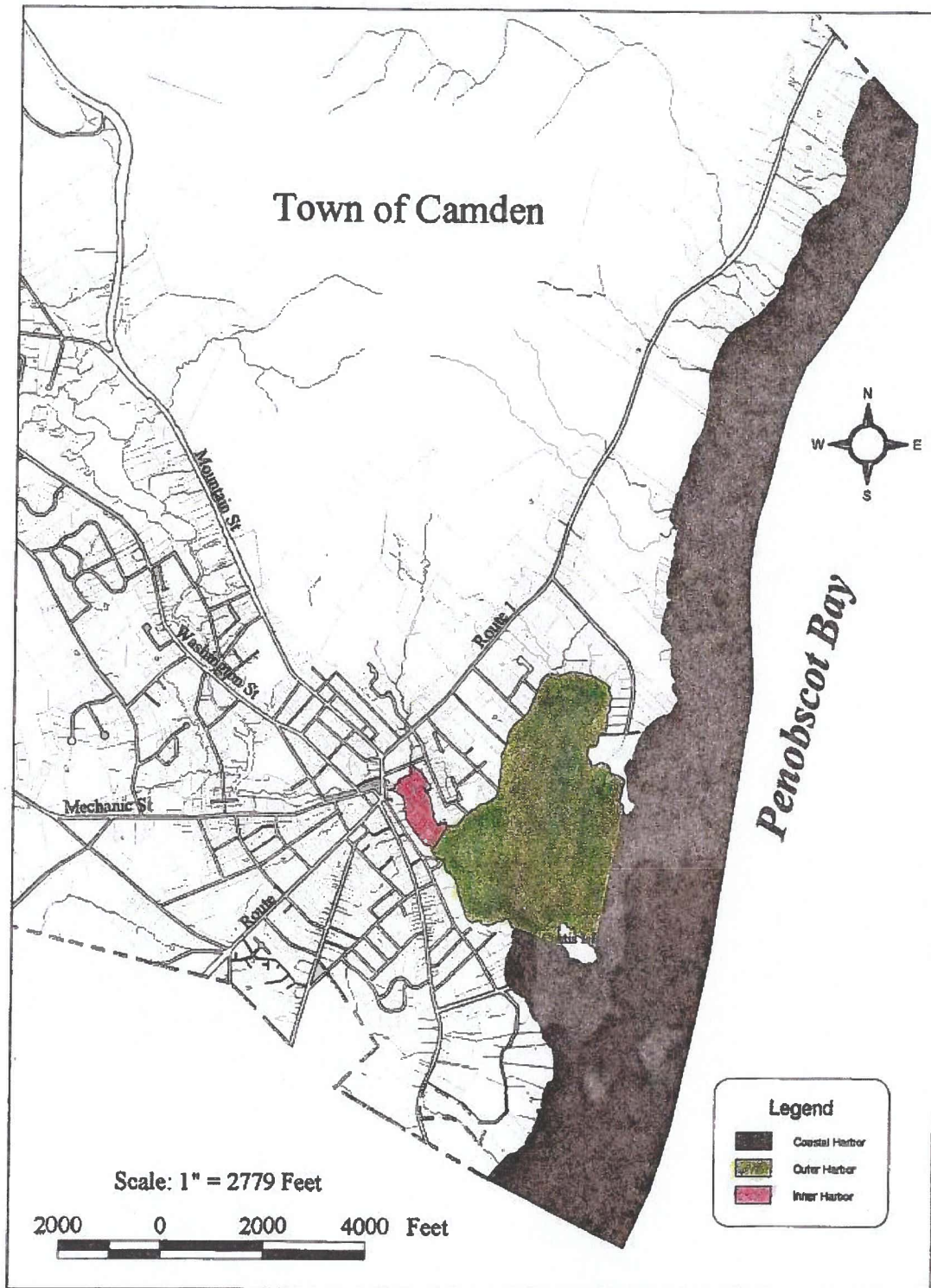
The Harbor Committee also recommends that the town continues to monitor the impacts of sea level rise and storm surge and aggressively employs "best practices" in ensuring the highest level of safety and security in Camden Harbor.

