



**Town of Camden  
Select Board Meeting  
January 9, 2024 –6:30 PM  
French Conference Room**

Select Board meetings are broadcast live on Spectrum Cable TV channel 1303 and web streamed at: [www.youtube.com/TownofCamdenMaine](http://www.youtube.com/TownofCamdenMaine)

For those wishing to participate remotely, please click the link below to join the webinar:  
<https://us02web.zoom.us/j/8336357781>

**Call to Order**

- 1) Public Comment on non-agenda items
- 2) Approval of Minutes December 5, 2023
- 3) Select Board Reports
- 4) Town Manager's Report
- 5) Consent Agenda
  - a) Renewal Victulaer & Lodging Licenses: Peter Ott's and Towne Motel
  - b) New Victualer License for The Fig at 31 Elm Street
  - c) Approval of Commercial Fishermen
- 6) Public Hearings for Liquor Licenses:
  - a) Application of Peter Ott's at 16 Bay View Landing for a renewal Class 1 Restaurant Liquor License to serve malt, vinous, and spirits on premises.
  - b) Application of The Jack Bar at 43 Mechanic Street for a renewal Class A Restaurant/Lounge Liquor License to serve malt, vinous and spirits on premises.
  - c) Application of First Fig at 31 Elm Street for a NEW Liquor License to serve malt and vinous spirits on premises.
- 7) Action Items:
  - a) Personnel Policy Revisions
  - b) FY 25 Fee Schedules
  - c) Opera House Funding Request
- 8) Public Hearings:
  - a) Consideration of approval of a fourth 180-day extension to Moratorium Ordinance to prohibit the installation, construction or modification of piers, docks, floats or ramps serving residential properties within the bounds of the Coastal and Outer Harbors
- 9) Discussion Items
  - a) Northeast Mobile Health Services FY25 Contract

Adjournment

Executive Session: 1 MRS 405(6)A Personnel

**Camden Select Board  
Minutes of Meeting  
December 5, 2023**

**PRESENT:** Chair Thomas Hedstrom, Vice Chair Stephanie French (via zoom), Christopher Nolan, Alison McKellar, and Town Manager Audra Caler

**ABSENT:** Sophie Romana

Chair Hedstrom called the meeting to order.

1. Public Comment on non-agenda items:

Tom Hedstrom made a request a request to add an item to the agenda for discussion. The item in question is to vote for gender-neutral language in the town's Charter and all select board-related documents, specifically changing terms like "select man or selectmen" to "select board" or "select board member."

**Alison McKellar made a motion to approve adding this item to the agenda for discussion during the action items portion of the meeting. It was clarified that this change in language would not require a complete overhaul of existing documents but rather a gradual update as they are encountered. Stephanie French seconded the motion. The motion passed on a 4-0-0 vote.**

There were no other public comments on non-agenda items.

2. Approval of Select Board Minutes from November 8<sup>th</sup> and November 21<sup>st</sup>.

**Alison McKellar made a motion to approve the November 8<sup>th</sup> and November 21<sup>st</sup> minutes. Christopher Nolan seconded the motion.**

Discussion

McKellar brought up in the minutes of November 8<sup>th</sup> during the discussion about the Tannery Redevelopment and its potential use as open space, it was noted that there was no clear consensus on the property's future. However, it was suggested that a public vote might be the best way to determine its fate. The minutes did not fully capture the consensus of the board, which was to ask voters if they wanted to keep the property as open space.

**McKellar amended her motion that the minutes for November 8<sup>th</sup> should be changed to reflect there was Select Board consensus to work on a warrant article for the June ballot, asking voters about the future use of the Tannery property as open space and no changes to the November 21<sup>st</sup> minutes. Chris Nolan seconded the amendment motion. The motion passed on a 4-0-0 vote to accept the November 8<sup>th</sup> minutes as amended.**

3. Select Board Reports:

**Nolan** – None

**French** – None

**Hedstrom** – made a tribute to Don Young, a lifelong citizen of Camden who passed away. He was remembered as a great citizen and a kind friend to many.

**McKellar** – attended the Library Board of Trustees meeting where they discussed the recruitment of new trustees. They highlighted the importance of proactive recruitment rather than solely relying on applications. The Camden Conservation Commission also had some issues with appointments, and replacements will be considered.

**Romana** - absent

#### 4. Manager's Report:

- a. A Wastewater meeting was held regarding the remaining funds for a treatment plant upgrade project, including redevelopment, force main replacement, and pump station construction.
- b. Budget Committee - Efforts are being made to improve the budget process by transitioning to a priority-based budgeting system focused on programs and services.
- c. Montgomery Dam - The repointing work on the Montgomery Dam sway is progressing but delayed due to high water levels. Installation of a new gate is expected during the dry season.
- d. The police department is investigating an increase in organized retail thefts and handling a growing number of complex Freedom of Information requests. Two officers will attend an Academy orientation and physical assessment testing, starting the Basic Law Enforcement Training Program in January. Audra wanted to remind residents that the Police department offers a "Sand for Seniors" program for winter walkway maintenance assistance and a "Good Morning Camden and Rockport" program to check on homebound individuals.

#### 4, Public Hearings:

Chairperson Hedstrom read the rules and regulations for conducting a public hearing in preparation for the public hearings to be held this evening.

Chairman asked for any proponents or opponents for the application.

Mr. Harris, owner of the new establishment, introduced himself and his plans for the new restaurant at 115 Elm Street.

Application of Albatross at 115 Elm Street (former Gypsy Rose Tavern) for new Class 1 Restaurant liquor license to serve beer and wine on premises.

**Alison McKellar made a motion to approve the liquor licenses listed above. Christopher Nolan seconded the motion. The motion passed on a 4-0-0 vote.**

#### 5 Action Items:

##### a) New Victualer Licenses:

- Albatross at 115 Elm Street (former Gypsy Rose Tavern)
- Café Louis at 50 Elm Street (former wolfpeach)

**Alison McKellar made a motion to approve the new victualer license applications for two new businesses in town, Albatross at 115 Elm Street and Café Louis at 50 Elm Street. Christopher Nolan seconded the motion. The motion passed on a 4-0-0 vote.**

b) MOU with Curtis Island Lighthouse Foundation

Town Manager Caler updated the Board about the Curtis Island Lighthouse Foundation. We have a few volunteers, including Michael and Patricia Skaling from the Historic Resources Committee, working to establish a foundation. This foundation aims to assist with fundraising and planning efforts for Curtis Island and address various projects related to the island's management transition. The goal is to improve the island's facilities to a higher standard during this transition period.

Volunteer Mike Skaling presented a slide show discussing the formation of the Curtis Island Lighthouse Foundation, its mission to preserve, restore, and protect the Curtis Island light station, and its vision of historically restoring the island to the early 1900s. The foundation aims to help the town with systematic and full restoration for the next hundred years, commissioning an architectural firm for an assessment and preservation plan. The presentation also includes historical information about the lighthouse and its development, including its construction in 1836 and subsequent changes and improvements over the years.

The focus of his presentation was to request the town's support for a conditions assessment and historic preservation plan, which would cost around \$50,000. He emphasized the importance of this assessment for fundraising and grant applications. Michael mentioned that the town has budgeted funds for the roof but that the actual cost exceeded their expectations.

During the discussion, there were questions about the budget, control, and responsibility for the restoration work, with an emphasis on ensuring transparency and partnership between the town and the Curtis Island Light Foundation. The board expressed support for the project and the memorandum of understanding but also highlighted the need for clear communication and agreements regarding the restoration process.

**Alison McKellar made a motion to approve the Memorandum of Understanding with Curtis Island Lighthouse Foundation. Christopher Nolan seconded the motion. The motion passed on a 4-0-0 vote.**

c) Confirmation of three new Library Board Trustees

Library Board President Silvio Calabi presented three nominees for confirmation as new library board trustees: Marisa Baskin, Kendra Watkins, and Erin Donovan. He explained that the candidates had gone through a rigorous selection process, including interviews by the library's personnel committee and approval by the Library Board of Trustees. Mr. Calabi mentioned that the board has been actively working to bring in younger members who have children in the school system and use the library differently.

French expressed her support for the nominations and thanked Silvio for providing insight into the selection process. Silvio also mentioned that he is term-limiting out after serving for six years on the board and thanked the Select Board for their support.

There was a question about why term limits exist for trustees, and Silvio explained that it's part of their Charter, allowing trustees to serve two consecutive three-year terms. If a trustee is elected to an officer position towards the end of their term, they can continue for the full year of that term.

**Alison McKellar made a motion to confirm the appointments of Marisa Baskin, Kendra Watkins, and Erin Donovan as new library board trustees. Christopher Nolan seconded the motion. The motion passed on a 4-0-0 vote.**

- d) Consideration of Gender-Neutral wording in the Town Charter and other Town Documents  
Chairman Hedstrom proposed changing all select board-related documents including the Charter to be gender-neutral by replacing instances of "select men" or "selectman" with "Select Board" or "Select Board members." There was no discussion, and the proposal was met with agreement from the board members.

**Alison McKellar made a motion to approve the Gender-Neutral wording in town documents including the Charter. Stephanie French seconded the motion. The motion passed on a 4-0-0 vote.**

## 7. Discussion Items

### a) Snow Bowl Update

Beth Ward, Snow Bowl Manager, provided an update on the Snow Bowl and the state of their facilities. She mentioned that snowmaking has started, and they face challenges with aging infrastructure, including water damage and the need for roof repairs. Plans to move to a new building to replace one being removed were discussed, along with the potential of the Tubing Hill not opening and plans for storing tubes and equipment.

Board member Nolan inquired about the services Side Country Sports provides to the town and their feelings about the temporary structure. Ward explained that Side Country Sports is a retail store for ski equipment temporarily located at the mountain, with plans to move to a new space by next week.

There was a discrepancy in perspectives, with Chairman Hedstrom and one of the owners of Side Country Sports expressing dissatisfaction with the temporary solution and a desire for a new building.

Town Manager Caler clarified that the current arrangement is temporary and not ideal for the long term. The focus is on planning and budgeting for a more permanent solution, which applies to the race facilities as well.

Assistant Snow Bowl Manager Anderson discussed the discovery of issues with the building, including mold and structural problems in October. Discussions with Side Country Sports

181 have revolved around their temporary relocation and budget constraints.

182  
183 The Board expressed disappointment in the lack of maintenance and highlighted the need  
184 for timely assessments and communication regarding maintenance and repairs.

185  
186 Manager Caler mentioned the possibility of adjusting the lease agreement with Side Country  
187 Sports to align with a longer-term plan for the location. The goal is to implement this  
188 solution in the summer, considering integration with the new Lodge and other planned  
189 developments at the Snow Bowl.

190  
191 French emphasized the need for a comprehensive assessment of all town infrastructure not  
192 just Snow Bowl in particular the Public Landing and timely presentation of alternative  
193 solutions to address community concerns.

194  
195 There is a strong support from the community for the resources at the Snow Bowl and she's  
196 in agreement with Beth that it's time to revisit the conversation about preserving,  
197 maintaining, and potentially rebuilding the facilities at the site, aligning with previous votes  
198 and the desire to ensure the future success of the ski area.

199  
200 Beth continued the presentation on the extensive equipment and infrastructure associated  
201 with the ski area, highlighting the substantial investment and maintenance required for its  
202 operation.

203  
204 Bob Gordon, President of the Ragged Mountain Foundation, introduced himself and  
205 expressed curiosity about the update on the foundation's involvement with the Snow Bowl.  
206 He mentioned that the foundation was founded in 1991 and has been committed to the  
207 project. Bob stated that the foundation is willing to re-engage with the town, partner with  
208 them, and work on phase three of the project, which involves the lodge. He emphasized the  
209 importance of collaboration between the town, the foundation, and other parties involved.  
210 Bob expressed enthusiasm for working together and reaching out to select board members  
211 to discuss plans further.

212  
213 b) Camden Wastewater Treatment Plant issue with Rockport Update

214 Manager Caler provided an update on the ongoing issue between Camden and Rockport  
215 regarding their wastewater treatment plant. Rockport has settled its outstanding  
216 wastewater user rates with Camden, but the main challenge is determining a fair rate for  
217 Rockport's wastewater services. The 15% reduction in rates for Rockport was based on the  
218 understanding that Rockport would eventually leave Camden's wastewater treatment  
219 system.

220  
221 The Board members discussed various aspects of the issue, including concerns about  
222 Camden's wastewater treatment facilities' capacity and the impact of treating Rockport's  
223 wastewater on Camden Harbor. Some board members expressed a desire to continue  
224 discussions with Rockport to find a mutually beneficial solution.

225  
226 There is uncertainty about whether the lawsuit between the two towns should continue or

be paused to allow for negotiations. The ultimate goal is to resolve the issue and move forward, whether through a short-term agreement or a long-term interlocal agreement, in a way that benefits both towns and clarifies the terms of their wastewater treatment arrangement. The board members had differing opinions on how to proceed, with some advocating for continued discussions and others questioning the 15% discount and the lawsuit's status.

Chairman Hedstrom opened the discussion to public input.

Denise Munger, the Chair of the Rockport Select Board, expressed Rockport's willingness to go back to the mediated agreement, which includes a 15% discount for Rockport's wastewater treatment fees. She mentioned that they are open to this short-term solution while continuing discussions about long-term wastewater treatment options. Denise emphasized that the 15% discount was part of a negotiated mediation process and that they had relied on it when budgeting for the current fiscal year. Rockport is open to working with Camden on resolving the wastewater issue and moving forward.

John Duke, Rockport's Town Manager, appreciates the ongoing discussion and shared important points during the meeting:

- He acknowledged the significance of the lawsuit, which has been a major obstacle in discussions between the two towns.
- Progress has been made in negotiations, and they are not far apart in their positions.
- The lawsuit has cast a dark cloud over their relationship and is affecting their ability to work together.
- The financial difference between the 15% discount and the 10% increase they are currently paying is relatively small, about \$27,000 in total.
- Rockport wants to move past issues and focus on being good partners in the future.
- They respect Camden's right to set water quality policies and standards and are open to a longer-term conversation about potential collaboration.

John emphasized the need to address the lawsuit's impact on their relationship, find ways to work together effectively, and resolve the issues at hand. He offered his support in fostering better communication between the two towns.

Further Select Board discussion:

Nolan expressed the view that if the outstanding amount is only \$27,000, it's not a significant loss for Camden. They emphasized that the relationship between the two towns is more important than this relatively small budgetary amount. He suggested that the time spent on this issue may be more valuable than the \$27,000, implying that it would be worth resolving the matter for the sake of the relationship.

McKellar pointed out that the argument about the relatively small amount of money involved could be applied to Rockport as well. They highlighted that Rockport has historically not funded its wastewater system through taxpayer money but rather through ratepayers. In

contrast, Camden has subsidized its wastewater system over many years, keeping rates lower for its residents. Camden does not charge a portion of certain employees' time to ratepayers, unlike Rockport's approach. This difference in funding methods should be considered in the discussion.

8. Adjournment

**Alison McKellar made a motion to adjourn the meeting at 9:10 pm and enter into executive session to discuss real estate negotiations. Christopher Nolan seconded the motion. The motion passed on a 4-0-0 vote.**

At 9:30 the Board Camden of executive session.

**Alison McKellar made a motion to authorize the Town Manager to negotiate a purchase and sales agreement for Unit C102 in the Knox Mill East Condominiums. Stephane French seconded the motion. The motion passed on a 4-0-0 vote.**

**Stephanie French made a motion to adjourn at 9:32. Alison McKellar seconded the motion passed on a 4-0-0 vote.**

**Please note some of the text in these transcribed minutes were assisted by ChatGPT, an Open AI software program.**

**Go to <http://www.youtube.com/TownofCamdenMaine> to view the entire meeting. Please note these minutes are intended to highlight the decisions rendered by the Select Board during the meeting. Should any conflict arise between these minutes and the video record, the video record takes precedence.**



**FOR TOWN OFFICE USE**

**\$20 Fee Paid on:** \_\_\_\_\_ **New Application:** \_\_\_\_\_ **Renewal Application:** \_\_\_\_\_ **Present License Exp. Date:** \_\_\_\_\_

**NEW LICENSE EXPIRATION DATE AFTER SELECT BOARD APPROVAL:** \_\_\_\_\_

**TOWN OF CAMDEN  
VICTUALER LICENSE APPLICATION FORM**

Applicant's Name: Peter masin-peters  
(Please list all applicants, if more than one)

Date(s) of Birth of all applicants: 3/9/1978

Business Name: Peter Ott's on the water

Business Location: 16 Bayview Landing Camden me

Business Mailing Address: 16 Bayview Landing  
Camden me 04843

Email Address: peterotts@gmail.com

Telephone Number: (207) 236-4032

Describe briefly the food and drink services offered: \_\_\_\_\_

- 1) On premise-meals served? Yes ☒ No \_\_\_\_\_ Seating capacity? \_\_\_\_\_
- 2) Take-out service? Yes ☒ No \_\_\_\_\_ Fast food? Yes \_\_\_\_\_ No ☒  
Sit Down? Yes ☒ No \_\_\_\_\_
- 3) Number of parking spaces provided:  
a) On-site 16 c) Leased off-site 10  
b) Owned off-site 23 d) NA; Lawful nonconforming use \_\_\_\_\_ ("grandparented")
- 4) Has the number of seats in your eating establishment changed since the Town's last Victualer's License approval?  
Yes \_\_\_\_\_ No ☒ If yes, please explain: \_\_\_\_\_
- 5) Have there been any changes in the operation of your eating establishment since the Town's last Victualer's License approval? (i.e. fast food to sit down; sit down to fast food, etc) Yes \_\_\_\_\_ No ☒
- 6) Date of expiration of current State of Maine Human Services Eating License: 3/18/24  
(Please attach a copy to this application, this certificate is issued from the State not the town)
- 7) Is your premises connected to an approved septic disposal system or the town's public sewer system?  
Yes ☒ No \_\_\_\_\_

- 8) Has adequate provision been made for the storage and disposal of waste and garbage?  
Yes ☒ No ☐
- 9) If food is cooked on the premises, is there an approved vent from the cooking area to the outside? Yes ☒  
No ☐
- 10) Have you, as applicant, been convicted of a crime in the state of Maine or in any other jurisdiction which is punishable by one year or more imprisonment or for any other crime committed with the use of a dangerous weapon or of an offense involving the use of a firearm against another person within five (5) years of the date of application? Yes ☐ No ☒
- 11) Is there any formal charging instrument now pending against you in the state of Maine or any other jurisdiction for a crime which is punishable by one year or more of imprisonment or for any other crime allegedly committed by the applicant with the use of a dangerous weapon or of an offense involving use of a firearm against another person? Yes ☐ No ☒
- 12) Have you, as applicant, been adjudicated to be an incapacitated person pursuant to state law or, if such adjudication has occurred, that designation has been removed by order under Title 18-A, M.R.S.A., Section 5-307(b)? Yes ☐ No ☒
- 13) Have you, as applicant, been dishonorably discharged from the military forces within the past five (5) years?  
Yes ☐ No ☒
- 14) Are you an illegal alien? Yes ☐ No ☒
- 15) Have you had three or more convictions for crimes punishable by less than one year imprisonment within five (5) years of the date of this application? Yes ☐ No ☒
- 16) Have you been adjudicated as having committed a juvenile offense pursuant to the laws of the state of Maine or any jurisdiction within five (5) years of the date of application? Yes ☐ No ☒

**The applicant shall contact the Camden Fire Department (236-7950) to schedule a Life Safety Code inspection as referenced in the Camden Fire Prevention and Protection Ordinance. This application will not be accepted until signed off by the Camden Fire Department verifying that this facility complies with the Camden Fire Prevention and Protection Ordinance.**

  
Signature of Camden Fire Department Inspector

12-14-23  
Date

  
Signature of Applicant

12/15/23  
Date

**Please return the completed application to the Town Manager's Office on or before: \_\_\_\_\_ along with the appropriate license application fee (fee scheduled explained at the top of Page 1.**

(Questions #9 - #15 pertain to Victualer Ordinance requirements. A copy of the full text of the Ordinance is available at the Town Clerk's Office.)

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**Approved by the Camden Select Board on \_\_\_\_\_, 202\_\_\_\_.**

\_\_\_\_\_  
\_\_\_\_\_

**FOR CODE ENFORCEMENT & FIRE DEPARTMENT USE ONLY**

- 1) Zone \_\_\_\_\_ 2) Tax Map \_\_\_\_\_ Lot \_\_\_\_\_ 3) Lot Size \_\_\_\_\_
- 2) Planning Board or Zoning Board approved restrictions or conditions: \_\_\_\_\_
- 4) Fire Chief's Annual Inspection (new and renewal applications) Paul D. AC
- Date of Fire Chief's Inspection: 12-14-23
- 5) Code Officer's Annual Inspection (new and renewal applications) Chad B. Gage
- Code Officer's inspection of establishment (new applications) \_\_\_\_\_
- Date of Code Officer's Inspection (if applicable): 12-14-2023

# State of Maine

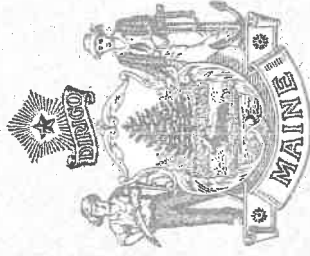
DEPARTMENT OF HEALTH AND HUMAN SERVICES

EST ID: 5454

EATING PLACE TIER 3 100 Seats (in) 48 Seats (out)

PETER OTTS  
16 BAYVIEW LANDING  
CAMDEN ME 04843

ATTN PETER MASIN PETERS  
OTTS, PETER  
PETER OTTS  
16 BAYVIEW LANDING  
CAMDEN ME 04843



EXPIRES: 03/18/2024

FEE: \$300.00

*Jeanne M. Lombard*

Commissioner

NON-TRANSFERABLE

FOR TOWN OFFICE USE

\$20 Fee Paid on: \_\_\_\_\_ New Application: \_\_\_\_\_ Renewal Application: \_\_\_\_\_ Present License Exp. Date: \_\_\_\_\_

NEW LICENSE EXPIRATION DATE AFTER SELECT BOARD APPROVAL: \_\_\_\_\_

TOWN OF CAMDEN  
VICTUALER LICENSE APPLICATION FORM

Applicant's Name:  
(Please list all  
applicants, if more than one)

Katja Hawlitschka  
Siobhan Kelly

Date(s) of Birth of all applicants:

12/4/60

4/27/62

Business Name:

Towne Motel

Business Location:

68 Elm St, Camden

Business Mailing Address:

Email Address:

info@Camdenmotel.com

Telephone Number:

236-3377

Describe briefly the food and drink services offered:

baked goods, coffee, OJ

- 1) On premise-meals served? Yes X No \_\_\_\_\_ Seating capacity? 10
- 2) Take-out service? Yes \_\_\_\_\_ No \_\_\_\_\_ Fast food? Yes \_\_\_\_\_ No \_\_\_\_\_  
Sit Down? Yes X No \_\_\_\_\_
- 3) Number of parking spaces provided:  
a) On-site 17 c) Leased off-site \_\_\_\_\_  
b) Owned off-site \_\_\_\_\_ d) NA; Lawful nonconforming use \_\_\_\_\_ ("grandparented")
- 4) Has the number of seats in your eating establishment changed since the Town's last Victualer's License approval?  
Yes \_\_\_\_\_ No X If yes, please explain: \_\_\_\_\_
- 5) Have there been any changes in the operation of your eating establishment since the Town's last Victualer's License approval? (i.e. fast food to sit down; sit down to fast food, etc) Yes \_\_\_\_\_ No X
- 6) Date of expiration of current State of Maine Human Services Eating License: 9/16/2024  
(Please attach a copy to this application, this certificate is issued from the State not the town)
- 7) Is your premises connected to an approved septic disposal system or the town's public sewer system?  
Yes X No \_\_\_\_\_

- 8) Has adequate provision been made for the storage and disposal of waste and garbage?  
Yes X No
- 9) If food is cooked on the premises, is there an approved vent from the cooking area to the outside? Yes   X    
No
- 10) Have you, as applicant, been convicted of a crime in the state of Maine or in any other jurisdiction which is punishable by one year or more imprisonment or for any other crime committed with the use of a dangerous weapon or of an offense involving the use of a firearm against another person within five (5) years of the date of application? Yes        No   X
- 11) Is there any formal charging instrument now pending against you in the state of Maine or any other jurisdiction for a crime which is punishable by one year or more of imprisonment or for any other crime allegedly committed by the applicant with the use of a dangerous weapon or of an offense involving use of a firearm against another person? Yes        No   X
- 12) Have you, as applicant, been adjudicated to be an incapacitated person pursuant to state law or, if such adjudication has occurred, that designation has been removed by order under Title 18-A, M.R.S.A., Section 5-307(b)? Yes        No   X
- 13) Have you, as applicant, been dishonorably discharged from the military forces within the past five (5) years?  
Yes        No   X
- 14) Are you an illegal alien? Yes        No   X
- 15) Have you had three or more convictions for crimes punishable by less than one year imprisonment within five (5) years of the date of this application? Yes        No   X
- 16) Have you been adjudicated as having committed a juvenile offense pursuant to the laws of the state of Maine or any jurisdiction within five (5) years of the date of application? Yes        No   X

**The applicant shall contact the Camden Fire Department (236-7950) to schedule a Life Safety Code inspection as referenced in the Camden Fire Prevention and Protection Ordinance. This application will not be accepted until signed off by the Camden Fire Department verifying that this facility complies with the Camden Fire Prevention and Protection Ordinance.**

**Signature of Camden Fire Department Inspector**

Date \_\_\_\_\_

**Signature of Applicant**

Date \_\_\_\_\_

**Please return the completed application to the Town Manager's Office on or before: \_\_\_\_\_ along with the appropriate license application fee (fee scheduled explained at the top of Page 1.**

(Questions #9 - #15 pertain to Victualer Ordinance requirements. A copy of the full text of the Ordinance is available at the Town Clerk's Office.)

\*\*\*\*\*

Approved by the Camden Select Board on \_\_\_\_\_, 202

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**FOR CODE ENFORCEMENT & FIRE DEPARTMENT USE ONLY**

- 1) Zone \_\_\_\_\_ 2) Tax Map \_\_\_\_\_ Lot \_\_\_\_\_ 3) Lot Size \_\_\_\_\_
- 2) Planning Board or Zoning Board approved restrictions or conditions: \_\_\_\_\_  
\_\_\_\_\_
- 4) Fire Chief's Annual Inspection (new and renewal applications) \_\_\_\_\_  
Date of Fire Chief's Inspection: \_\_\_\_\_
- 5) Code Officer's Annual Inspection (new and renewal applications) \_\_\_\_\_  
Code Officer's inspection of establishment (new applications) \_\_\_\_\_  
Date of Code Officer's Inspection (if applicable): \_\_\_\_\_



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1. The first part of the document is a list of names and their corresponding addresses. The names are listed in a single column, and the addresses are listed in a single column to the right of the names. The names are: John Doe, Jane Smith, Robert Brown, Mary White, and Thomas Green. The addresses are: 123 Main St, 456 Elm St, 789 Oak St, 101 Pine St, and 202 Cedar St.

2. The second part of the document is a list of names and their corresponding addresses. The names are listed in a single column, and the addresses are listed in a single column to the right of the names. The names are: John Doe, Jane Smith, Robert Brown, Mary White, and Thomas Green. The addresses are: 123 Main St, 456 Elm St, 789 Oak St, 101 Pine St, and 202 Cedar St.

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## VICTUALER'S LICENSE CERTIFICATE

Photocopyable at a special price. Page 12 of 12012

**THE 2011-2012 BUDGET** **FOR THE** **STATE OF** **MISSISSIPPI**

Wang, Y. Q., 1993

to identify the following:

100

Author's address: Department of Psychology, University of Cambridge, 18a Avenue Road, Cambridge CB3 0ET, UK. E-mail: [ajm22@cam.ac.uk](mailto:ajm22@cam.ac.uk)

in the municipality in 1996 by the House, was "based on self-sufficiency and the goal to be self-sufficient."

**THE UNIVERSITY OF CHICAGO PRESS**

Chen et al. • *CaMKII $\alpha$  and  $\beta$  in the Hippocampus*

Department of Psychology, University of Illinois at Chicago, Chicago, IL 60607

© 2000 Blackwell Science Ltd  
Journal of Internal Medicine 247: 391–396

The following table lists the number of persons in the United States in 1960 who were aged 65 and over, and the number of persons in the United States in 1960 who were aged 65 and over and who were also in the labor force.

**www.sagepub.com**

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# THE NEW YORK PUBLIC LIBRARY

04/16/2024

1990年12月30日

LOWELL  
GATEWAY  
COLUMBIAN MUSEUM

ATTORNEY AT LAW  
1000 KAWAULA DRIVE  
SUITE 1000  
KAWAULA, HAWAII 96741

CAUTION: Do not use this product if the seal is broken or missing.



**FOR TOWN OFFICE USE**

**Fee Schedule:** (1 Bedroom = \$ 10.00; 2 or more bedrooms = \$ 10.00 plus \$1.00 for each bedroom in excess of one bedroom)

**Amount of Fee Paid:** \_\_\_\_\_ **New Application:** \_\_\_\_\_ **Renewal Application:** \_\_\_\_\_ **Present License Exp. Date:** \_\_\_\_\_

**NEW LICENSE EXPIRATION DATE AFTER SELECT BOARD APPROVAL:** \_\_\_\_\_

**TOWN OF CAMDEN**  
**LODGING ESTABLISHMENT APPLICATION FORM**

**Applicant's Name:** Katja Haulitschka

(Please list all

**Applicant's if more than one)** Siobhan Kelly

**Date(s) of Birth of all applicants:** 12/4/60

4/27/62

**Business Name:** Towne Motel

**Business Location:** 68 Elm St, Camden

**Business Mailing Address:** \_\_\_\_\_

**Telephone Number:** 236-3377

**Email Address:** info@camdenmotel.com

- 1) **Total number of bedrooms located within structures on your property:** 19 (Including Owners & Staff)
- 2) **Total number of bedrooms in #1 above which conform to one of these approved Zoning categories (enter quantity for rent.)**

a) Homestay \_\_\_\_\_ Max 2 b) Rooming House \_\_\_\_\_ c) Inn \_\_\_\_\_ d) Hotel or Motel 17

- 3) **Has the number of rooms in your lodging establishment changed since the Town's last lodging license approval?**  
Yes \_\_\_\_\_ No ☒ If yes, please explain \_\_\_\_\_

- 4) **Has the operation of your lodging establishment changed since the Town's last lodging license approval? (i.e. increase or decrease in number of rooms; year-round to seasonal; seasonal to year-round, etc.)** Yes \_\_\_\_\_ No ☒

If yes, please explain: \_\_\_\_\_

- 5) **Describe briefly any food and drink services offered:** baked goods, coffee, o.j.

**Number of parking spaces provided:**

a) On-site 17

b) Owned off-site \_\_\_\_\_

c) Leased off-site \_\_\_\_\_

d) N/A; Lawful nonconforming \_\_\_\_\_ ("grandparented")

- 7) Date of expiration of current State of Maine Human Services Eating and Lodging License: 9/16/2024  
(Please attach a copy to this application, this certificate is issued from the State not the town)
- 8) Have you, as applicant, been convicted of a crime in the state of Maine or in any other jurisdiction which is punishable by one year or more imprisonment or for any other crime committed with the use of a dangerous weapon or of an offense involving the use of a firearm against another person within five (5) years of the date of application? Yes \_\_\_\_\_ No X
- 9) Is there any formal charging instrument now pending against you in the state of Maine or any other jurisdiction for a crime which is punishable by one year or more of imprisonment or for any other crime allegedly committed by the applicant with the use of a dangerous weapon or of an offense involving use of a firearm against another person? Yes \_\_\_\_\_ No X
- 10) Have you, as applicant, been adjudicated to be an incapacitated person pursuant to state law or, if such adjudication has occurred, that designation has been removed by order under Title 18-A, M.R.S.A., Section 5-307(b)? Yes \_\_\_\_\_ No X
- 11) Have you, as applicant, been dishonorably discharged from the military forces within the past five (5) years? Yes \_\_\_\_\_ No X
- 12) Are you an illegal alien? Yes \_\_\_\_\_ No X
- 13) Have you had three or more convictions for crimes punishable by less than one year imprisonment within five (5) years of the date of this application? Yes \_\_\_\_\_ No X
- 14) Have you been adjudicated as having committed a juvenile offense pursuant to the laws of the state of Maine or any jurisdiction within five (5) years of the date of application? Yes \_\_\_\_\_ No X

The applicant shall contact the Camden Fire Department (236-7950) to schedule a Life Safety Code inspection as referenced in the Camden Fire Prevention and Protection Ordinance. This application will not be accepted until signed off by the Camden Fire Department verifying that this facility complies with the Camden Fire Prevention and Protection Ordinance.

b) Verified quantity of Rooms.: a) Homestay \_\_\_\_\_ b) Rooming House \_\_\_\_\_ c) Inn \_\_\_\_\_  
d) Hotel or Motel \_\_\_\_\_

By \_\_\_\_\_

Date: \_\_\_\_\_

[Signature]  
Signature of Camden Fire Department Inspector

11-3-23  
Date

[Signature]  
Signature of Applicant

Nov 3, 2023  
Date

Please return the completed application to the Town Manager's Office on or before: \_\_\_\_\_ along with the appropriate license application fee (fee scheduled explained at the top of Page 1).

(Questions #8 - #14 pertain to Lodging Establishment Ordinance requirements. A copy of the full text of the Ordinance is available at the Town Clerk's Office.)  
\*\*\*\*\*

Approved by the Camden Select Board on \_\_\_\_\_, 202\_\_\_\_.

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**FOR CODE ENFORCEMENT / FIRE DEPARTMENT USE ONLY**

- 1) Zone \_\_\_\_\_ 2) Tax Map \_\_\_\_\_ Lot \_\_\_\_\_ 3) Lot Size \_\_\_\_\_
- 2) Planning Board or Zoning Board approved restrictions or conditions: \_\_\_\_\_  
\_\_\_\_\_
- 3) Number of bedrooms' licensed by DHHS \_\_\_\_\_, Permitted by Camden \_\_\_\_\_,
- 4) Fire Chief's Annual Inspection (new and renewal applications) \_\_\_\_\_  
Date of Fire Chief's Inspection: \_\_\_\_\_
- 5) Code Officer's Annual Inspection (new and renewal applications) \_\_\_\_\_  
Date of Code Officer's Inspection: \_\_\_\_\_

Form of License  
 No. 1000  
 Issued 10/1/1917  
 Licensee 1000000000  
 License 1000000000  
 License 1000000000  
 License 1000000000



# **LOBBING LICENSE CERTIFICATE**

Montpelier of Camden, Maine June 1, 1917

In all whom these presents have been

to be licensed by  
 John A. Smith  
 June 1, 1917

at  
 1000000000

at  
 1000000000

to the municipality of 1000000000 and has paid  
 to the municipality the sum of \$

*James C. Smith*

Attest: James C. Smith

The license may be renewed by the holder at the expiration of the term of the license  
 at the same rate as the original license.

Form of License  
 No. 1000  
 Issued 10/1/1917  
 Licensee 1000000000  
 License 1000000000  
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 License 1000000000



# **VICTUALER'S LICENSE CERTIFICATE**

Montpelier of 1000000000 June 1, 1917

In all whom these presents have been

to be licensed by  
 John A. Smith  
 June 1, 1917

at  
 1000000000

at  
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to the municipality of 1000000000 and has paid  
 to the municipality the sum of \$

*James C. Smith*

Attest: James C. Smith

The license may be renewed by the holder at the expiration of the term of the license  
 at the same rate as the original license.

# **State of Maine**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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\$20 Fee Paid on: 12/5/23 **FOR TOWN OFFICE USE**  
New Application:                      Renewal Application:                      Present License Exp. Date:                     

NEW LICENSE EXPIRATION DATE AFTER SELECT BOARD APPROVAL:                     

**TOWN OF CAMDEN**  
**VICTUALER LICENSE APPLICATION FORM**

Applicant's Name:  
(Please list all  
applicants, if more than one)

Joanna Spinks

Date(s) of Birth of all applicants:

3/5/1984

Business Name:

First Fig

Business Location:

31 Elm St. Camden, ME 04843

Business Mailing Address:

31 Elm St. Camden, ME 04843

Email Address:

joanna.spinks@gmail.com

Telephone Number:

207 265 0437

Describe briefly the food and drink services offered:

wine retail, wine by the glass,  
coffee, tea, hot chocolate, pre-packaged foods (i.e. pastries, cheeses)

- 1) On premise-meals served? Yes ☒ No ☐ Seating capacity? 25
- 2) Take-out service? Yes ☒ No ☐ Fast food? Yes ☐ No ☒  
Sit Down? Yes ☒ No ☐
- 3) Number of parking spaces provided:  
a) On-site 1 c) Leased off-site                       
b) Owned off-site                      d) NA; Lawful nonconforming use                      ("grandparented")
- 4) Has the number of seats in your eating establishment changed since the Town's last Victualer's License approval?  
Yes ☐ No ☒ If yes, please explain:
- 5) Have there been any changes in the operation of your eating establishment since the Town's last Victualer's License approval? (i.e. fast food to sit down; sit down to fast food, etc) Yes ☐ No ☐
- 6) Date of expiration of current State of Maine Human Services Eating License:  
**(Please attach a copy to this application, this certificate is issued from the State not the town)**
- 7) Is your premises connected to an approved septic disposal system or the town's public sewer system?  
Yes ☒ No ☐

- 8) Has adequate provision been made for the storage and disposal of waste and garbage?  
Yes ☒ No ☐
- 9) If food is cooked on the premises, is there an approved vent from the cooking area to the outside? Yes ☒ No ☐
- 10) Have you, as applicant, been convicted of a crime in the state of Maine or in any other jurisdiction which is punishable by one year or more imprisonment or for any other crime committed with the use of a dangerous weapon or of an offense involving the use of a firearm against another person within five (5) years of the date of application? Yes ☐ No ☒
- 11) Is there any formal charging instrument now pending against you in the state of Maine or any other jurisdiction for a crime which is punishable by one year or more of imprisonment or for any other crime allegedly committed by the applicant with the use of a dangerous weapon or of an offense involving use of a firearm against another person? Yes ☐ No ☒
- 12) Have you, as applicant, been adjudicated to be an incapacitated person pursuant to state law or, if such adjudication has occurred, that designation has been removed by order under Title 18-A, M.R.S.A., Section 5-307(b)? Yes ☐ No ☒
- 13) Have you, as applicant, been dishonorably discharged from the military forces within the past five (5) years?  
Yes ☐ No ☒
- 14) Are you an illegal alien? Yes ☐ No ☒
- 15) Have you had three or more convictions for crimes punishable by less than one year imprisonment within five (5) years of the date of this application? Yes ☐ No ☒
- 16) Have you been adjudicated as having committed a juvenile offense pursuant to the laws of the state of Maine or any jurisdiction within five (5) years of the date of application? Yes ☐ No ☒

**The applicant shall contact the Camden Fire Department (236-7950) to schedule a Life Safety Code inspection as referenced in the Camden Fire Prevention and Protection Ordinance. This application will not be accepted until signed off by the Camden Fire Department verifying that this facility complies with the Camden Fire Prevention and Protection Ordinance.**

  
Signature of Camden Fire Department Inspector

12-5-2023  
Date

  
Signature of Applicant

12/5/23  
Date

**Please return the completed application to the Town Manager's Office on or before: \_\_\_\_\_ along with the appropriate license application fee (fee scheduled explained at the top of Page 1.**

(Questions #9 - #15 pertain to Victualer Ordinance requirements. A copy of the full text of the Ordinance is available at the Town Clerk's Office.)



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Approved by the Camden Select Board on \_\_\_\_\_, 202\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

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**FOR CODE ENFORCEMENT & FIRE DEPARTMENT USE ONLY**

- 1) Zone \_\_\_\_\_ 2) Tax Map \_\_\_\_\_ Lot \_\_\_\_\_ 3) Lot Size \_\_\_\_\_
- 2) Planning Board or Zoning Board approved restrictions or conditions: \_\_\_\_\_
- 4) Fire Dept's Annual Inspection (new and renewal applications)   
Date of Fire Dept's Inspection: 12-5-2023
- 5) Code Officer's Annual Inspection (new and renewal applications) \_\_\_\_\_  
Code Officer's inspection of establishment (new applications)   
Date of Code Officer's Inspection (if applicable): 12-5-2023





Maine Department of Agriculture, Conservation & Forestry  
Division of Quality Assurance and Regulations  
28 State House Station  
Augusta, Maine 04333-0028  
Phone: 207-287-3841 Fax: 207-287-5576



**RETAIL FOOD INSPECTION REPORT**

Establishment Name:		First Fig				Fee:					
Street Address:		31 Elm ST				License #:		5-20682		Expiration: n/a	
City:	Camden	State:	ME	Zip:	04843-	Type of Inspection:		Initial			
Telephone:						Reason for Inspection:		Scheduled			
Email:		joannaspinks@gmail.com				Admin. Action Requested		N		Follow-up Date:	
Date:	01/02/2024	Time In:	12:01	Time Out:	12:45	Report #:	857621				

CRITICAL DEFICIENCY POINTS : 0

TOTAL POINTS : 0

**Critical Deficiencies**

**Non-Critical Deficiencies**

Comments: OK to issue license for Retail Sales: coffee/tea (prepared on site), cold food (prepared on site), hot food (prepared on site), prepackaged meat, prepackaged food.