Conclusion:

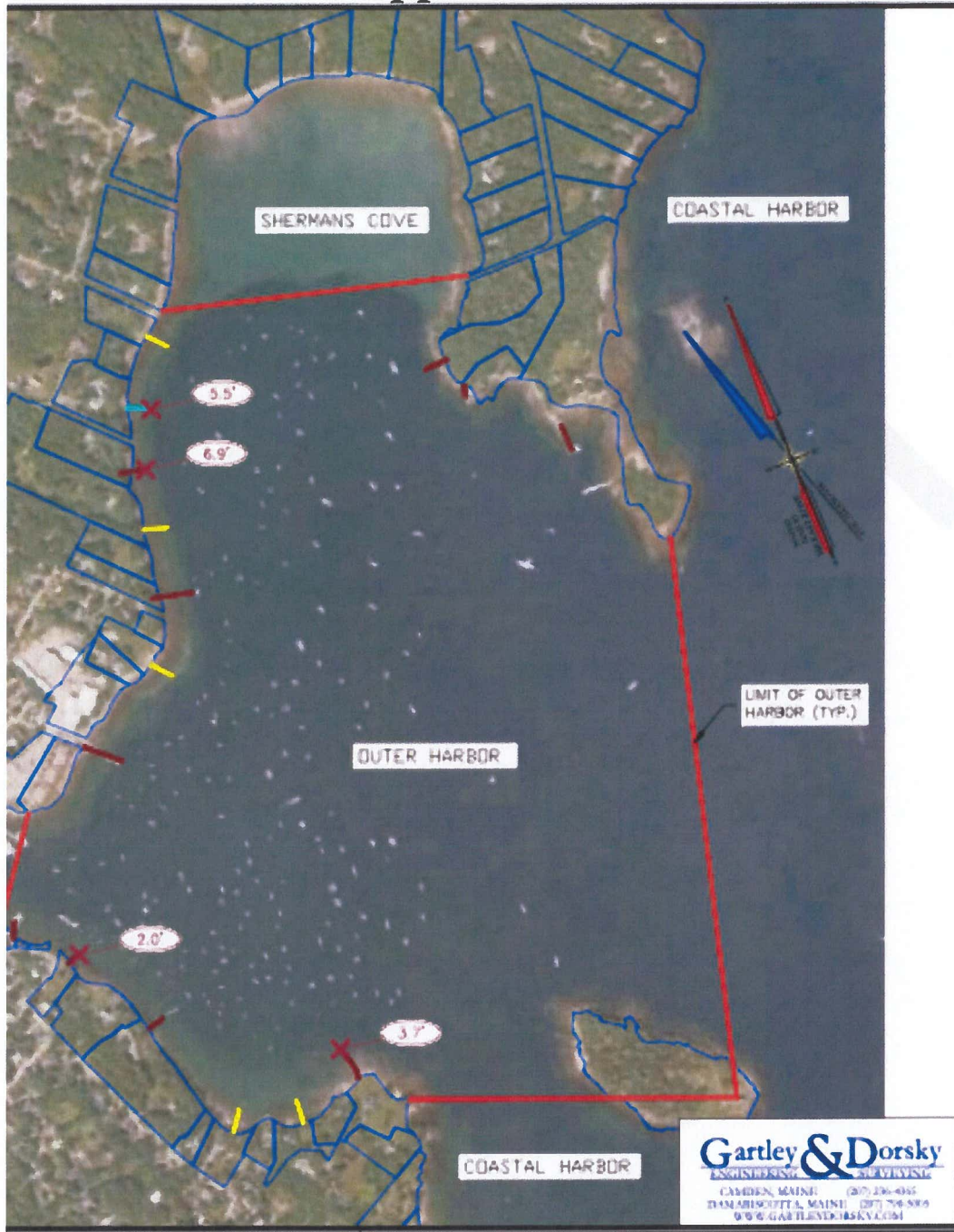
While most of Camden's Harbor and Waterways Ordinance sufficiently addresses the threats presented in the June 2022 moratorium, there are additional measures that the town should consider, especially as they relate to climate change. Specifically, the town should consider raising the height restriction in the Outer Harbor from 6' to 8', and all new piers should have the ability to be raised to accommodate sea level rise. In addition, any project in the Outer Harbor should be required to obtain either a town permit or an Army Corps of Engineers permit and thus be subject to Harbor Committee and Planning Board review prior to Select Board approval or denial.