Inspector: John Morris

Received By: Joanna Spinks

Signature:



APPLICANT	RESIDENCE	PRIMARY INCOME	BOAT NAME	HARBOR COMMITTEE APPROVAL	SELECT BOARD APPROVAL DATE
<b>Bradford Scott</b> 22 Fish Lane Hope, ME 04847 <b>207-557-0326</b>	HOPE	YES	WEB	12.14.23	
<b>Mark Bradstreet</b> 2336 Belfast Rd Lincolnvile, ME 04849 <b>207-441-8801</b>	LINCOLNVILLE	YES	LADY CATHERINE	12.14.23	<b>WITHDREW</b>
<b>Barney Appleton</b> 342 Hope Rd Lincolnvile, ME 04849 <b>207-701-1689/207-236-3747</b>	LINCOLNVILLE	NO	SAMANTHA KATE	12.14.23	
<b>Adam Scott</b> 269 Crabtree Rd Hope, ME 04847 <b>207-837-9908</b>	HOPE	YES	MOJO	12.14.23	
<b>David Emery</b> 8 Emery Way Camden, ME 04843 207-691-5199	CAMDEN	YES	LATE NITE	12.14.23	
<b>Arthur Tibbets</b> P.O. Box 247 Camden, ME 04843 236-3981/596-3040	CAMDEN	NO	TIN CAN / RANDA	12.14.23	
<b>Toby Wincklhofer</b> 420 Tirnpike Dr Camden, ME 04843 <b>207-691-0062/207-691-1400</b>	CAMDEN	YES	GLADYS WINCK	12.14.23	

December 15, 2023

**To:** Chief Randy Gagne  
Camden Police Department

**From:** Janice L. Esancy  
Assistant Town Manager

The following: Peter Ott's at 16 Bay View Landing for a renewal Class A Restaurant Liquor License. There will be a public hearing regarding this license at an upcoming Select Board Meeting.

Have there been any incidents reported to the Camden Police Department since December 2022 regarding this establishment? \_\_\_\_\_  
Yes \_\_\_\_\_ No. If yes, please explain. \_\_\_\_\_

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Please return this form to the Town Manager's Office. Thank you.

\_\_\_\_\_  
Chief Randy Gagne  
Camden Police Department

\_\_\_\_\_  
Date



STATE OF MAINE  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS  
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

*All Questions Must Be Answered Completely. Please print legibly.*

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes <input type="checkbox"/> No <input type="checkbox"/>	

Section I: Licensee/Applicant(s) Information;  
Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): <u>Peter ott's</u>	Business Name (D/B/A): <u>Peter ott's on the water</u>
Individual or Sole Proprietor Applicant Name(s): <u>Peter masin-Peters</u>	Physical Location: <u>16 Bayview Landing Camden ME 04843</u>
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different:
Mailing address, if different from DBA address:	Email Address: <u>peterotts@gmail.com</u>
Telephone #      Fax #: <u>(207) 236-4032</u>	Business Telephone #      Fax #: <u>(207) 236-4032</u>
Federal Tax Identification Number: <u>01-0356536</u>	Maine Seller Certificate # or Sales Tax #: <u>0167066</u>
Retail Beverage Alcohol Dealers Permit:	Website address: <u>peterotts.com</u>

1. New license or renewal of existing license? ☐ New      Expected Start date: \_\_\_\_\_  
☒ Renewal      Expiration Date: 11/22/24
2. The dollar amount of gross income for the licensure period that will end on the expiration date above:  
Food: 1,400,000      Beer, Wine or Spirits: 400,000      Guest Rooms: N/A
3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)  
☒ Malt Liquor (beer)      ☒ Wine      ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> Restaurant<br>(Class I, II, III, IV)   | <input type="checkbox"/> Class A Restaurant/Lounge<br>(Class XI)         | <input type="checkbox"/> Class A Lounge<br>(Class X)  |
| <input type="checkbox"/> Hotel<br>(Class I, II, III, IV)   | <input type="checkbox"/> Hotel – Food Optional<br>(Class I-A)            | <input type="checkbox"/> Bed & Breakfast<br>(Class V) |
| <input type="checkbox"/> Golf Course (included optional licenses, please check if apply)<br>(Class I, II, III, IV) | <input type="checkbox"/> Auxiliary                                       | <input type="checkbox"/> Mobile Cart                  |
| <input type="checkbox"/> Tavern<br>(Class IV)  | <input type="checkbox"/> Other: _____                                    |   |
| <input type="checkbox"/> Qualified Caterer   | <input type="checkbox"/> Self-Sponsored Events (Qualified Caterers Only) |   |

*Refer to Section V for the License Fee Schedule on page 9*

5. Business records are located at the following address:

106 Chestnut St Camden ME 04843

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

**NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.**

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If **Yes**, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: \_\_\_\_\_  
 \_\_\_\_\_

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Peter Masin-Peters	3/9/78	Damariscotta, ME

Residence address on all the above for previous 5 years

Name	Address:
Peter Masin-Peters	106 Chestnut St. Camden ME 04843

Name	Address:
------	----------

Name	Address:
------	----------

Name	Address:
------	----------

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

\_\_\_\_\_

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☒ Yes ☐ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: Peter masin-Peters Date of Conviction: 12/28/11

Offense: OUI Location: Rockland, maine

Disposition: guilty

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

stuart smith, Camden me

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: N/A

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Two dining rooms, outside deck, full bar,  
serves lunch + dinner

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: church

Distance: 1/4 mile

## Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 12/13/23

  
Signature of Duly Authorized Person

\_\_\_\_\_  
Signature of Duly Authorized Person

Peter Masin-Petens  
Printed Name Duly Authorized Person

\_\_\_\_\_  
Printed Name of Duly Authorized Person

**Section III: For use by Municipal Officers and County Commissioners only**

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: \_\_\_\_\_

Who is approving this application? ☐ Municipal Officers of \_\_\_\_\_

☐ County Commissioners of \_\_\_\_\_ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

**This Application will Expire 60 Days from the date of  
Municipal or County Approval unless submitted to the Bureau**

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§653. Hearings; bureau review; appeal

**1. Hearings.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

**A.** The bureau shall prepare and supply application forms.



## Section V: Fee Schedule

**Filing fee required.** In addition to the license fees listed below, a filing fee of \$10.00 must be included with all applications.

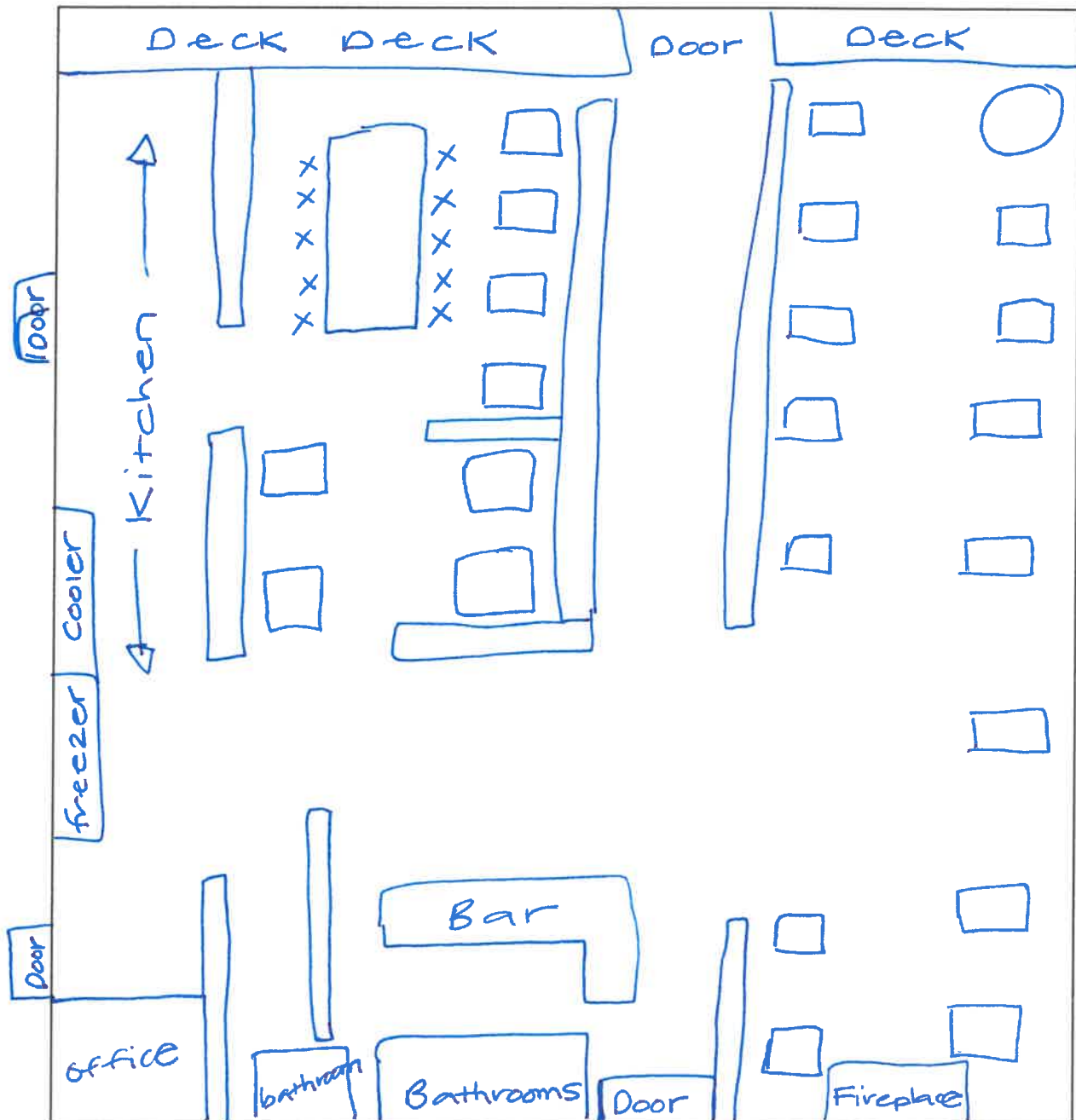
**Please note:** For Licensees/Applicants in unorganized territories in Maine, the \$10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

<b><u>Class of License</u></b>	<b><u>Type of liquor/Establishments included</u></b>	<b><u>Fee</u></b>
<b>Class I</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	\$ 900.00
<b>Class I-A</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes only hotels that do not serve three meals a day.	\$1,100.00
<b>Class II</b>	<b>For the Sale of Spirits Only</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	\$ 550.00
<b>Class III</b>	<b>For the Sale of Wine Only</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 220.00
<b>Class IV</b>	<b>For the Sale of Malt Liquor Only</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	\$ 220.00
<b>Class III and IV</b>	<b>For the Sale of Malt Liquor and Wine Only</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 440.00
<b>Class V</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes only a Club without catering privileges.	\$ 495.00
<b>Class X</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes only a Class A Lounge	\$2,200.00
<b>Class XI</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes only a Restaurant Lounge	\$1,500.00

## Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



## Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises Liquor License Who are Legal Business Entities

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

*All Questions Must Be Answered Completely. Please print legibly.*

1. Exact legal name: Peter ott's
2. Doing Business As, if any: Peter ott's on the water
3. Date of filing with Secretary of State: 1974 State in which you are formed: maine
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:  
\_\_\_\_\_
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Peter masin-Peters	106 Chestnut St. <sup>Camden</sup> ME 04843	3/9/78	President	100 %

(Ownership in non-publicly traded companies must add up to 100%.)

December 5, 2023


**To:** Chief Randy Gagne  
Camden Police Department

**From:** Janice L. Esancy  
Assistant Town Manager

The following: The Jack at 43 Mechanic Street for a renewal Class A Restaurant/Lounge Liquor License. There will be a public hearing regarding this license at an upcoming Select Board Meeting.

Have there been any incidents reported to the Camden Police Department since December 2022 regarding this establishment? \_\_\_\_\_  
Yes ☒ No. If yes, please explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please return this form to the Town Manager's Office. Thank you.

  
\_\_\_\_\_  
Chief Randy Gagne  
Camden Police Department

12/11/23  
\_\_\_\_\_  
Date



STATE OF MAINE  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS  
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

Application for an On-Premises License

*All Questions Must Be Answered Completely. Please print legibly.*

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes <input type="checkbox"/> No <input type="checkbox"/>	

Section I: Licensee/Applicant(s) Information;  
Type of License and Status

Legal Business Entity Applicant Name (corporation, LLC): <u>The Jack Bar, LLC</u>	Business Name (D/B/A): <u>The Jack</u>
Individual or Sole Proprietor Applicant Name(s): <u>Caleb Lachance</u>	Physical Location: <u>43 Mechanic St</u> <u>Camden, ME 04843</u>
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: <u>211 Wottons Mill Rd.</u> <u>Warren, ME 04864</u>
Mailing address, if different from DBA address:	Email Address: <u>thejackllc@gmail.com</u>
Telephone # <u>207-691-1988</u> Fax #:	Business Telephone # Fax #: <u>207-236-3626</u>
Federal Tax Identification Number: <u>82-5495299</u>	Maine Seller Certificate # or Sales Tax #: <u>119457</u>
Retail Beverage Alcohol Dealers Permit:	Website address:

1. New license or renewal of existing license? ☐ New Expected Start date: \_\_\_\_\_  
☒ Renewal Expiration Date: 12/16/2023

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

Food: 285,077.47 Beer, Wine or Spirits: 155,330.03 Guest Rooms: \_\_\_\_\_  
FROM NOV. 1, 2022 - NOV. 1, 2023

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer) ☒ Wine ☒ Spirits

4. Indicate the type of license applying for: (choose only one)

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Restaurant<br>(Class I, II, III, IV)  | <input checked="" type="checkbox"/> Class A Restaurant/Lounge<br>(Class XI) | <input type="checkbox"/> Class A Lounge<br>(Class X)  |
| <input type="checkbox"/> Hotel<br>(Class I, II, III, IV)   | <input type="checkbox"/> Hotel – Food Optional<br>(Class I-A)               | <input type="checkbox"/> Bed & Breakfast<br>(Class V) |
| <input type="checkbox"/> Golf Course (included optional licenses, please check if apply)<br>(Class I, II, III, IV) | <input type="checkbox"/> Auxiliary  | <input type="checkbox"/> Mobile Cart                  |
| <input type="checkbox"/> Tavern<br>(Class IV)  | <input type="checkbox"/> Other: _____                                       |   |
| <input type="checkbox"/> Qualified Caterer   | <input type="checkbox"/> Self-Sponsored Events (Qualified Caterers Only)    |   |

*Refer to Section V for the License Fee Schedule on page 9*

5. Business records are located at the following address:

43 Mechanic St. Camden, ME 04843

6. Is the licensee/applicant(s) citizens of the United States? ☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine? ☒ Yes ☐ No

**NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.**

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☐ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: \_\_\_\_\_  
\_\_\_\_\_

11. Do you own or have any interest in any another Maine Liquor License? ☐ Yes ☒ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Caleb Lachance	12/27/1984	

Residence address on all the above for previous 5 years	
Name Caleb Lachance	Address: 211 Wottons Mill Rd Warren ME
Name Caleb Lachance	Address: 23 Holmes St. Rockland, ME
Name	Address:
Name	Address:

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

\_\_\_\_\_

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☐ Yes ☒ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

White Bark Properties, LLC PO Box 7320 Portland, ME  
04112



18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: \_\_\_\_\_

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Restaurant space with deck & patio

20. What is the distance from the premises to the **nearest** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: Watershed school

Distance: 251 feet

## Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 11/28/23

  
Signature of Duly Authorized Person

\_\_\_\_\_  
Signature of Duly Authorized Person

Caleb Lachance  
Printed Name Duly Authorized Person

\_\_\_\_\_  
Printed Name of Duly Authorized Person

**Section III: For use by Municipal Officers and County Commissioners only**

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: \_\_\_\_\_

Who is approving this application? ☐ Municipal Officers of \_\_\_\_\_

☐ County Commissioners of \_\_\_\_\_ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

**This Application will Expire 60 Days from the date of  
Municipal or County Approval unless submitted to the Bureau**

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§653. Hearings; bureau review; appeal

**1. Hearings.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

**A.** The bureau shall prepare and supply application forms.

**B.** The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

**C.** If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

**D.** If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

**2. Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

**A.** Conviction of the applicant of any Class A, Class B or Class C crime;

**B.** Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

**C.** Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

**D.** Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

**D-1.** Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

**E.** A violation of any provision of this Title;

**F.** A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

**G.**After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

**3. Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

**A. Repealed**

**B.** If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

**4. Repealed**

**5. Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

**Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine**

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
  - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its Retail Beverage Alcohol Dealers permit. See the TTB's website at <https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers> for more information.

## Section V: Fee Schedule

**Filing fee required.** In addition to the license fees listed below, a filing fee of \$10.00 must be included with all applications.

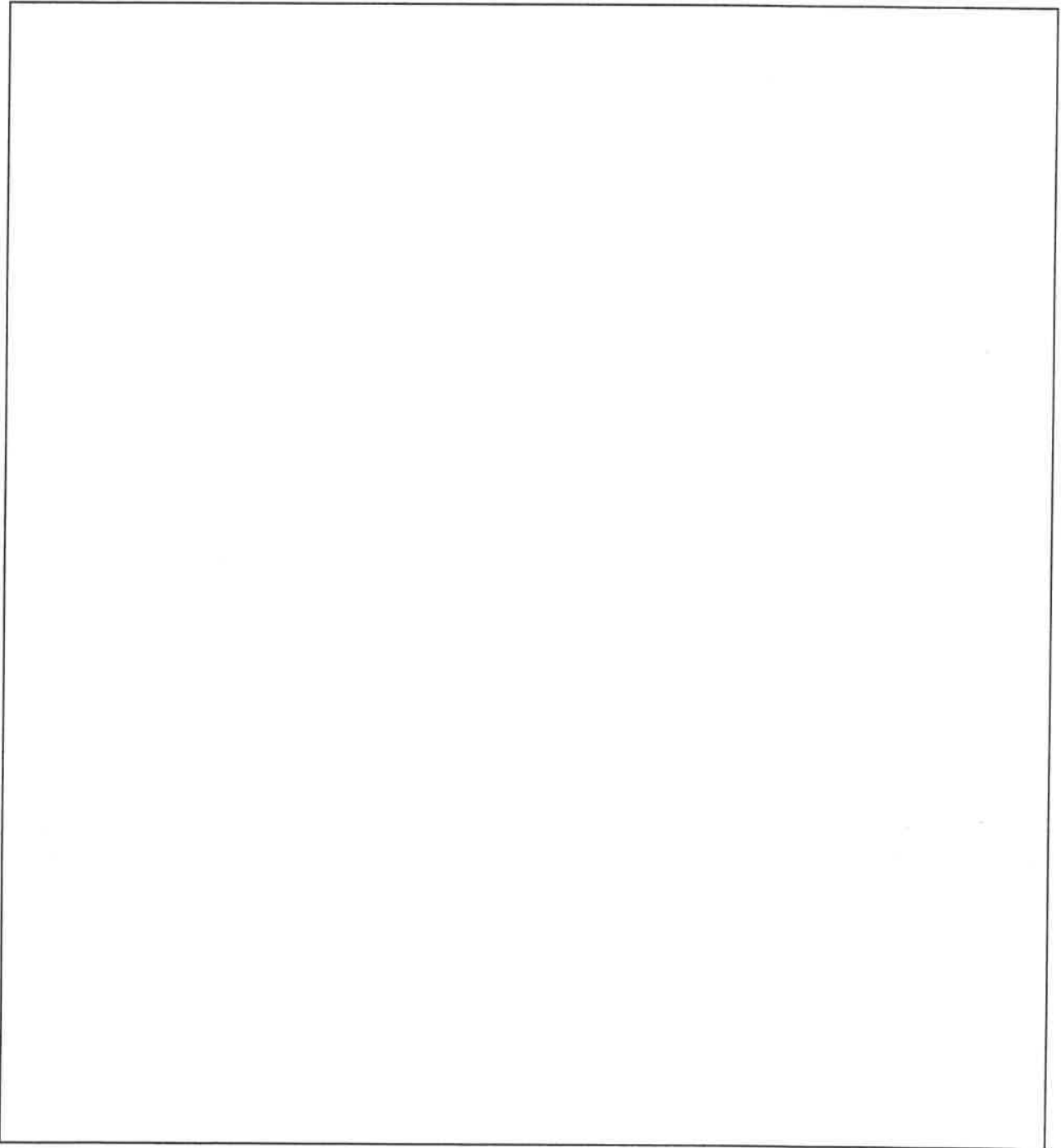
**Please note:** For Licensees/Applicants in unorganized territories in Maine, the \$10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

<b>Class of License</b>	<b>Type of liquor/Establishments included</b>	<b>Fee</b>
<b>Class I</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers	\$ 900.00
<b>Class I-A</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes only hotels that do not serve three meals a day.	\$1,100.00
<b>Class II</b>	<b>For the Sale of Spirits Only</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; and Vessels.	\$ 550.00
<b>Class III</b>	<b>For the Sale of Wine Only</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 220.00
<b>Class IV</b>	<b>For the Sale of Malt Liquor Only</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	\$ 220.00
<b>Class III and IV</b>	<b>For the Sale of Malt Liquor and Wine Only</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 440.00
<b>Class V</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes only a Club without catering privileges.	\$ 495.00
<b>Class X</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes only a Class A Lounge	\$2,200.00
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## Section VI Premises Floor Plan

In an effort to clearly define your license premise and the areas that consumption and storage of liquor authorized by your license type is allowed, the Bureau requires all applications to include a diagram of the premise to be licensed.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the following areas: entrances, office area, coolers, storage areas, display cases, shelves, restroom, point of sale area, area for on-premise consumption, dining rooms, event/function rooms, lounges, outside area/decks or any other areas on the premise that you are requesting approval. Attached an additional page as needed to fully describe the premise.



**Section VII: Required Additional Information for a Licensee/Applicant for an On-Premises  
Liquor License Who are Legal Business Entities**

Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

*All Questions Must Be Answered Completely. Please print legibly.*

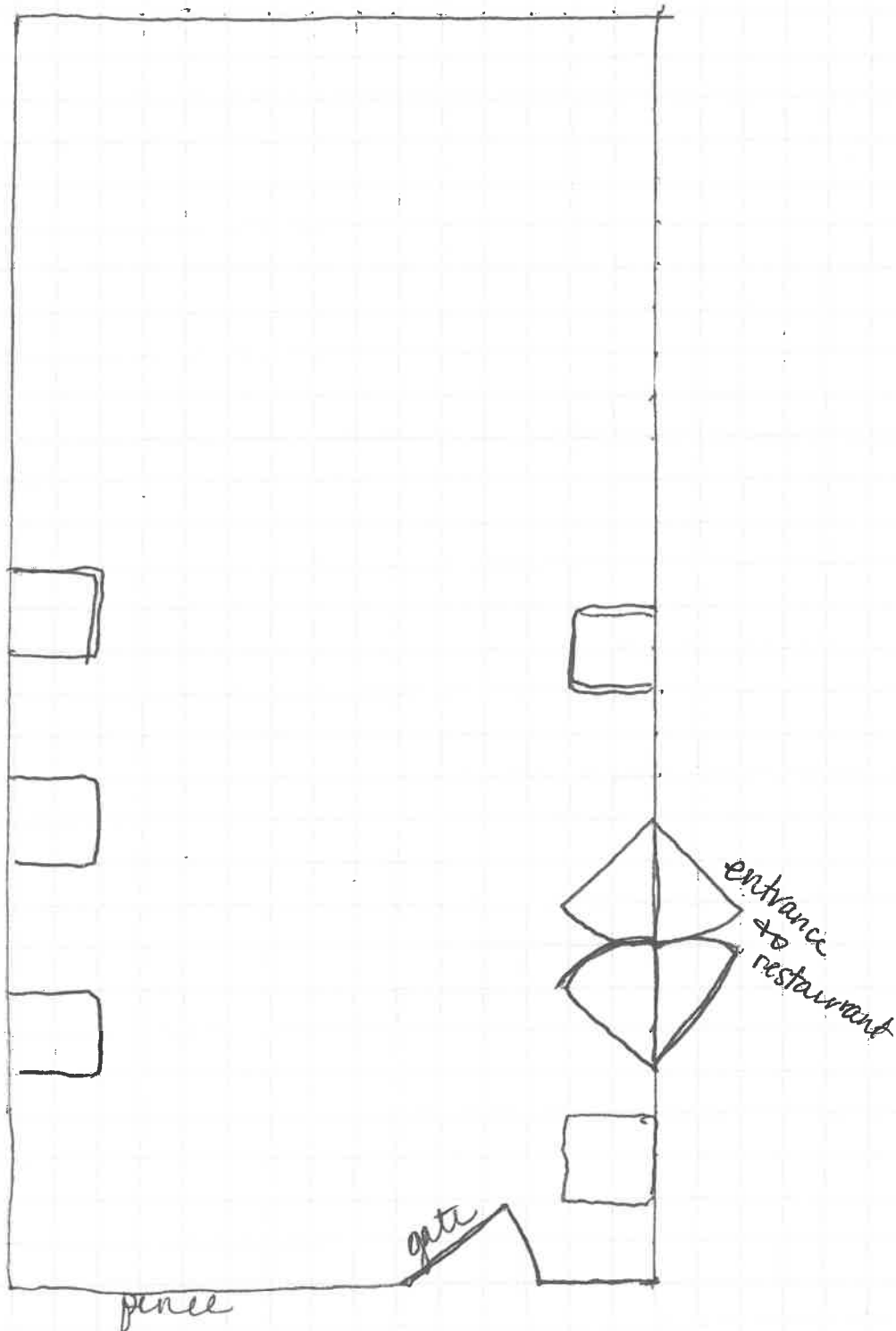
1. Exact legal name: \_\_\_\_\_
2. Doing Business As, if any: \_\_\_\_\_
3. Date of filing with Secretary of State: \_\_\_\_\_ State in which you are formed: \_\_\_\_\_
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:  
\_\_\_\_\_
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership

(Ownership in non-publicly traded companies must add up to 100%.)

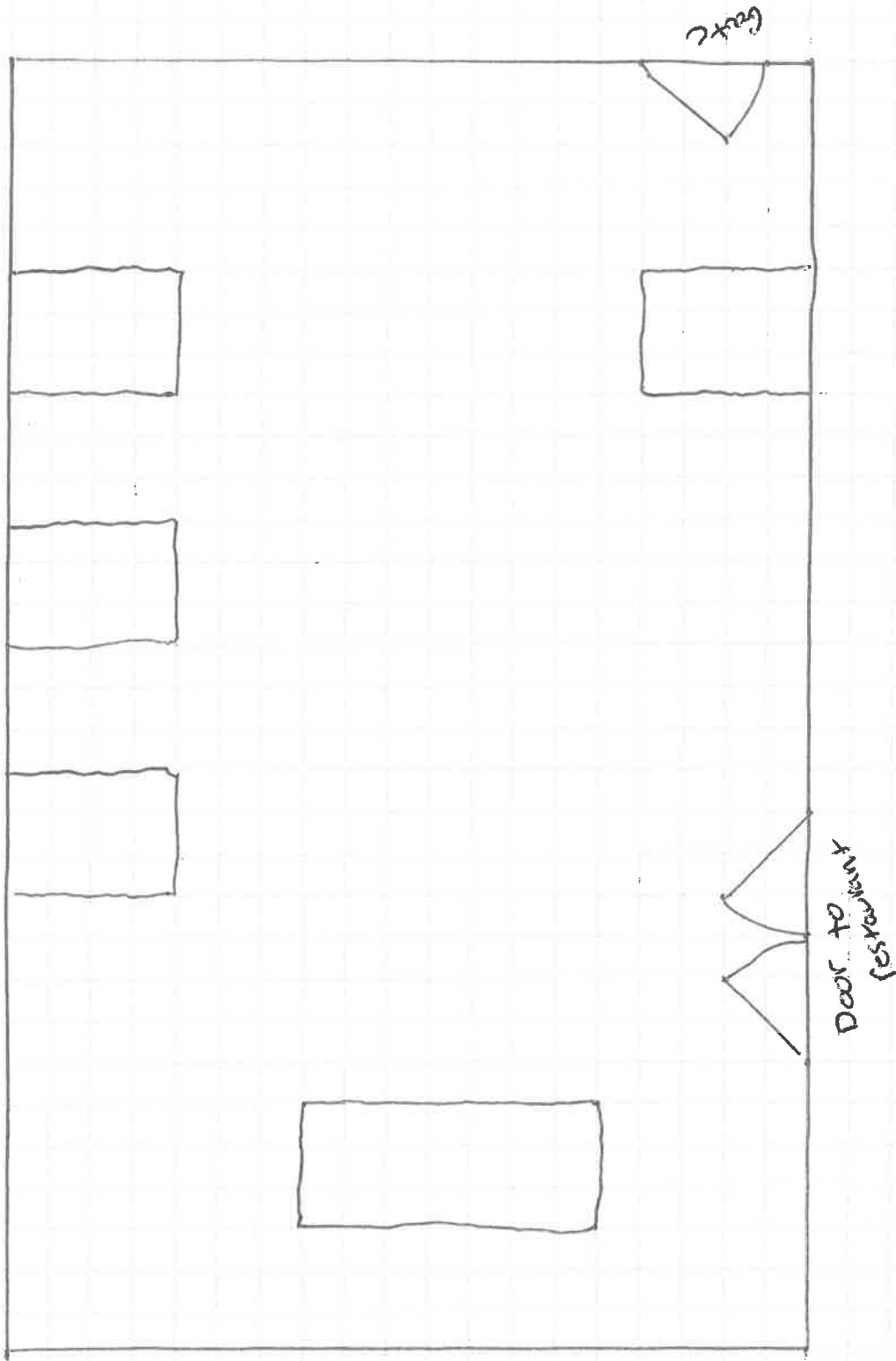
Patio (front side)  
15' x 30'

1 ft





Deck 15' x 50'



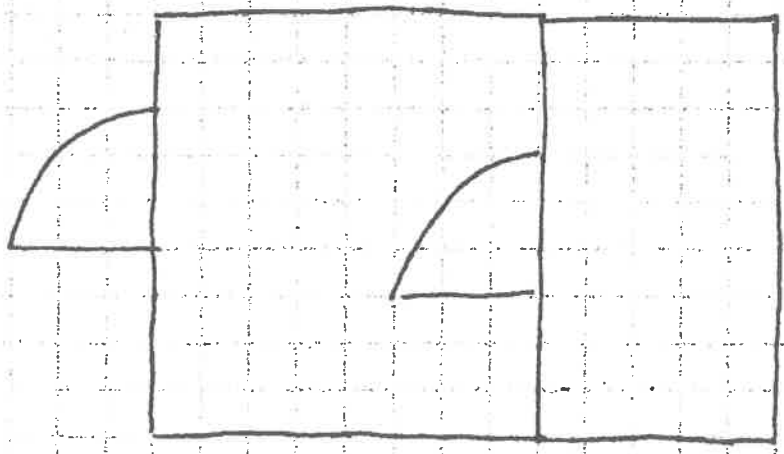
RECEIVED  
JUN 14 2018  
Lafayette Community  
& Recreation Center

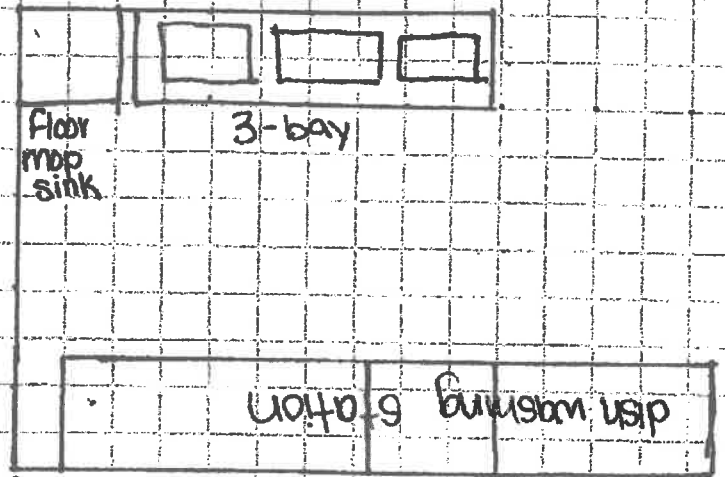
walk-in

freezer

9'x8'

8'11" x 5'1"





dish washing  
area

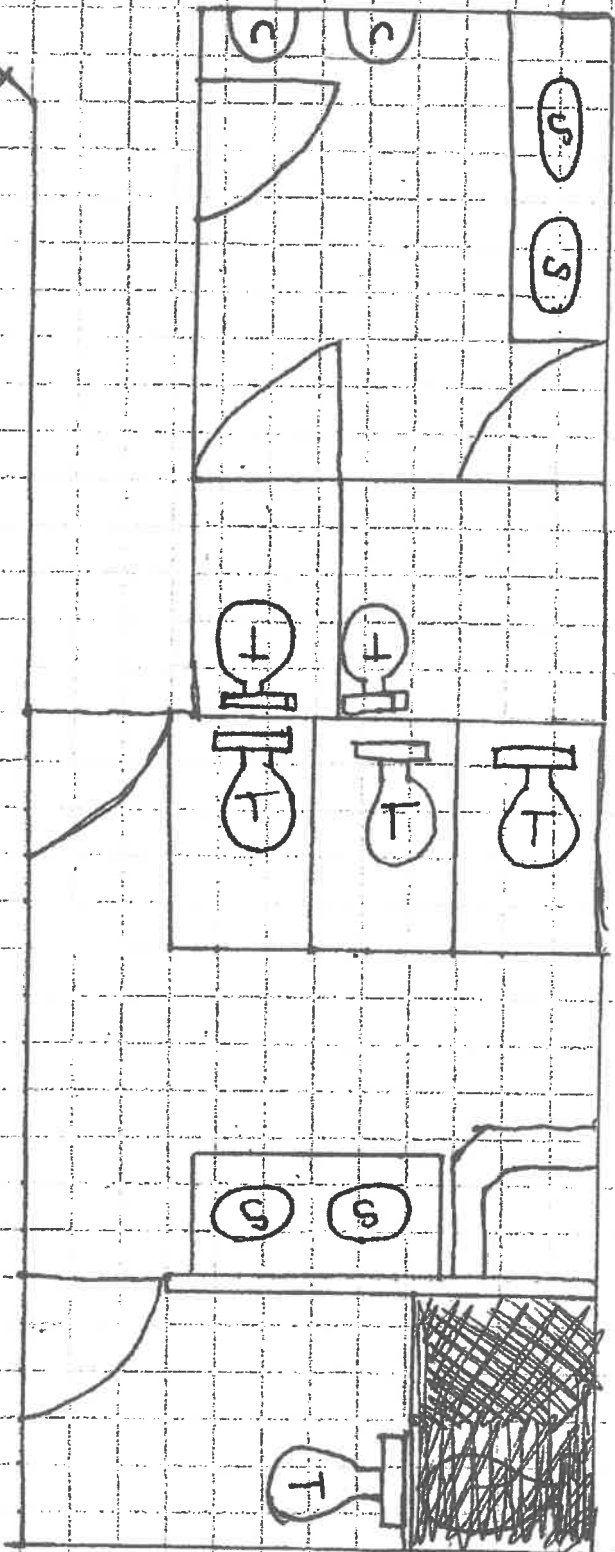
RECEIVED

JUN 14 2018

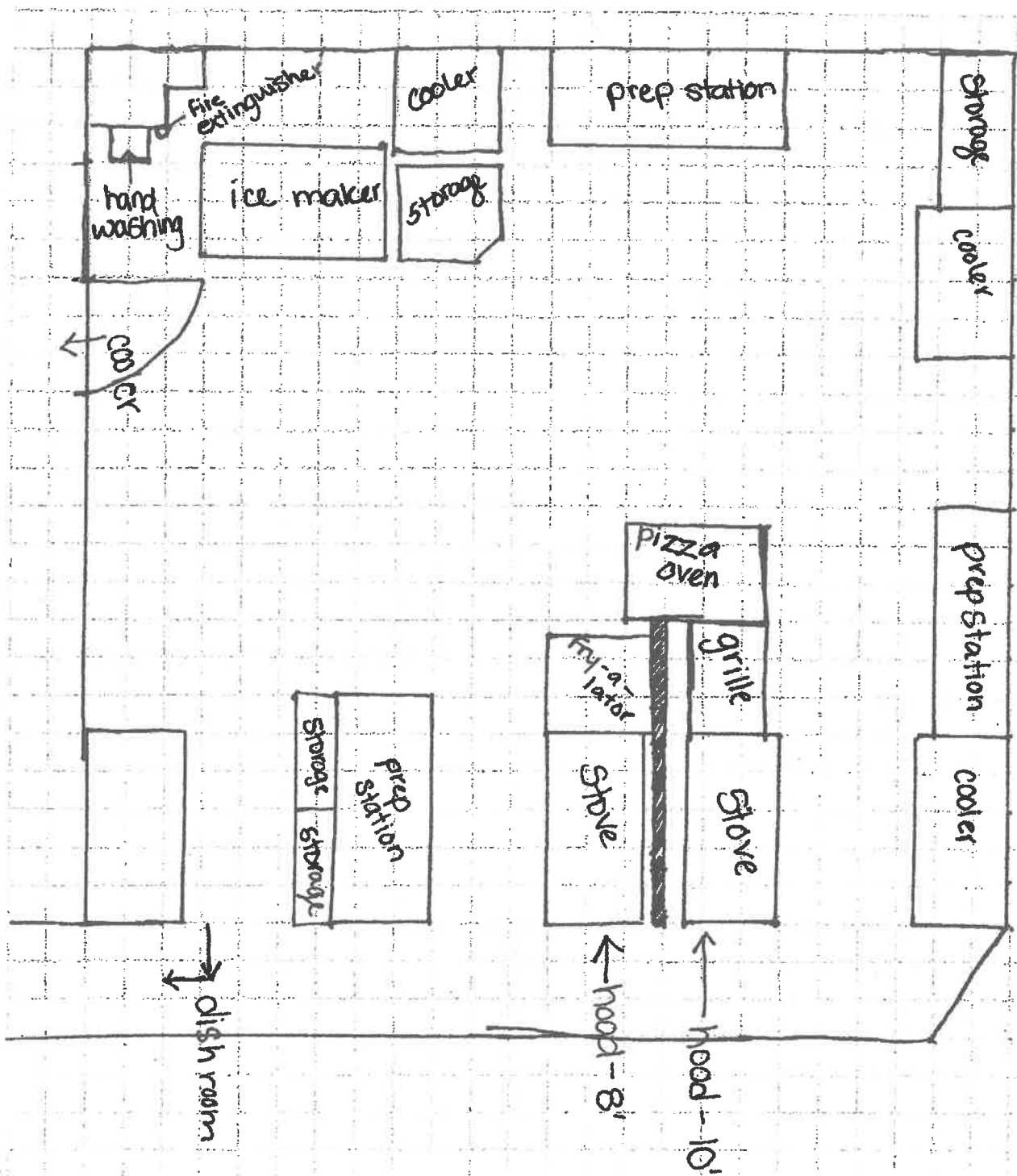
Legal Training  
& Enforcement

Bathroom  
door to  
kitchen  
4'5"

BATHROOMS

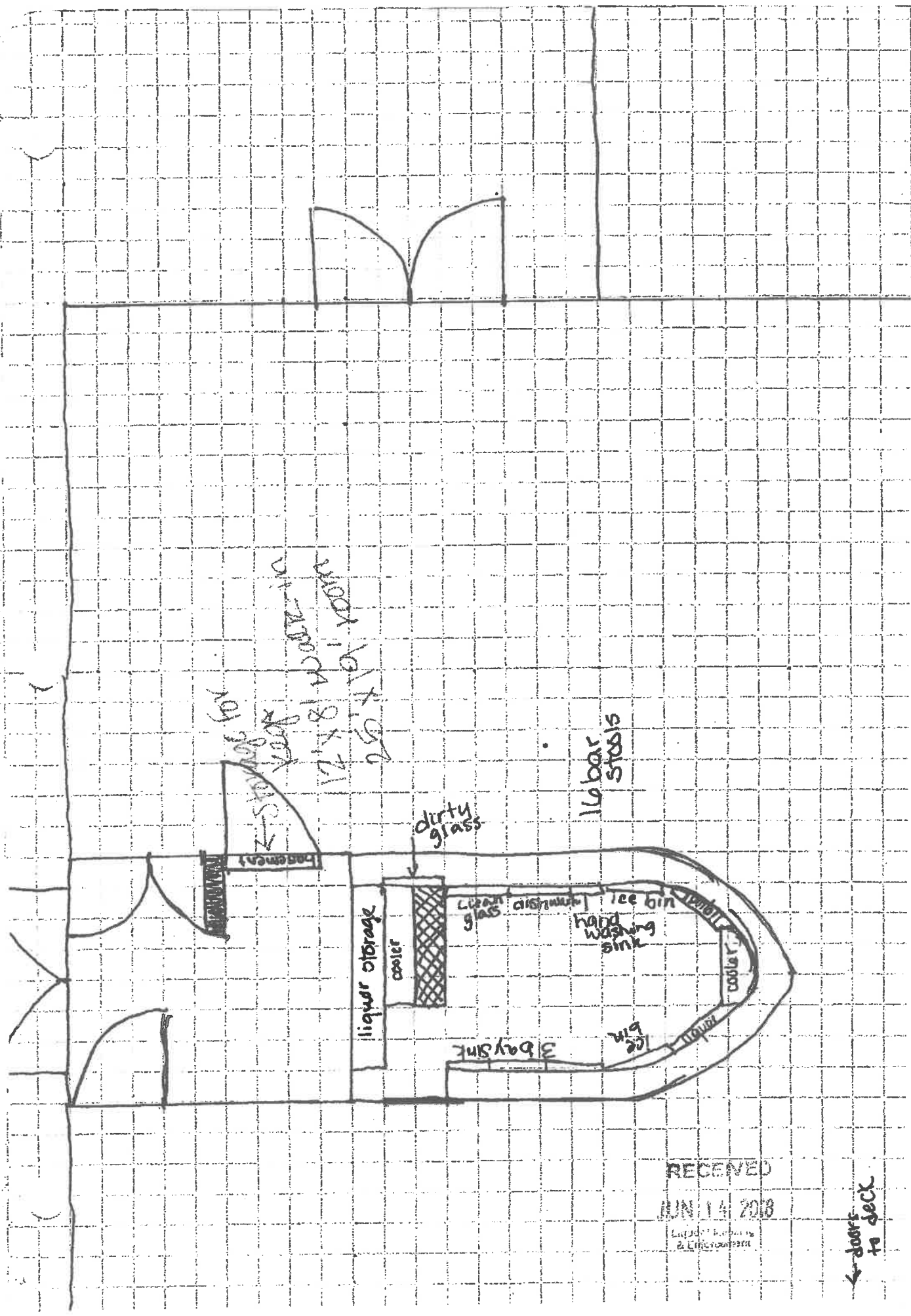


RECEIVED  
JUL 14 2018  
Liaison Liaison  
& Enforcement



Kitchen

RECEIVED  
JUN 14 2018  
Alcohol Sales & Enforcement



RECEIVED  
JUN 14 2018  
Lafayette University  
& Environmental

← door to deck

December 15, 2023

**To:** Chief Randy Gagne  
Camden Police Department

**From:** Janice L. Esancy  
Assistant Town Manager

The following: First Fig (former Oyster River Winegrowers) at 31 Elm Street for a "NEW" Class I Restaurant Liquor License. There will be a public hearing regarding this license at an upcoming Select Board Meeting.