Therefore, it is the recommendation of the Harbor Committee that once ordinance amendments reflecting these changes are forwarded to voters for approval or denial, the moratorium be lifted without any further extensions.





Appendix A



Appendix B



LEGEND

-  EXISTING PIER (10)
-  POTENTIAL PRIVATE PIER LOCATION (5)
(BASED ON CURRENT ORDINANCE RESTRICTIONS)
-  PERMITTED PIER (NOT CONSTRUCTED) (1)
-  WATER DEPTH AT END OF FLOAT AT MLW

Appendix C

To Whom it may concern,

It has been brought to my attention information about the current Moratorium on private piers, docks, floats or ramps within the bounds of Camden's coastal and outer harbors. I have read through the Moratorium Ordinance and believe much of what the moratorium is based upon is incorrect information. Below I will list a little about myself and the reasons I believe the moratorium to be based upon incorrect information.

My name is Stephen Hand, I am currently the Outdoor Programs Director at Maine Sport Outfitters and grew up and spent nearly 25 years living in the Camden and Rockport area. I have been Guiding in Camden harbor for over 8 years now. I dare say I have paddled the Camden harbor more in a single summer than most will paddle in their lifetime while guiding kayaking tours. Over the last 8 years I have taken well over 1000 people around Camden Harbor guiding these tours. Over the last few years I have expanded my certifications and now have been guiding fishing tours around the harbors as well.

In the fourth and fifth excerpts from the Moratorium Ordinance it states;

"Whereas, structures such as piers, docks, floats and ramps may adversely affect small recreational boating and access to a substantial degree, and

Whereas, structures such as piers, docks, float and floats may interfere with public access to and the use of the intertidal zone and harbor waters, and"

I believe yes, these piers, docks and floats do affect small recreational boating such as paddle boarders, kayakers and small craft fishing but only in a positive way. Personally, I love taking clients under and around the piers and docks currently in the harbor, it adds something different to the trip that some people may have never experienced before. I believe it is almost a benefit of kayaking in the harbor, the fact that you can simply go right under many of the structures. I have never had these docks negatively affect any trip I've been on, it's nothing to simply paddle around these structures or in many cases you just paddle under them. As for small craft fishing, the fish love structure so as fisherman we generally will target around areas with structure. These docks also offer protection from wind and waves and allows kayakers shelter behind these structures when needed. These Structures also create a buffer zone where for example kayakers are generally safe from boat traffic. From a risk management point of view or a safety reasoning as many of you know Maine's coastline can be very steep and rocky so in the case of an emergency these docks and structures offer a safe exit point.

I do know that there are exceptions, and some piers extend a ways into the harbor but the majority of these structures only extend long enough to float at low tide which in turn to me is no different than docks on the lake when talking about impeding kayakers or recreational boaters and at high tide you generally can go right under them. I may be incorrect when stating this but, to my knowledge on Maine's coast the private owners own the land to the low tide line and there is limited public use granted for fishing, Fowling, and navigation in the intertidal zone. Therefore, If someone is fortunate enough to own a piece of Camden's Coastline and they would like to within zoning and harbor ordinances build whatever they may like they should be allowed to.

There is another excerpt that states;

Whereas, the development of additional structures such as piers, docks and floats serving residential properties in the Outer Harbor and Coastal Harbor, pursuant to existing Zoning and Harbor and Waterways ordinance requirements, could pose serious harm to the public, the natural environment, abutting properties, mooring placement, recreational boaters and public access; and

I do not see how the construction of any additional structures could or would pose any harm to the public let alone "serious harm". The zoning and harbor ordinances are in place to protect the environment. I also don't see how it could pose "serious harm to abutting properties. As I stated before, there are exceptions, but the majority of the structures go out just far enough to float at low tide. This in turn would not affect any mooring placement as moorings are placed in deeper water away from shorelines to account for the ebb and flow of the tide. I have also gone over how there is simply no harm to recreational boaters and public access actually the opposite and there are positives to their being structures along the shoreline.

Thank you for taking the time to read through some reasons I believe the Moratorium on Structures in Camden's Coastal and outer harbors should not be continued. If you have any questions or would like to speak on this further don't hesitate to reach out.

Sincerely,

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