Have there been any incidents reported to the Camden Police Department since December 2022 regarding this establishment? \_\_\_\_\_  
Yes \_\_\_\_\_ No. If yes, please explain. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please return this form to the Town Manager's Office. Thank you.

\_\_\_\_\_  
Chief Randy Gagne  
Camden Police Department

\_\_\_\_\_  
Date



STATE OF MAINE  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS  
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT

**Application for an On-Premises License**

All Questions Must Be Answered Completely. Please print legibly.

Division Use Only	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Payment Type:	
OK with SOS: Yes <input type="checkbox"/> No <input type="checkbox"/>	

**Section I: Licensee/Applicant(s) Information;  
Type of License and Status**

Legal Business Entity Applicant Name (corporation, LLC): <i>Joanna Spinks Enterprises LLC</i>	Business Name (D/B/A): <i>First Fig</i>
Individual or Sole Proprietor Applicant Name(s):	Physical Location: <i>31 Elm St. Camden ME 04843</i>
Individual or Sole Proprietor Applicant Name(s):	Mailing address, if different: <i>142 Oyster River Rd. Warren 04864</i>
Mailing address, if different from DBA address:	Email Address: <i>joannaspinks@gmail.com</i>
Telephone #      Fax #:	Business Telephone #      Fax #: <i>207 205 0437</i>
Federal Tax Identification Number: <i>882435561</i>	<input checked="" type="checkbox"/> Maine Seller Certificate # or Sales Tax #:
Retail Beverage Alcohol Dealers Permit:	Website address:

1. New license or renewal of existing license? ☒ New      Expected Start date: 1/15/24  
☐ Renewal      Expiration Date: \_\_\_\_\_

2. The dollar amount of gross income for the licensure period that will end on the expiration date above:

Food: \_\_\_\_\_ Beer, Wine or Spirits: \_\_\_\_\_ Guest Rooms: \_\_\_\_\_

3. Please indicate the type of alcoholic beverage to be sold: (check all that apply)

☒ Malt Liquor (beer)    ☒ Wine    ☐ Spirits



4. Indicate the type of license applying for: (choose only one)

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> Restaurant<br>(Class I, II, III, IV)   | <input type="checkbox"/> Class A Restaurant/Lounge<br>(Class XI)         | <input type="checkbox"/> Class A Lounge<br>(Class X)  |
| <input type="checkbox"/> Hotel<br>(Class I, II, III, IV)   | <input type="checkbox"/> Hotel – Food Optional<br>(Class I-A)            | <input type="checkbox"/> Bed & Breakfast<br>(Class V) |
| <input type="checkbox"/> Golf Course (included optional licenses, please check if apply)<br>(Class I, II, III, IV) | <input type="checkbox"/> Auxiliary                                       | <input type="checkbox"/> Mobile Cart                  |
| <input type="checkbox"/> Tavern<br>(Class IV)  | <input type="checkbox"/> Other: _____                                    |   |
| <input type="checkbox"/> Qualified Caterer   | <input type="checkbox"/> Self-Sponsored Events (Qualified Caterers Only) |   |

Refer to Section V for the License Fee Schedule on page 9

5. Business records are located at the following address:

142 Oyster River Rd. Warren, ME 04864

6. Is the licensee/applicant(s) citizens of the United States?

☒ Yes ☐ No

7. Is the licensee/applicant(s) a resident of the State of Maine?

☒ Yes ☐ No

**NOTE: Applicants that are not citizens of the United States are required to file for the license as a business entity.**

8. Is licensee/applicant(s) a business entity like a corporation or limited liability company?

☒ Yes ☐ No If Yes, complete Section VII at the end of this application

9. For a licensee/applicant who is a business entity as noted in Section I, does any officer, director, member, manager, shareholder or partner have in any way an interest, directly or indirectly, in their capacity in any other business entity which is a holder of a wholesaler license granted by the State of Maine?

☐ Yes ☒ No

☐ Not applicable – licensee/applicant(s) is a sole proprietor

10. Is the licensee or applicant for a license receiving, directly or indirectly, any money, credit, thing of value, endorsement of commercial paper, guarantee of credit or financial assistance of any sort from any person or entity within or without the State, if the person or entity is engaged, directly or indirectly, in the manufacture, distribution, wholesale sale, storage or transportation of liquor.

☐ Yes ☒ No

If yes, please provide details: \_\_\_\_\_

11. Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No

If yes, please list license number, business name, and complete physical location address: (attach additional pages as needed using the same format)

Name of Business	License Number	Complete Physical Address
Warren Wine Shop	14365	142 Oyster River Rd. Warren ME 04864

12. List name, date of birth, place of birth for all applicants including any manager(s) employed by the licensee/applicant. Provide maiden name, if married. (attach additional pages as needed using the same format)

Full Name	DOB	Place of Birth
Joanna Spinks	3.5.84	Boston, MA

Residence address on all the above for previous 5 years

Name: Joanna Spinks	Address: 142 Oyster River Rd. Warren, ME
Name:	Address: 37 Levenseller Rd. Seabrook, ME
Name:	Address: 6 Megunticook St. Camden, ME
Name:	Address:

13. Will any law enforcement officer directly benefit financially from this license, if issued?

☐ Yes ☒ No

If Yes, provide name of law enforcement officer and department where employed:

\_\_\_\_\_

14. Has the licensee/applicant(s) ever been convicted of any violation of the liquor laws in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

15. Has the licensee/applicant(s) ever been convicted of any violation of any law, other than minor traffic violations, in Maine or any State of the United States? ☐ Yes ☒ No

If Yes, please provide the following information and attach additional pages as needed using the same format.

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

Offense: \_\_\_\_\_ Location: \_\_\_\_\_

Disposition: \_\_\_\_\_

16. Has the licensee/applicant(s) formerly held a Maine liquor license? ☒ Yes ☐ No

17. Does the licensee/applicant(s) own the premises? ☐ Yes ☒ No

If No, please provide the name and address of the owner:

Frances Knight, Lincolnville ME

18. If you are applying for a liquor license for a Hotel or Bed & Breakfast, please provide the number of guest rooms available: \_\_\_\_\_

19. Please describe in detail the area(s) within the premises to be licensed. This description is in addition to the diagram in Section VI. (Use additional pages as needed)

Indoor seating includes 6 bar seats and four other small tables. Patio seats about 15 people.

20. What is the distance from the premises to the nearest school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel?

Name: First Congregational Church of Camden

Distance: 0.1 miles

## Section II: Signature of Applicant(s)

By signing this application, the licensee/applicant understands that false statements made on this application are punishable by law. Knowingly supplying false information on this application is a Class D Offense under Maine's Criminal Code, punishable by confinement of up to one year, or by monetary fine of up to \$2,000 or by both.

Please sign and date in blue ink.

Dated: 12/5/23

Joanna C. Spinks  
Signature of Duly Authorized Person

\_\_\_\_\_  
Signature of Duly Authorized Person

Joanna C. Spinks  
Printed Name Duly Authorized Person

\_\_\_\_\_  
Printed Name of Duly Authorized Person

**Section III: For use by Municipal Officers and County Commissioners only**

The undersigned hereby certifies that we have complied with the process outlined in 28-A M.R.S. §653 and approve this on-premises liquor license application.

Dated: \_\_\_\_\_

Who is approving this application? ☐ Municipal Officers of \_\_\_\_\_

☐ County Commissioners of \_\_\_\_\_ County

- ☐ **Please Note:** The Municipal Officers or County Commissioners must confirm that the records of Local Option Votes have been verified that allows this type of establishment to be licensed by the Bureau for the type of alcohol to be sold for the appropriate days of the week. Please check this box to indicate this verification was completed.

Signature of Officials	Printed Name and Title

**This Application will Expire 60 Days from the date of  
Municipal or County Approval unless submitted to the Bureau**

Included below is the section of Maine's liquor laws regarding the approval process by the municipalities or the county commissioners. This is provided as a courtesy only and may not reflect the law in effect at the time of application. Please see <http://www.mainelegislature.org/legis/statutes/28-A/title28-Asec653.html>

§653. Hearings; bureau review; appeal

**1. Hearings.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, may hold a public hearing for the consideration of applications for new on-premises licenses and applications for transfer of location of existing on-premises licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

**A.** The bureau shall prepare and supply application forms.

**B.** The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located.

**C.** If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premises license or transfer of the location of an existing on-premises license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premises license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premises license that has been extended pending renewal within 120 days of the filing of the application.

**D.** If an application is approved by the municipal officers or the county commissioners but the bureau finds, after inspection of the premises and the records of the applicant, that the applicant does not qualify for the class of license applied for, the bureau shall notify the applicant of that fact in writing. The bureau shall give the applicant 30 days to file an amended application for the appropriate class of license, accompanied by any additional license fee, with the municipal officers or county commissioners, as the case may be. If the applicant fails to file an amended application within 30 days, the original application must be denied by the bureau. The bureau shall notify the applicant in writing of its decision to deny the application including the reasons for the denial and the rights of appeal of the applicant.

**2. Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

**A.** Conviction of the applicant of any Class A, Class B or Class C crime;

**B.** Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control;

**C.** Conditions of record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;

**D.** Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises;

**D-1.** Failure to obtain, or comply with the provisions of, a permit for music, dancing or entertainment required by a municipality or, in the case of an unincorporated place, the county commissioners;

**E.** A violation of any provision of this Title;

**F.** A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601; and

G. After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

**3. Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

**A. Repealed**

B. If the decision appealed from is an application denial, the bureau may issue the license only if it finds by clear and convincing evidence that the decision was without justifiable cause.

**4. Repealed**

**5. Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

**Section IV: Terms and Conditions of Licensure as an Establishment that sells liquor for on-premises consumption in Maine**

- The licensee/applicant(s) agrees to be bound by and comply with the laws, rules and instructions promulgated by the Bureau.
- The licensee/applicant(s) agrees to maintain accurate records related to an on-premise license as required by the law, rules and instructions promulgated or issued by the Bureau if a license is issued as a result of this application.
  - The licensee/applicant(s) authorizes the Bureau to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also any books, records and returns during the year in which any liquor license is in effect.
- Any change in the licensee's/applicant's licensed premises as defined in this application must be approved by the Bureau in advance.
- All new applicants must apply to the Alcohol and Tobacco Tax and Trade Bureau (TTB) for its [Retail Beverage Alcohol Dealers](https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers) permit. See the TTB's website at <https://www.ttb.gov/nrc/retail-beverage-alcohol-dealers> for more information.

## Section V: Fee Schedule

**Filing fee required.** In addition to the license fees listed below, a filing fee of \$10.00 must be included with all applications.

**Please note:** For Licensees/Applicants in unorganized territories in Maine, the \$10.00 filing fee must be paid directly to County Treasurer. All applications received by the Bureau from licensees/applicants in unorganized territories must submit proof of payment was made to the County Treasurer together with the application.

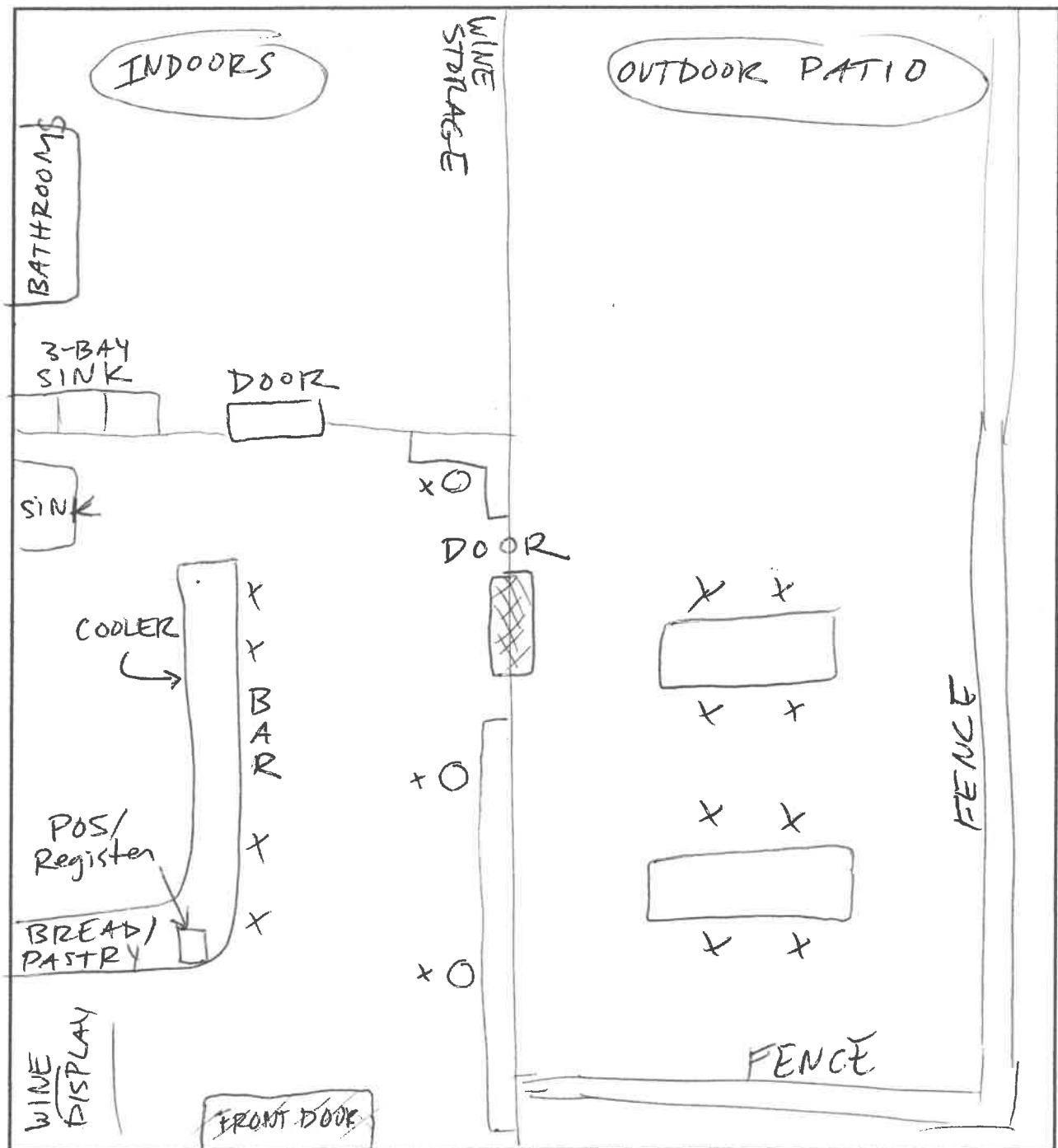
<b><u>Class of License</u></b>	<b><u>Type of liquor/Establishments included</u></b>	<b><u>Fee</u></b>
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<b>Class I-A</b>	<b>For the sale of liquor (malt liquor, wine and spirits)</b> This class includes only hotels that do not serve three meals a day.	\$1,100.00
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<b>Class IV</b>	<b>For the Sale of Malt Liquor Only</b> This class includes: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	\$ 220.00
★ <b>Class III and IV</b>	<b>For the Sale of Malt Liquor and Wine Only</b> This class includes: Airlines; Civic Auditoriums; <u>Class A Restaurants</u> ; Clubs with catering privileges; Dining Cars; Golf Courses; Hotels; Indoor Ice-Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	\$ 440.00
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Questions 1 to 4 of this part of the application must match information in Section I of the application above and match the information on file with the Maine Secretary of State's office. If you have questions regarding your legal entity name or DBA, please call the Secretary of State's office at (207) 624-7752.

All Questions Must Be Answered Completely. Please print legibly.

1. Exact legal name: Joanna Spinks Enterprises LLC
2. Doing Business As, if any: First Fig
3. Date of filing with Secretary of State: May 19 2022 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine:  
\_\_\_\_\_
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors, managers, members or partners and the percentage ownership any person listed: (attached additional pages as needed)

Name	Address (5 Years)	Date of Birth	Title	Percentage of Ownership
Joanna Spinks	142 Oyster River Rd. Warren ME	3/5/84	owner	100%
	37 Levenseller Rd. Seabrook, ME			
	6 Megunticook St. Camden, ME			

(Ownership in non-publicly traded companies must add up to 100%.)

TOWN OF CAMDEN, MAINE PERSONNEL POLICY



~~Adopted by the Camden Select Board on May 24,~~  
~~2022~~

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## **PERSONNEL POLICY**

### **Town of Camden, Maine**

#### **SECTION I – INTRODUCTION**

##### **1.1 Welcome**

As a new or current member of the Town of Camden community, this Personnel Policy/Employee Handbook is a resource to help employees understand our organization. Their important contributions ensure that we continue to provide the citizens of Camden with excellent services in the most efficient and effective manner possible.

##### **1.2 Values Mission Statement and Core Values**

The Town of Camden partners with our community members to deliver superior service in the most efficient and effective manner possible, while preserving, protecting, and enhancing the quality of life of all of our residents, businesses, and visitors.

**Culture of Excellence:** We respect members of the public and each other and treat all with courtesy and dignity. We are an inviting community that welcomes diversity and embraces our differences, promoting an atmosphere of inclusion and acceptance among our residents and visitors. We rely on teamwork to provide a seamless experience for all customers. We uphold high ethical standards in our personal, professional, and organizational conduct. We continuously strive to meet the needs of customers through available resources by being flexible and promoting the use of innovation.

**Accountability:** We accept responsibility for our personal and organizational decisions and actions, while delivering cost-effective and efficient services that are done right the first time.

**Communication:** We openly communicate with the public and each other by sharing information and soliciting feedback to achieve our goals.

**Diversity, Inclusion, Connection:** We believe a thriving and vibrant community stems from the diversity of its people. To that end, we strive to ensure people from all backgrounds, experiences and perspectives feel welcomed, respected, and accepted.

**Environment:** We are concerned about our natural, historic, economic, and aesthetic resources and work to preserve and enhance them for future generations.

**Safety:** We use education, prevention, and enforcement methods to protect life and property in the community and maintain our infrastructure and facilities to provide a safe environment in which to live, work, shop, and play.

**Trust:** We realize the perception of our organization is dependent upon the public's



confidence in our commitment to our core values and to meeting the goals set collectively by the Town Manager and Select Board.

### **1.3 Purpose and Effect**

The Town of Camden hereby adopts the following personnel policies and rules to establish a uniform, equitable and efficient system of personnel administration. The general purpose of this handbook is to establish a system of personnel administration that meets the social, economic and program needs of the Town of Camden. This handbook includes policies and procedures for employee hiring and advancement, benefits, retirement, employee leave policies, discipline and grievance processes, performance management, and other related policies. The policies in this handbook apply to all employees, however, where the handbook and Collective Bargaining Agreement conflict, the Collective Bargaining Agreement governs. This Personnel Policy is not an employment contract and should not be construed as such, nor should it be interpreted as making any guarantee regarding any employee's continued employment, wages, or benefits. A copy of this Policy shall be distributed to all employees upon hire and upon any significant amendment.

### **1.4 Goals of Personnel Management**

The goals of personnel management in the Town of Camden are as follows:

- Promote effectiveness, economy, and productivity in delivering services to the citizens of Camden.
- Encourage a commitment to professional excellence in serving the public and continue the professional development and upgrading of employee skills; and
- Provide reasonable assurances that all rights and benefits of employees and applicants for employment are protected and respected.

### **1.5 Applicability**

Except for provisions pertaining to equal opportunity, non-discrimination or investigation of wrongdoing, this Policy shall apply only to employees of the Town of Camden and shall not apply to the Select Board or other elected officials chosen by popular election or appointed to fill an elected office, or to members of boards, committees and commissions appointed by the Select Board, whether permanent or ad hoc.

### **1.6 Variance by Agreement**

Any provision of this Policy may be waived or modified by a written agreement executed by the Select Board or Town Manager and the affected employee, or by an agreement executed between the Town of Camden and another municipality to share the services of an official or employee. Any subject matter not addressed by an employment agreement shall be governed by this Policy.

### **1.7 Town Manager's Role**

It shall be the responsibility of the Town Manager to ensure the day-to-day administration of this Policy, to provide guidance to subordinates regarding application

of the Policy, and to seek or obtain policy guidance from the Select Board or Town Attorney as necessary.

### **1.8 Amendment**

The Select Board may unilaterally amend or revoke any provisions of this Policy at any time and shall notify employees of any change at least fourteen (14) business days before it is scheduled to take effect. Appendices A-L of this Policy shall each be considered standalone policies and may be amended as necessary by the Select Board without requiring full amendment of the Policy or fourteen (14) business days' notice to employees.

## **SECTION 2 – APPLICATION AND HIRING**

### **2.1 Equal Employment Opportunity and Non-Discrimination**

The Town of Camden is an equal employment opportunity employer and as such is committed to providing equal employment opportunities for all persons making application to the Town and for equity of treatment and advancement opportunities for its employees. The Town of Camden therefore has set forth a policy of nondiscriminatory hiring, employment, and personnel actions. Such decisions or actions shall not be based upon religion, age, sex, sexual orientation, gender identity, gender expression, marital status, race, color, ancestry, national origin, physical or mental disability, or any other protected class under federal and or state law, except as a bona fide occupational qualification.

### **2.2 Disability Accommodation**

#### **Purpose**

The Americans with Disabilities Act (ADA), the Americans with Disabilities Amendments Act (ADAAA), the Pregnant Workers Fairness Act (PWFA), and the Maine Human Rights Act require employers to not discriminate against applicants and individuals with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, so that they may perform the essential job duties of the position. It is the policy of the Town of Camden to comply with all federal and state laws concerning the employment of individuals with disabilities, (including temporary disabilities), and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC) and the Maine Human Rights Commission (MHRC). Furthermore, it is the Town's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions, and privileges of employment.

#### **Process**

Employees who have mental or physical disabilities, or pregnancy related medical conditions which may impact their ability to perform the essential functions of their job need to notify their supervisor to request an accommodation. Once the employer is aware of the disability or condition, they will begin the interactive process in consultation with human resources.

#### **Interactive process:**

- The employee and their supervisor meet to discuss their need for an accommodation.

- The employee and their supervisor review the essential functions of the job and may need to provide these to the employee's medical provider to confirm the disability and the need for an accommodation.
- The employee and their supervisor will review options for the accommodation and will work together to come up with ideas that are reasonable, and that do not create an undue hardship for the employer.
- Once a reasonable accommodation is determined, it will be documented and placed in the employee's medical file.
- Both the employee and their supervisor will continue to monitor need for the accommodation to ensure there aren't any issues/concerns by either party

### **2.3 Eligibility**

It is the policy of the Town of Camden that all positions within the Town be filled by fully qualified people who have been evaluated based upon job-related criteria. Eligibility for appointment, promotion or transfer shall be based upon such qualifications. It is also the policy of the Town to provide reasonable opportunities to currently qualified Town employees.

### **2.4 Announcement of Vacancies**

Recruitment notices shall be prepared setting forth a basic description of the position, any minimum qualifications, requirements or skills, education and experience preferences, application process, and the date by which applications must be received. Such notices shall affirm Camden as an Equal Opportunity Employer. It shall be the policy of the Town of Camden to advertise as widely as is deemed necessary to attract a qualified field of candidates. All job notices will be posted on bulletin boards in Town work sites and via Town emails and may run concurrently with external postings.

### **2.5 Application for Employment**

Applications for employment with the Town shall be made on a standard application form or by the submission of a resume and completing other such forms as may be prescribed by the Town Manager.

### **2.6 Employment of Relatives**

The Town of Camden applies the following safeguards regarding the employment of persons related to one another:

- a. An officer or employee of the Town may not appoint, employ, promote, advance, or advocate for the appointment, employment, promotion, or advancement of that person's relatives to any position over which such officer or employee exercises direct or indirect financial, administrative, supervisory or personnel control or authority.
- b. Unless the Town Manager approves adequate safeguards to protect against potential conflicts, no person shall be hired, appointed, or promoted to a position that will be supervised by or will have supervisory authority

over that person's relative. For the purposes of this section, supervision shall include direct or indirect financial, administrative, managerial or personnel control or authority.

- c. For purposes of the above provisions, a relative is defined as a grandparent, parent, child, grandchild, sibling, uncle, aunt, first cousin, niece, nephew, spouse, domestic partner, stepparent, stepchild, stepsibling or half sibling, or the parent, sibling, or child of the employee's spouse.
- d. The Town Manager will provide specific instructions concerning employees affected by this Section in a manner to safeguard the promotional opportunities of the individual, as well as the objectivity of the process.
- e. If situations arise where relatives working together causes sensitive personnel problems, such individual situations may be brought before the Town Manager for review and a recommendation for problem resolution.

## **2.7 Probationary Period**

In accordance with 30-A M.R.S.A. § 2701, all persons appointed, hired, promoted, or transferred to a position in the Town shall serve a probationary period of six months from the date of hire, promotion, or transfer. The probationary period shall be considered an extension of the selection process. Probationary employees shall be evaluated two (2) months after hiring, and four (4) months after hiring. An employee who is hired, transferred, or promoted may be terminated, demoted, or transferred at the discretion of the Town Manager at any point during the probationary period without notice, cause, hearing or right of appeal.

## **2.8 Lateral Transfer**

The Town Manager or designee may approve a wage and/or vacation accrual rate that considers years of relevant work experience and education during the hiring process.

## **2.9 Employment Examinations**

All new employees, or current employees being reassigned, may at the Town's request after a conditional offer of employment, be required to pass a standardized drug test, physical, psychological, or other examination to verify the employee's ability to perform the duties of the position for which they have been hired. Current employees may also be periodically examined to ensure their continued ability to perform the requirements of their job. The cost of examinations conducted at the Town's request will be paid for by the Town. Any problem areas identified as a result of such examination may result in corrective action or reasonable accommodation, where possible, or termination of employment if timely correction or accommodation are not possible or would cause undue hardship to the Town. Substance abuse testing and related matters shall be addressed as specified in the Drug and Alcohol Testing Policy, which is set forth in Appendix D and which is incorporated into this Policy.

## **2.10 Personnel Files**

Appropriate records will be maintained for each employee of the Town. Any employee may review their files, in the presence of the staff member who has responsibility for the

files, during that person's normal office hours. In order to avoid inconvenience, the employee shall make an appointment for such a review in advance. Employees may receive a copy of any portion of their personnel records.

## **SECTION 3 – EMPLOYEE CLASSIFICATION, STATUS, JOB DESCRIPTIONS**

### **3.1 Employee Classifications**

It is the intent of the Town to clarify the definitions of employment classifications so that employees understand their employment status and benefits eligibility. These classifications do not guarantee employment for any specified period of time.

#### Fair Labor Standards Act Job Classifications

All employees are designated as either nonexempt or exempt under state and federal wage and hour laws:

**Nonexempt employees** are employees whose work is covered by the Fair Labor Standards Act (FLSA). They are *not* exempt from the law's requirements concerning minimum wage and overtime.

**Exempt employees** are generally executives, managers, professional, administrative, or outside sales staff who are exempt from the minimum wage and overtime provisions of the FLSA. Exempt employees hold jobs that meet the standards and criteria established under the FLSA by the U.S. Department of Labor.

#### Town Job Classifications

The Town has established the following categories for both nonexempt and exempt employees:

- A. **REGULAR FULL TIME:** A regular full-time position shall be year-round in nature with no predetermined end date and scheduled to work 30 hours or more. Regular full-time employees shall be required to work the standard workweek of their respective department. Regular full-time employees are eligible for all benefits and rights as provided by these rules, except where otherwise provided for in a Collective Bargaining Agreement.
- B. **REGULAR PART TIME:** A regular part-time position shall be year-round in nature with no predetermined end date and scheduled to work at least 20 hours per week but less than 30 hours per week. Regular part-time employees are eligible to receive sick leave, vacation leave, and paid holidays in proportion to their normal work week. These employees are also eligible to participate in the group health, dental, vision, life, and dependent life insurance plans however, the Town does not participate in paying the cost of benefit premiums. Regular part-time employees may participate in the Town-sponsored retirement programs. Employees should review the retirement section for details.

- C. **TEMPORARY AND SEASONAL:** Temporary employees work on a non-regular basis for a limited assignment not to exceed six months, usually with a predetermined end date. Full-time and part-time seasonal employees, as designated by the State of Maine, are included in this classification. Employees in this classification must be rehired for each separate period of employment. Temporary employees may not be allowed to average 30 or more hours of work per week over a 52-week period without prior authorization by the Town Manager. Temporary employees are not entitled to benefits, except those benefits mandated by law.
- D. **VARIABLE HOUR PART-TIME:** Variable hour part-time employees work less than 20 hours per week and typically do not work a consistent schedule from week to week. Unlike Temporary Employees, these positions are generally actively employed on a year-round basis. Positions in this classification include per diem, on-call, and substitute positions. Variable hour part-time employees are generally not entitled to benefits except those mandated by law.

### **3.2 Change in Position (Advancement or Demotion)**

Selection of employees for advancement is based on the following factors to determine qualification: skill, ability, training, education, attitude, efficiency, job requirements and availability to work as these factors apply to the job classification.

On occasion, there may be circumstances when an employee is demoted (generally defined as re- assignment to a position at lower pay). This change may be voluntary, may result from an inability to perform, or may be disciplinary.

The Town will confirm the change in writing to the employee within fourteen (14) calendar days.

If an employee is promoted or transferred to another position, they will serve an initial evaluation period of six months. If they fail to successfully complete the evaluation period and/or to meet the requirements of the new position, they may--at the discretion of management-- be reassigned to the classification from which they were promoted, transferred, or terminated. The Town does not guarantee reassignment back to their original classification, nor does the Town guarantee that any position in an alternate classification can be provided which leaves termination as the last alternative.

### **3.3 End of Employment**

Separation of employment may occur under a number of circumstances, some of which are:

- Voluntary resignation initiated by the employee. Prior to departure, the Town will conduct an exit interview, including a checklist to ensure they receive all appropriate information, and that all property is accounted for. This checklist becomes part of their employee file. The Town requests that employees provide at least fourteen (14) calendar days written notice. Vacation or other paid leave is not to be used as a period of notice.
- Retirement initiated by the employee, who meets eligibility for the Town sponsored retirement plan and/or Social Security criteria. Prior to departure, an exit interview

will be conducted and will include a checklist to ensure they receive all appropriate information, and that all property is accounted for. This checklist becomes part of their employee file. Employees are asked to provide written notice of at least thirty (30) calendar days. Vacation or other paid leave is not to be used as a period of notice.

- Involuntary Termination – involuntary termination initiated by the Town, often in response to a number of reasons including, but not limited to, negligence of job responsibilities, substandard performance, insubordination, misconduct, inappropriate conduct, or other actions violating Town policy. Involuntary termination will only be administered by the Town Manager.
- Layoff – typically as a result of the business needs of the Town and not as a result of disciplinary action. Whenever possible, the reduction in work force will be accomplished by not filling current or anticipated openings of the staff through attrition. Skills, competencies, performance, and length of recognized service may be considered.

Final paycheck: All wages and allowable accrued leave will be paid, and outstanding debts deducted from the employee's final paycheck which will be processed in the following pay period.

### **3.4 Job Descriptions**

Human Resources maintains job descriptions for all positions. Job descriptions are utilized in all postings and advertisements for job openings and are the basis for employee evaluations.

Job descriptions will contain the following information:

- Position Details: Title, Department, Exempt or Non-Exempt Status, Classification and Union Applicability
- Supervision received and exercised.
- Essential duties and responsibilities
- Peripheral or Special duties (if applicable)
- Education and experience qualifications
- Knowledge, skills, and abilities qualifications
- Physical requirements and Work Environment
- Reasonable Accommodation Clause
- Equal Employment Opportunity/Anti-Discrimination Policy

Human Resources and the Department Head review job descriptions on an annual basis and recommend modifications to the Town Manager, if necessary. The Town Manager has final approval on all changes and revisions to job descriptions. The Select Board has final approval on all changes and revisions to the Town Manager's job description.

## **SECTION 4 – STANDARD WORK WEEK / OVERTIME**

### **4.1 Work Week**

The standard work week may vary from department to department and may be adjusted or modified at the Town Manager or managing Department Head's discretion to meet operational needs. The work week for payroll purposes shall be established by the Town Manager.

#### **4.2 Breaks**

Daily work breaks for hourly paid employees shall be administered in accordance with the following guidelines:

At a minimum, employees who work six (6) hours or more per day shall be eligible for a thirty (30) minute unpaid meal break, unless an employee wishes to waive their lunch breaks in writing.

Coffee breaks or other brief rest periods and actual break times shall be subject to approval by the Department Head, giving due consideration to the needs of the Town, its customers, and other employees. Break times shall be taken so as to minimize any inconvenience to the public and other employees who may require assistance. As such, they are not automatic events to be taken at an employee's discretion.

Meal breaks that are not paid may be taken away from the workplace if time allows, but all other breaks shall be subject to the discretion of the Department Head.

Unused break time shall not be accumulated as leave, nor can break time be used at the beginning or the end of a workday or to extend lunch.

#### **4.3 Workplace Lactation Policy**

**The Town of Camden** supports mothers to express breastmilk or breastfeed their nursing child in compliance with the Maine's Law (26 M.R.S.A. § 604), Nursing Mothers in the Workplace, and the Federal PUMP Act (Providing Urgent Maternal Protections for Nursing Mothers Act).

We encourage employees and management to have a positive, accepting attitude toward working women who are expressing breastmilk or breastfeeding their nursing child. We support employees who are expressing breastmilk or breastfeeding their nursing child when they return to work.

It shall be the policy of the Town of Camden to provide:

- **Time to Express Milk or Breastfeed**

Employees will be provided adequate break time to express breastmilk or to breastfeed their child for up to three years following the child's birth. The Town will allow flexibility in the employee's schedule with time to express milk or breastfeed. The time needed beyond will be negotiated between the employee and their supervisor.

- **A Place to Express Milk or Breastfeed (Lactation Room)**

Employees will be provided with a clean room or other location, which is not a toilet stall or bathroom, where an employee may express breastmilk or breastfeed their child in privacy.



The Town shall work with mothers and their supervisors to determine a secure and private area for this purpose.

The Lactation Room will be:

- Private
- Equipped with an electrical outlet.
- In close proximity to the employee's work area when possible
- Furnished with comfortable seating and a flat surface for pumping equipment.
- Well lit
- Climate controlled

- **Atmosphere of Tolerance**

Discrimination and harassment of employees that are expressing milk or breastfeeding their nursing child in any form is unacceptable and will not be tolerated.

- **Communication**

This policy shall be communicated to every incoming and current employee. Information about breastfeeding support after returning to work shall be provided to employees prior to their maternity leave.

#### **4.4 Time Keeping**

All non-exempt employees are required to submit accurate timecards weekly detailing their activities (including absences), which will be reviewed and approved by the Department Head or other supervisory personnel. Employees going on vacation or extended leave should submit timecards in advance.

Timecards are official instruments and altering, falsifying, or in any way tampering with them may result in disciplinary action up to and including termination. Time must be recorded as actual time worked.

Exempt (Salaried) employees are paid based on work performed rather than hours worked. A record of time worked each week must be completed for each exempt employee.

#### **4.5 Pay Checks**

All employees are paid weekly by mandatory direct deposit on Wednesdays for the pay period ending the previous Saturday. If Wednesday is a holiday, employees will normally be paid on Tuesday of that week.

#### **4.6 Overtime/Compensatory Time**

**Salaried Exempt Employees** – Salaried exempt employees shall be determined in accordance with state and federal law, and an employee's salaried or hourly status shall be designated at the time of hire. Employees who are salaried exempt are paid a fixed salary on the basis of qualification and job responsibilities rather than on the number of hours worked.

It is the responsibility of employees in salaried exempt positions to accomplish the work assigned to the position regardless of the hours required to do the work. However,

salaried exempt employees are expected to work during the standard work hours established for the position or department unless excused by the Town Manager or supervising Department Head. It is to be expected that employees in salaried exempt positions will, from time to time, find it necessary to work well beyond their normal work week. This fact is taken into consideration in determining salary. Prolonged or continuing inability of an employee to accomplish a task within a reasonable work week may lead to reevaluation of the job requirement as well as the employee's job performance.

Salaried exempt employees shall not be entitled to compensatory time off. However, a salaried exempt employee's supervisor may excuse the employee from a number of regular work hours in recognition of extraordinary hours recently required of that employee.

**Non-exempt (hourly) employees** – Non-exempt (hourly) employees shall be compensated at an hourly rate multiplied by the number of hours worked. Non-exempt employees are entitled to overtime compensation at a rate of one and one-half (1 ½) times their base hourly rate for the total hours worked beyond forty (40) hours, or compensatory time off at the rate of one and one-half (1 ½) times the hours worked beyond forty (40) hours. The employee shall elect whether compensatory time or overtime pay is desired when submitting a time sheet containing overtime hours.

**Calculation and use of compensatory time and overtime** – For purposes of calculating overtime/compensatory time, hours worked shall include vacation, holiday, and bereavement hours. Sick and storm closure hours will not be considered time worked for the purpose of calculating overtime/compensatory time. The Fire Dept. will have "sick" hours considered as hours worked when calculating overtime/compensatory hours during times of additional hours worked due to a fire call or training beyond their regular weekly work week (40 regular/2 overtime) hours.

Compensatory time off may only be taken with the advance approval of the supervising Department Head or Town Manager, and no approval will be given when the workload of the department is especially heavy in regard to the employee's duties. No employee will be permitted to accumulate more than 40 hours of compensatory time. All accrued unused compensatory time will be paid out annually at the end of the fiscal year.

**Public Works Department and Parks & Recreation Department Employees** – Full-time, non- seasonal, Public Works Department and Parks and Recreation Department employees may at certain times of the year be required to work more than 40 hours per week on a regular basis for tasks such as snow plowing, winter road maintenance, snowmaking, equipment repair, etc. Compensatory time will accumulate according to overtime provisions. Employees will be allowed to use comp. time during periods when the department's workload can accommodate reduced staff on duty. No employee will be permitted to accumulate more than 40 hours of compensatory time. All accrued, unused compensatory time will be paid out annually at the end of the fiscal year.

- a. **Firefighters** - The municipal firefighters will work on a rotating shift configuration as follows: 4 consecutive days on and 4 consecutive days off. The shifts will be 12 hours in length. This will create the following for each individual: 4 weeks at 4 days (48 hours) and 4 weeks at 3 days (36 hours). This will average out to 42 hours per week – 40 regular hours and 2 hours

overtime. Other scheduling may be approved by the Town Manager. Additional hours worked beyond those scheduled for the work week, either through scheduled drills or callbacks, will be figured as overtime. The municipal firefighters shall be compensated at an hourly rate of one and one-half (1 ½) times their base hourly rate for all overtime hours worked.

- b. Requests for Overtime – Department Heads shall receive the advance approval of the Town Manager whenever possible before requiring employees to perform overtime work. If such advance approval is not possible, the Department Head shall notify the Town Manager as soon as possible after the overtime work is required.

#### **4.7 Attendance**

All employees shall be at their respective places of work in accordance with the general or department regulations pertaining to the hours and locations of work. All departments shall keep daily attendance records and furnish to the Town Manager such periodic attendance reports as requested.

#### **4.8 Absences**

Any employee who plans to be absent from work for a vacation or any other reason must request and receive advance approval from their Department Head or the Town Manager as soon as possible, but in general no less than 24 hours prior to the planned absence unless extenuating circumstances exist. Such process shall also be used for any request to use comp time. If an employee must be absent from work due to an illness, they shall notify the Department Head or the Town Manager as soon as possible.

Any employee who is absent from their job for a prolonged illness or any other reason will be required to keep their Department Head, or the Town Manager informed of their progress and be able to provide satisfactory proof of illness or other justification of absence upon request.

Absenteeism, tardiness and misuse or abuse of leave time are grounds for disciplinary action in accordance with the discipline and discharge procedures set forth in Section 6.1.

#### **4.9 Appearance**

As each employee of the Town is an example of the Town's character, all persons employed by the Town of Camden shall maintain an acceptable level of personal appearance and hygiene appropriate to their position and according to the departmental standards set forth by each Department Head.

### **SECTION 5 – STANDARDS OF CONDUCT**

The work rules and standards of conduct are important to the Town, and employees are expected to follow them in performing their job and the Town's business.

While not a complete list, the examples below illustrate the types of workplace infractions or misconduct that may result in disciplinary action, including termination. (Workplace means

wherever the employee conducts Town business, regardless of location.)

In addition, Department Heads may issue additional Rules of Conduct, Standard Operating Procedures, and other work-related requirements that relate to the specific municipal services provided by the departments they manage.

- Theft or inappropriate removal or possession of property
- Working under the influence of alcohol, illegal substances, or other intoxicants
- Possession, distribution, sale, transfer or use of alcohol, illegal substances, or other intoxicants in the workplace
- Fighting or threatening violence in the workplace
- Boisterous or disruptive activity in the workplace
- Negligence or improper conduct leading to damage of Town or citizen property.
- Insubordination or other disrespectful conduct
- Violation of health and safety rules
- Improper or unauthorized use of Town property, including tampering with records, information, or equipment.
- Unauthorized disclosure of confidential information
- Violation of personnel policies.
- Unsatisfactory performance or conduct

### **5.1 Conflict of Interest**

Public employees are expected to treat everyone they serve with complete impartiality and are thus prohibited from using their official positions for personal profit or the profit of friends and family.

### **5.2 Gifts and Gratuities**

Employees are prohibited from accepting, directly or indirectly, from any person or organization from which any purchase is made or contract executed, any payment, or any gift or gratuity which could be construed as influencing a purchasing or contract award decision, or any other competitive process including hiring or appointments. Employees are also prohibited from accepting directly or indirectly any gift or gratuity for their personal benefit in exchange for Town goods or services. Token gifts or favors of a de minimis nature (as defined by IRS guidelines) will not violate this policy if the person/entity commonly and openly distributes minor gifts or favors as an expression of appreciation or as a courtesy to customers. Such minor gifts or favors may include items such as meals or an activity fee when sponsored on a group basis.

Demonstration equipment should be kept no longer than five (5) business days, and then returned to the vendor.

### **5.3 Outside Employment**

Employees shall not, during on-duty hours, be engaged in any employment or business activity other than their duties for the Town. Failure to curtail outside employment which is determined by the appropriate Department Head or the Town Manager to hinder, interfere with or prevent the employee in the impartial and efficient performance of the employee's

duties, or to conflict with the employee's duties for the Town, may result in disciplinary action or termination. No employee shall fail to appear for a mandatory work assignment or shift or fail to perform any required job duties due to conflicting outside employment or business commitments.

#### **5.4 Political Activity**

While working for the Town of Camden, employees may seek or accept nomination or election to any office in the Town government. However, if the employee is elected to a Town position, then employment will be terminated.

Town employees may serve on Town committees, unless it presents a conflict of interest and as the Town's ordinance provides. In addition, employees will be encouraged to serve as advisors to committees.

Employees who serve in an appointed office shall be cognizant of any legal incompatibility of office that may result from taking a second appointive office and shall understand that the taking of an incompatible office may result in the automatic legal forfeiture and termination of the prior-held office.

Town employees shall not work on a political campaign during employment hours, or use Town facilities, equipment, or supplies, to circulate petitions or campaign literature or to solicit subscriptions, contributions, or political service from any person for any office or initiative. Town employees shall not reference or otherwise use their employment position with the Town in the furtherance of any such activity, whether during or outside of work hours and whether within or outside of the scope of their employment and shall not state any personal political viewpoint as if it is that of the Town of Camden or any office or department thereof. This rule is not to be construed to prevent Town employees from becoming, or continuing to be, members of any political organization, from attending political organization meetings, from expressing their views on political matters, or from voting with complete freedom in any election.

#### **5.5 Confidentiality**

It is the Town's policy to maintain strict control over the unauthorized entrance or use of Town property, cash, or other items of monetary value, personnel or general assistance records, certain computer information, or other records or information considered being confidential and not subject to the Freedom of Access Act (FOAA). Employees who are assigned keys, given special access or assigned job responsibilities in connection with safety, security, or confidentiality of such records, material, equipment, or items of monetary value will be required to use sound judgment and discretion in carrying out their duties and will be held accountable for any wrongdoing or acts of indiscretion.

During their duties, employees of the Town are often privy to sensitive and confidential information. Examples of this include, but are not limited to, employee relations, medical records, general assistance requests, and personnel actions. The Town expects any employee with access to such information to respect the confidential nature of the matter, not to share or provide access to such information with members of the public, including family members, and to take all reasonable measures to maintain confidential documents in a secure manner. Confidential information obtained because of employment with the Town is

not to be used by an employee for furthering any private interest or a means of making personal gains.

The Town is subject to the Maine “Right to Know” law, MRSA Title 1 sections 401-414. Any employee who receives any request for information under the “right to know” statute must direct the request to the designated Freedom of Access Act (FOAA) Officer (Assistant Town Manager) for the Town’s official response. Employees and other Town officials must coordinate with the Assistant Town Manager to determine the proper response and involve the Town Manager and the Town Attorney when necessary.

## **5.6 Off Duty Conduct**

The Town of Camden respects its employees’ right to privacy with regard to activities and conduct outside of the workplace and regular working hours. The Town does not prohibit employees from engaging in lawful activities while off-duty, nor discriminate against employees for the same.

However, such off-duty conduct shall be subject to other applicable provisions of this policy or other Town regulations, including but not limited to the use of Town equipment, computers or vehicles, the use of social media and other electronic communications and the Town’s Safety and Harassment policies.

Off-duty conduct of employees that is illegal may be cause for discipline or termination if the illegal off-duty conduct or consequences of the illegal off-duty conduct directly impact the employee’s ability to meet the essential functions and other requirements of their job. Similarly, an employee’s illegal off-duty conduct, or consequences of the illegal off-duty conduct that directly impact working conditions, required licenses, normal business operations, or the professional reputation of the Town may be cause of discipline or termination.

## **5.7 Personal Business While at Work**

Employees shall curtail visits by friends and family, use of telephones or computers for personal business, and spending any substantial amount of time on other personal business while on duty. In no event shall an employee’s conduct of personal business be permitted to interfere with their work performance. Use of technology during work hours shall be as specified in the Technology Use Policy, which is set forth in Appendix E and incorporated into this policy.

## **5.8 Non-Bullying**

The purpose of this policy is to communicate to all employees, that the Town will not in any instance tolerate bullying behavior. Employees found in violation of this policy will be disciplined, up to and including termination.

The Town defines bullying as repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment.

Examples: Bullying may be intentional or unintentional. However, it must be noted that when

an allegation of bullying is made, the intention of the alleged bully is irrelevant, and will not be given consideration when issuing out discipline. As in sexual harassment, it is the effect of the behavior on the individual that is important. The Town considers the following types of behavior examples of bullying:

- **Verbal bullying:** Slandering, ridiculing, or maligning a person or their family; persistent name calling that is hurtful, insulting, or humiliating; using a person as butt of jokes; abusive and offensive remarks.
- **Physical bullying:** Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property.
- **Gesture bullying:** Nonverbal threatening gestures; glances that can convey threatening messages.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Shouting at in public or in private.
- Using obscene language or gestures.
- Not allowing the person to speak or express themselves (i.e., ignoring or interrupting).
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism on matters unrelated or minimally related to the person's job performance or description.
- Ignoring or interrupting an individual at meetings.
- Public reprimands.
- Spreading rumors and gossip regarding individuals; or
- Encouraging others to disregard the supervisor's or designee's instructions.

Bullying is NOT:

- Expressing differences of opinions.
- Offering constructive feedback, guidance, or advice about work-related behavior; or
- Reasonable action taken by an employer or supervisor relating to the management and direction of employees or place of employment (i.e., managing an employee's performance, taking reasonable disciplinary actions, assigning work).

The Town is committed to preventing bullying prohibited by this policy through education and dissemination of information as well as employee accountability. Such harassment may be reported by any employee, regardless of whether that employee is the recipient of the bullying, a witness or otherwise becomes aware of bullying prohibited by this policy.

Complaints may be filed by contacting any of the following individuals:

- Supervisor
- Department Head
- Town Manager
- Human Resources

## **5.9 Policy for Prohibition of Discrimination and Harassment**

Employees are entitled to work in an environment free of discriminatory intimidation, whether

it is based on race, color, sex, marital status, age, religion, national or ethnic origin, physical or mental disability, pregnancy, veteran status, sexual orientation, gender identity, gender expression, or any other protected class under federal and/or state law.

The Town is committed to ensuring this entitlement and achieving the dual goals of prompt notice of possible harassment and fair, impartial evaluation of any allegations.

Sexual harassment and other illegal harassment (collectively referred to as “Harassment”) of employees is prohibited and will not be tolerated by the Town. When such conduct affects work-related decisions or creates an offensive work environment, it is a violation of Town policy and the Maine Human Rights Act and Title VII of the federal Civil Rights Act of 1964.

The Town is committed to preventing and eliminating harassment of employees through education and by encouraging employees to report any concerns or complaints about harassment. Prompt corrective measures will be taken to stop harassment whenever and wherever it occurs. Each employee is personally responsible for compliance with this policy.

The U.S. Equal Employment Opportunity Commission and the Maine Human Rights Commission have defined harassment as deliberate or repeated unsolicited comments, gestures, or physical contact of an offensive or sexual nature that is unwelcome. Each employee must learn to recognize this form of discriminatory behavior and to distinguish it from purely social relationships that do not adversely affect the work environment. Behavior constitutes harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment.
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
- Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

Examples of harassment may be a series of incidents or a single occurrence and include the following:

- Unwelcome sexual advances, gestures, comments, or contact.
- Threats.
- Offensive jokes.
- Subjecting employees to ridicule, slurs, or derogatory actions.
- Displaying offensive posters/pictures/publications.
- Basing employment decisions or practices on submission to harassment.
- Refusal to cooperate with employees in performing work assignments; or
- Inequitable disciplinary actions and work assignments.

Harassment, such as the examples above, can take place between members of the same sex as well as members of the opposite sex.

### Supervisory Responsibilities

Supervisors have additional responsibilities to ensure that the work environment is free from



harassment. Every supervisory employee acts as an agent of the Town and has an affirmative responsibility to promptly take all steps necessary within the scope of their job to prevent discrimination and harassment from occurring in the workplace. Lack of intervention and corrective action by supervisors may be perceived by both perpetrators and victims as condoning harassing behavior. Corrective action is required whether the victim makes a formal complaint. In accordance with policy, supervisors should process any observed or reported harassing behavior confidentially and expeditiously. Reports of harassing behavior must be thoroughly investigated to establish facts associated with the situation.

### Reporting Procedure

Any supervisor or Department Head receiving a complaint of harassment will immediately report it to the Town Manager.

It is the employee's responsibility to speak with the supervisor or Department Head at once if they believe they are being subjected to sexual harassment. Any employee who believes they are being harassed by a Department Head, supervisor, co-worker, employee, citizen, or vendor should consider taking the following actions:

- a) Confront the harasser and ask him or her to stop. If an employee feels uncomfortable with confronting the harasser as outlined here, skip to Step b below.
- b) Immediately contact the employee's immediate supervisor, Department Head, the Town Manager, or the Town's Human Resources.
- c) Document the complaint. Keep a log detailing the incident(s), what was said or done, who might have witnessed it and the date. Keep any related letters or memos or other documentation (such as text message, chat messages, etc.).
- d) All complaints will be handled in a timely manner by the employee's immediate supervisor, Department Head, the Town Manager, or Human Resources. Information concerning the complaint will be given on a need-to-know basis only. Management personnel needed for participation in the investigation, the alleged harasser and possible witnesses may be contacted and thereby learn of the complaint. Employees should not discuss the complaint or the resulting investigation except for discussions necessary to conduct the investigation and make a decision. The purpose of this provision is to encourage the filing of valid complaints by protecting the privacy of the complaining employee to the extent possible, as well as to protect the reputation of any employee who might wrongfully be charged with sexual harassment.
- e) The Town will investigate all complaints promptly. If valid, the Town will determine remedies to be given and the sanctions to be imposed. All employees are expected to cooperate with an investigation.

There will be no retaliation against any employee who files a complaint of discriminatory behavior or participates in any proceedings concerning harassment. Any person found to have retaliated against another individual for reporting harassment will be subject to disciplinary action, up to and including termination of employment.

Employees may file a complaint of sexual harassment with the Maine Human Rights

Commission at 19 Union Street, Augusta, Maine 04333, (207) 624-6290 and the EEOC – 1-800-669-3362.

It is not required that any of the above procedures be utilized first or in any particular sequence, nor is it required that any procedure be exhausted before the other is used. There will be no retaliation against any employee who files a complaint of discriminatory behavior or participates in any proceedings concerning harassment.

### **5.10 Whistleblower Protection**

The Town follows federal law regarding whistleblower protection. As such, the Town will not retaliate against employees for reporting any actual or perceived violations of law, regulation, or policy on the part of the Town. Specifically, the Town will not retaliate against any employee who discloses or threatens to disclose information to an authoritative entity; provides information to or testifies before a public body conducting an investigation involving allegations against the Town; or refuses to participate in any activity, policy, or practice of the Town that the employee believes to be in violation of a law or policy. If you believe that a violation of law, regulation, or policy is occurring at the Town, please first report the alleged violation to your supervisor or the Town Manager.

### **5.11 Technology Use and Social Media Policy**

The Town adopts the “Technology Use and Social Media Policy” set forth in the attached Appendix E and all employees shall comply with the provisions of this policy.

## **SECTION 6 – Disciplinary Action and Grievance Procedure**

The nature of the services provided by the various departments of the Town of Camden places a high degree of responsibility upon all employees of the Town. Employees’ actions have a direct influence upon the quality of service provided. This section is intended to establish consistent guidelines to protect the interests of employees and the Town of Camden, should it become necessary to consider an employee for disciplinary action.

### **6.1 Discipline & Corrective Action**

When, in the Department Head or designee’s judgment, employee performance, attitude, work habits, or personal conduct at any time falls below acceptable standards, the Department Head or designee shall inform the employee promptly and specifically of such lapses and give counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. Supervisors may use additional training and performance improvement plans (PIPs) to assist the employee to improve work performance. Supervisors are encouraged to seek assistance from Human Resources for guidance on performance improvement plans.

The Town generally follows the principles of progressive discipline. However, the Department Head or designee has the right to determine the appropriate level of discipline, taking into consideration the particular incident and any local, state, and federal laws, rules and/or guidelines. The Department Head or designee shall consult Human Resources before issuing any disciplinary action above verbal warning. Unpaid suspension, demotion, and dismissal shall be carried out in consultation with Human Resources. The Town Manager shall handle

all discipline of Department Heads.

Disciplinary action may consist of the following:

- A. Verbal Warning – A verbal reprimand may be necessary to correct an employee's work performance, minor infractions of departmental rules or regulations, or minor instances of inappropriate employee conduct. The Department Head or designee shall document the verbal warning and forward the documentation to Human Resources for retention in the employee's personnel file.
- B. Written Warning – An employee may be given a written warning that will state the nature of the unsatisfactory performance and what improvement is expected. The Department Head or designee shall review the incident with the employee, have the employee sign the written warning, and forward the written warning to Human Resources for retention in the employee's personnel file. The employee's signature does not acknowledge agreement with the reprimand but only that the employee has reviewed it. The employee may, within five (5) workdays, prepare a written response, which will be attached to the written reprimand placed in the personnel file.
- C. Unpaid Suspension – An employee may be suspended without pay when the employee's work performance or misconduct warrants. A record of the suspension shall be included in the employee's personnel file.
- D. Demotion – An employee may be demoted when the employee's work performance or misconduct warrants.
- E. Dismissal – An employee may be dismissed when the employee's work performance or misconduct warrants.

All discipline, including verbal warnings, must be documented appropriately. All final disciplinary notices shall specify the action taken, the reason(s) for the disciplinary action, and the extent and duration of the penalty. This notice shall be given to the employee at the time of the disciplinary action. Final written decisions of discipline are generally considered public records, except in the event of a discipline is appealed or grieved.

The Department Head is responsible for providing Human Resources with a copy of all final disciplinary notices for retention in the employee's personnel file. Employees shall be asked, but not required, to acknowledge receipt of the discipline with their signature.

#### Predetermination Hearing

Employees shall be provided with advance notice of the contemplated actions of unpaid suspension, demotion, or dismissal to provide the employee with an opportunity to respond to the type of discipline being imposed. Depending on the circumstances, a Department Head may recommend to the Town Manager that the employee be placed on paid administrative leave pending decision. The Town Manager or designee shall coordinate the predetermination hearing.

An employee who feels that they have been treated unfairly shall have access to the grievance procedure in the following section.

## **6.2 Grievance Procedure for Non-Union Personnel**

The term “grievance” means any dispute between an employee and management concerning the effect, interpretation, application or claim of breach of violation of Town of Camden Employment Policies and Procedures. Excluded from consideration of grievance are those matters pertaining to hiring, promotion of personnel, and compensation adjustments, except that regular employees may appeal performance evaluations.

Every reasonable effort should be made for an agreement between the individual and their/their Department Head or designee. If the grievance is not resolved after an informal discussion with either of these parties, the grievance should be brought forward in writing and appealed according to the following procedure:

- A. The aggrieved may, within five (5) working days, file a written grievance to the Department Head or designee. The Department Head or designee shall make a careful inquiry of the facts and circumstances of the grievance, determine the merits of the complaint, and provide a written reply within five (5) working days.
- B. If the individual is dissatisfied with the Department Head or designee's written decision, the aggrieved may, within five (5) working days, make a formal written appeal to the Town Manager. The Town Manager will, upon receipt of the written appeal, return a formal written decision within five (5) working days. In all cases, the decision of the Town Manager will be final and binding.
- C. For Department Heads, the level of appeal is the Select Board.

## **SECTION 7 Licensing, Training, Education**

### **7.1 Licensing and Certifications**

All Town employees whose job requires a professional license or certification will have a copy of their current license and/or certification on file in the Town Manager's office, and they will be responsible for keeping their license or certification current and in effect.

Expenses related to maintaining required licenses and/or certificates shall be compensated by the Town with prior approval by the employee's supervisor.

### **7.2 Training**

The Town will attempt to make opportunities available to employees within the constraints of the Town budget for the further development of specific skills and expertise that will be of mutual benefit to both the employee and the Town.

The Town will pay up front when possible or will reimburse employees for out-of-pocket expenses for attendance at Town-approved training sessions and seminars, as authorized by the Town Manager or a Department Head, including course fees and materials, reasonable costs for meals and lodging, and related costs, when substantiated by receipts.

### **7.3 Educational Benefits**

To assist regular employees of the Town with improving and expanding their knowledge and skills, the Town will assist with the cost of tuition and books, within the limits of the Town's budget.

The Town of Camden will reimburse a full-time employee for 75% of tuition costs up to a maximum of \$5,250 per fiscal year for continuing education through an accredited program that either offers growth in an area related to their current position or that may lead to promotional opportunities with the Town of Camden. This education may include college credit courses, continuing education unit courses, seminars, and certification tests that are job-related. This reimbursement is only applicable to tuition costs.

#### **Eligibility**

Full-time, regular employees who have completed six-months of employment and receive prior approval are eligible under this policy.

An employee must secure a passing grade of "C" or its equivalent or obtain a certification to receive any reimbursement. Expenses must be validated by receipts and a copy of the final grade or certification received.

#### **Procedures**

To receive reimbursement for educational expenses, employees should follow the procedures listed here:

- Prior to enrolling in an educational course, the employee must provide their Department Head with information about the course for which they would like to receive reimbursement and discuss the job-relatedness of the continuing education.
- A tuition reimbursement request form should be completed by the employee, and the appropriate signatures obtained.
- To ensure proper budgeting for tuition reimbursement, employees shall notify their Department Head and Finance Office by January 15th of each year when possible, concerning anticipated course work or training.

#### **Following Course Completion**

- Once the course is successfully completed, the employee should resubmit the original tuition reimbursement request form with the reimbursement section filled out, including appropriate signatures, as well as receipts and evidence of a passing grade or certification attached.
- The Finance Office will coordinate the reimbursement with the finance department.
- If an employee commits to the course prior to receiving approval, then they are responsible for all costs.
- If an employee leaves the organization within two years of receipt of tuition assistance, the Town will require 100% repayment which will be collected from the employee's final paycheck.

Employees who receive tuition support or financial assistance from alternate sources must report such amount and shall not be eligible to be reimbursed for any amount that they do not have to repay.

The Town reserves the right to deny courses deemed inappropriate due to course content or due to projected budgetary constraints. Employees who have been denied tuition reimbursement due to budgetary constraints will be given priority in the following year.

## **SECTION 8 EMPLOYEE LEAVE**

### **8.1 Paid Holidays**

The following holidays shall be paid holidays for regular full-time and regular part-time Town employees:

New Year's Day	Memorial Day	Veterans' Day
Martin Luther King Jr. Day	Juneteenth Day	Thanksgiving Day
Presidents' Day	Independence Day	Day after Thanksgiving
Patriot's Day	Labor Day	Christmas Day
	Indigenous Peoples' Day	

In general, if a regular holiday falls on a Sunday, the following Monday is considered a holiday; if on a Saturday, the preceding Friday will be considered a holiday. The Town Manager shall, prior to the start of a new calendar year, distribute a holiday schedule to all employees for the ensuing year.

Full-time employees shall be paid for one regular day at straight time rates whether or not the holiday falls on the employee's regularly scheduled day off. If such an employee is required by their Department Head to work during a scheduled holiday, the employee shall be paid at time and a half for the actual hours worked in addition to the holiday pay.

Part-time employees shall be paid for holidays when they fall on their regularly scheduled workday.

A municipal firefighter shall receive a regular day off at 12 hours straight pay if the municipal firefighter chooses not to work a holiday on which they would otherwise be scheduled.

When a municipal firefighter works on a holiday, they shall receive pay at time and one-half for hours worked, plus 12 hours straight pay.

When a municipal firefighter is not scheduled to work on a holiday, the firefighter shall receive 12 hours straight pay for the holiday.

### **8.2 Vacations**

Vacation privileges are available to regular full-time employees and regular part-time employees.

**Accrual:** Vacation time shall be accrued at the rates set forth in Appendix A unless a different rate or method of accrual is set forth in a written agreement with the employee.

**Scheduling:** Because of varying schedules from department to department or from job to job, the specifics of vacation scheduling will be further explained by departmental policy. The fact that an employee has unused vacation time does not automatically entitle him or her to take vacation time requested.

**Use:** Any use of vacation time must be approved in advance by the employee's supervising Department Head, and the Department Head will consider the request based upon staffing, departmental and seasonal demands, and other scheduling considerations. Department Heads shall present vacation requests to the Town Manager, who shall apply the same considerations.

**Unpaid Vacation Time:** Employees who are entitled to paid vacation time will typically not be allowed to take additional unpaid vacation time unless extenuating circumstances are shown. An employee who is not entitled to vacation time may request, but is not entitled, to take unpaid vacation time. Any request for unpaid vacation time must be approved in advance by the employee's supervising Department Head and the Town Manager, who will consider the request based upon staffing, departmental and seasonal demands, and other scheduling considerations.

**Cash out of Vacation Time:** Employees will have the option to cash out up to five (5) days annually in the first week of December.

**Payment for Unused Vacation Time:** Employees who have accrued but unused vacation time as of the date of separation from employment shall be entitled to pay for that accrued time. Employees shall otherwise not be entitled to the cash value of any accrued vacation time.

### **8.3 Sick Leave**

**Applicability:** Paid sick time is available to regular full-time employees and regular part-time employees.

**Rate of accrual:** Sick leave shall accrue at the rate of one (1) workday for each full calendar month of service, up to a maximum of ninety (90) days. For the purposes of sick leave, one working day is defined as being equal to the employee's standard workday.

**Use:** An eligible employee shall be entitled to sick leave pay when:

- A. The employee is unable to perform any of the duties of their position due to a personal illness or disabling injury. Employees should not report to work with a fever or flu-like symptoms.
- B. Leave is needed for personal medical or dental appointment, which cannot be scheduled during non- working hours.
- C. Leave is needed for family illness. In accordance with Maine Family Sick Leave, Title 26, §636, for family medical needs, employees may use 40 hours of accrued sick leave in any 12-month period to attend to the employee's child, spouse, domestic partner, or parent who is ill and requires care by the employee, unless otherwise covered by Family Medical Leave, which shall be used first. Family illness includes accompanying a family member to a doctor or dental appointment that cannot be scheduled during non- working hours.

If an absence due to an employee's illness or injury exceeds three (3) working days, the Department Head or Town Manager may request that the employee provide a note from their healthcare provider before the employee returns to the workplace. The Department Head shall promptly notify Human Resources of any absences from work that meet the definition of a serious medical condition pursuant to the Family Medical Leave Act (FMLA).

### **Fitness for Duty Requirement**

Employees are expected to be physically and mentally fit to perform their jobs safely and efficiently at all times. Employees who are not able to perform their jobs or who take medications that might affect their ability to do their jobs should inform their Department Head or direct supervisor immediately.

If a Department Head or designee believes an employee is not fit to perform duties, the employee may be relieved from duty. The Department Head may recommend a fitness for duty exam to Human Resources, who will coordinate the fitness for duty requirement. A fitness for duty exam may be requested after any extended illness, personal injury, or hospitalization to ensure that the employee can safely return to regular duty. The exam will be performed by a health care provider of the Town's choosing and will focus on the employee's actual duties as described in the job description. The Town will pay for the exam, and the employee will be compensated during the exam period. The employee shall not return to regular duty until the fitness for duty requirement is fulfilled. An employee who refuses to cooperate during the fitness for duty process may be subject to disciplinary action, up to and including termination.

A fitness for duty requirement should not be confused with a regular healthcare provider's note.

### **Suspected Sick Time Abuse**

Employees demonstrating clear patterns of sick leave use that suggest abuse, such as frequent unplanned absences before or after the end of the employee's scheduled work week, may be subject to discipline. It is advised that the Department Head or designee discuss any suspected abuse of sick time with the employee as soon as possible.

### **Payment Upon Separation**

Employees shall be eligible for payment of one-half of unused accumulated sick days upon leaving the Town's employ in good standing. Any employee who is discharged from employment by the Town shall not be entitled to any payment for any portion of accumulated sick leave, unless an employment, separation or union agreement provides otherwise. For purposes of sick leave pay back, one (1) workday is defined as being equal to the employee's standard workday. The standard workday for firefighters is defined for these purposes as 12 hours.

## **8.4 Emergency Closures**

The Town of Camden values the safety of its employees. The Town Manager or designee may enact the Emergency Closures Policy due to emergency conditions for non-essential employees only. The Emergency Closures may be seen in its entirety in Appendix K.

## **8.5 Bereavement Leave**

Up to three (3) business days of bereavement leave with pay shall be granted to all regular full-time employees for absence caused by the death of a member of the employee's immediate family. For the purposes of this section, "immediate family" includes parent, spouse, domestic partner, sister, brother, child, stepchild, or grandparent of the



employee, and shall also include brother, sister, or parent of the employee's spouse or domestic partner. Up to three (3) days paid bereavement leave may also be granted for services of other close family or friends at the discretion of the employee's Department Head or the Town Manager. The Town Manager may, in their discretion, approve more than three (3) bereavement days if reasonable or necessary under the circumstances.

### **8.6 Military Leave**

Employees who are members of the organized Military Reserve of the U.S. or National Guard will be granted Reserve Service Leave to perform required field duty. The Town will conform with all applicable laws regarding such leave and return to employment. The employee shall provide the Town with evidence of the required leave as soon as possible.

The Town will pay the employee the balance between gross military pay and the employee's regular gross compensation during the period of leave. The period applicable to this policy shall not exceed seventeen (17) days in any given calendar year. A military leave may be granted beyond this limit without pay by approval of the Department Head and Town Manager. The employee shall also provide an official statement by military authorities giving their rank, pay and allowances.

### **8.7 Jury Duty**

An employee called to serve on a jury shall be permitted to serve on that jury, and the Town shall pay the employee the balance between the employee's regular compensation and the compensation the employee receives as a juror. An official document of jury compensation must be presented to receive commensurate pay. An employee who is serving on a jury shall report to their work location whenever they are not required to be at the courthouse during regular work hours.

### **8.8 Parental Leave**

A regular full-time employee who has completed at least one full year of employment with the Town will be granted an additional six (6) weeks (based on their regular work schedule) of paid sick time upon the birth or adoption of their child to be used concurrently with Family Medical Leave and supplemental to short-term disability coverage approved for the same reason (if applicable). Such time shall be in addition to the employee's current paid sick time balance. Parental Leave expires twelve (12) months after the date of birth or placement.

### **8.9 Family and Medical Leave**

Disability or other medical leave may be designated as Family and Medical Leave and in such case shall entitle the employee to the guarantees mandated under federal or state law. Such leave shall be administered in accordance with the Town's FMLA Policy, which is attached to this Policy as Appendix C and is incorporated herein by reference.

## **SECTION 9: BENEFITS**

### **9.1 Workers' Compensation**

The Town provides Workers' Compensation Insurance which provides income and other benefits covering occupationally incurred injury or disability for all Town employees.

### **9.2 Health Insurance**

The Town offers health insurance for eligible employees. Family coverage is available.

### **9.3 Retirement**

Social Security. The Town will provide federally mandated Social Security contributions on behalf of employees, with employee share to be automatically deducted as a payroll tax.

Maine Public Employee Retirement System (MainePERS). The Town is a Participating Local District within the Maine Public Employee Retirement System. Participation is optional for all Town employees and requires a matching contribution from both the employer and the employee. The employer contribution is determined annually based on MainePERS actuarial factors.

Mission Square Retirement (Formally ICMA-RC). If an employee chooses to participate in the Mission Square Retirement, the Town will match the employee contribution for employees who choose not to join the MainePERS at a rate which is subject to change by the Select Board. The Town will pay the employer share toward only one retirement plan, either MainePERS or Mission Square Retirement.

### **9.4 Employee Assistance Program (EAP)**

The Town will provide confidential and voluntary assistance through its Employee Assistance Program (EAP) offered through Maine Municipal Employee Health Trust to all employees and their family members (including volunteers) who may be faced with challenges of financial concerns, legal issues, alcohol or drug problems, marital problems, illness of a family member, emotional worries, childcare problems, etc. For the welfare of employees as well as for effective business operations, the Town encourages its employees to take advantage of this valuable benefit.

### **9.5 Other Benefits**

The Town may offer additional benefits to some or all classes of employees, eligibility, and basic details of which are subject to the discretion of the Select Board and may be changed on an annual basis.

## **SECTION 10: COMPENSATION PLAN**

### **10.1 Rate of Pay**

It is the Town's intent that its employees will be paid on a basis that is commensurate with salaries and wages for comparable public and private work in this geographic area, and that this plan will attract and retain well qualified employees.

## **10.2 Performance Evaluation**

Performance evaluations will be conducted annually within the month of May for each employee. New employees shall be evaluated at least at the two-month and four-month anniversary of employment, but more frequently if necessary.

## **10.3 Step and Grade Plan**

**Purpose and Responsibility:** The Town Manager shall maintain a Step and Grade Pay Plan for full time employees and approved by the Select Board, which provides a systematic arrangement and inventory of the positions in the Town service as well as the basis of compensation for persons holding such positions. (Current salary grades and pay ranges are shown in Appendix G).

**Content:** The Step and Grade Pay Plan shall group positions into various classes indicative of range of duties, responsibilities, education required, and level of work performed. Classification shall take into account the relative difficulty and responsibility existing between the various classes and the prevailing pay for similar types of work in the relevant public and private labor market. The Plan shall provide a range of pay for each job classification.

**Salary Ranges and Adjustment:** The schedule of salary ranges shall be prepared for each job classification and shall be reviewed at least annually or whenever a vacancy is being filled. Significant changes to the salary ranges shall be based upon a job market study whenever possible. Pay adjustments for individual employees will be based on the salary ranges described in the Step and Grade Plan, performance evaluations and guidelines established by the Select Board.

**Payroll Deductions:** The Town will deduct from employee pay only those state and federal taxes required by law or by court or agency order, the employee share of group benefits made available by the Town and employee-authorized payments for deposit in area banks.

## **SECTION 11: Safety**

### **11.1 Personal Injury Reporting**

All accidents involving personnel or Town property, no matter how minor, must be reported immediately to the Department Head or supervisor, and a written report shall be made on a form prepared for that purpose. The employee will automatically be directed to the town's contracted medical provider unless the situation warrants immediate services.

### **11.2 Compliance with Safety Regulations**

The Safety Committee shall develop, and amend as necessary, written safety regulations for Town employees, which are ultimately approved by the Town Manager and Department Heads. Such regulations shall be based on state and federal requirements, and all employees shall comply with such safety regulations. Failure to comply with these regulations or normal safety protocols shall be grounds for immediate disciplinary

action, up to and including termination.

### **11.3 Communicable Disease**

Employees with medical conditions which could present a danger to the health and safety of customers or co-workers must notify their supervisors.

Employees who have or become aware of a communicable disease must report the information in case appropriate action is needed to protect fellow employees, or the public. Medical information on individual employees will be treated confidentially and the Town will take reasonable precautions to protect such information from inappropriate disclosure.

Written “permission to work” from the employee’s doctor may be required, specifying whether the employee can perform his/her duties.

### **11.4 Workplace Violence Protection**

The Town of Camden is committed to preventing violence and maintaining a safe working environment. Accordingly, the Town has adopted the following guidelines to deal with intimidation, harassment, or other threats of (or actual) violence that may occur while working, or on Town property.

Any type of workplace violence committed by or against employees is not permitted. Likewise, employees are not permitted to make threats or engage in violent activities. The following list of behaviors, while not inclusive, provides examples of conduct that is not permitted:

- Causing physical injury to another person.
- Making threatening remarks.
- Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional stress.
- Intentionally damaging employer property or property of another employee.
- Possession of a weapon while on Town property or while on Town business, unless otherwise authorized.
- Committing acts motivated by, or related to, sexual harassment or domestic violence.

### **11.5 Substance Abuse Policies**

**Drug Free Workplace Policy.** All employees shall comply with the adopted Drug and Alcohol Testing Policy, attached to this Policy as Appendix D.

**Drug and Alcohol Testing.** All employees who are required by state law to have a Commercial Driver’s License to perform their job responsibilities for the Town of Camden are subject to and shall comply with the provisions of the adopted drug and alcohol testing provisions incorporated into the Drug and Alcohol Testing Policy (see Appendix D). The Policy also addresses drug and alcohol testing upon reasonable suspicion of impairment.

### **11.6 No Smoking Policy**

Smoking means carrying or having in one's possession a lighted cigarette, cigar, pipe, electronic vapor device or other object giving off or containing any substance producing tobacco smoke or vapor. Smoking by Town employees or members of the public is prohibited in and on all town owned property to include all town owned vehicles and equipment. For purposes of this policy, when smoking is prohibited in a building, the prohibition shall extend to all outdoor areas within 20 feet from any entryway, vent, or doorway to the building.

### **11.7 Workers' Compensation**

The Town of Camden provides workers' compensation coverage to its employees in accordance with the State of Maine laws.

If the employee needs immediate medical attention, the employee will be transported to the nearest clinic or hospital emergency room as applicable depending on the severity of the injury/illness. The employee will be referred to the Town's designated health care provider (10-day doctor) for a follow-up to any clinic or emergency room visit or for a medical evaluation for all workplace injuries/illnesses.

All staff injuries must be reported, regardless of how minor, to the supervisor as soon as possible and no more than 24 hours from the time of the injury.

In the event an employee is referred to the Town's designated health care provider (10-day doctor), the Town will schedule the appointment(s) at no cost to the employee. An appointment with the Town's designated health care provider (10-day provider) does not prevent the employee from making an appointment with their regular or other health care provider at their own cost, which may include the employee's health insurance coverage.

A Town Internal Report of Injury form will be completed by the injured employee and signed by the employee's supervisor. Names of employees that witnessed the incident must also be included on the report. The completed report shall be forwarded to the Town Manager within 24 hours of the incident. Failure to give timely notification of an injury may jeopardize a valid claim.

Each visit to a physician/medical facility will require the employee to submit, to their supervisor, a M-1 Report completed by the health care physician.

FMLA. If eligible, workers' compensation absences will run concurrently with FMLA.

Benefit Premiums. An employee shall be entitled to maintain group health insurance coverage on the same basis as if they had continued to work at the Town. To maintain uninterrupted coverage, the employee will be required to continue paying their share of insurance premium payments. If the employee's payment is more than thirty (30) days overdue, the Town will no longer maintain the coverage. If an employee is receiving concurrent sick, vacation, or compensatory time, the premium will be deducted from the paycheck, as is normally the practice.

If the employee informs the Town that they do not intend to return to work at the end of the leave period, the Town's obligation to provide health benefits ends.

Accrual of Sick, Vacation, and Holidays. Sick, vacation, and holidays will not accrue during unpaid leave. However, the use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined.

Waiting Period. Under Maine Workers' Compensation, the waiting period is seven (7) days from the date of incapacity. Employees may use their accruals for the first week of absence (waiting period) due to an injury/accident.

Participation in the Maine Public Employees Retirement System (MainePERS). While receiving workers' compensation benefits, those employees who participate in MainePERS may request a bill from MainePERS to pay their MainePERS contributions based on the wages portion of the benefits received. If an employee does not pay the applicable contributions, the employee will not receive any service credits for that period.

Disputed Workers' Compensation Claims. During the period that an employee is unable to work due to a workers' compensation claim that is in dispute, the employee may be eligible for Short Term Disability, after the applicable waiting/elimination period.

Return to Work. When possible and appropriate for the Town's staffing needs, modified, short-term, or early return-to-work assignments ("Modified- Duty") will be made available to an employee as a positive means of rehabilitation following a workers' compensation illness or injury. Any candidate for Modified-Duty must be approved by a medical provider.

As soon as Modified-Duty is requested or appropriate, the employee's supervisor will evaluate any work restrictions and search for suitable Modified-Duty work within the employee's department. If none exists within the employee's department, then the Town Manager and supervisor may deem it appropriate to look elsewhere within the Town for such work assignments consistent with the skills and abilities of the employee. If there is no Modified-Duty available, the employee will be instructed to return to work on a date when such work exists, restrictions change, or when full-duty is possible, whichever comes first. The Town Manager (or designee) will notify an employee as to the availability of suitable work.

The duration of Modified-Duty is limited to thirty (30) working days but may be extended at the discretion of the Town Manager. Extensions may be considered based upon medical evidence and employee rehabilitative progress. Any extension will be re-evaluated by the Town Manager on a weekly basis.

All employees returning to full-duty (regular duty) work must present the supervisor with the appropriate medical documentation, clearly indicating any remaining restrictions or limitations or the lack thereof.

An employee injured at work who fails to promptly report back to work as soon as reasonably possible (in accordance with the work schedule in effect at that time) upon a "fitness for duty" medical release, or an employee found to be violating work restrictions of a doctor while on a Workers' Compensation or Short-Term Disability leave may be disciplined, up to and including discharge.

## **11.8 Willful Injury**

An employee who is injured, or who causes injury as a result of substance abuse, willful intent, violation by the employee of the Town Employee Safety and Accident Prevention Plan or other rules or regulations, shall be subject to disciplinary action under this Policy, regardless of any entitlement to Workers' Compensation benefits.

## APPENDIX A – VACATION SCHEDULE

### A. Regular Full-Time Employees

All regular full-time employees shall earn paid vacation time in proportion to the hours worked in accordance with the employee's current term of continuous employment and in accordance with the following schedule:

From Date of Hire - begin accruing two weeks' vacation (80 hrs.) per year.

After four (4) years of service – begin accruing three (3) weeks' vacation (120 hrs.) per year.

After nine (9) years of service – begin accruing four (4) weeks' vacation (160 hrs.) per year.

After nine-teen (19) years of service – begin accruing five (5) weeks' vacation (200 hrs.) per year.

Bonus Vacation Service Benefit shall be a one-time occurrence granted on the anniversary of the employee's hire date or when the employee became eligible for benefits according to their years of service as follows:

After ten (10) years of service: one (1) week vacation (40 hrs.)

After twenty (20) years of service: two (2) weeks' vacation (80 hrs.)

After thirty (30) years of service: three (3) weeks' vacation (120 hrs.)

After forty (40) years of service: four (4) weeks' vacation (160 hrs.)

After fifty (50) years of service: five (5) weeks' vacation (200 hrs.)

### B. Full-time Firefighters who work a 12-hour shift shall accrue vacation time according to the following schedule:

From Date of Hire - begin accruing two weeks' vacation (96 hrs.) per year.

After four (4) years of service – begin accruing three (3) weeks' vacation (144 hrs.) per year.

After nine (9) years of service – begin accruing four (4) weeks' vacation (192 hrs.) per year.

After nine-teen (19) years of service – begin accruing five (5) weeks' vacation (240 hrs.) per year.

Bonus Vacation Service Benefit shall be a one-time occurrence granted on the



anniversary of the employee's hire date or when the employee became eligible for benefits according to their years of service as follows:

After ten (10) years of service:	one (1) week vacation (48 hrs.)
After twenty (20) years of service:	two (2) weeks' vacation (96 hrs.)
After thirty (30) years of service:	three (3) weeks' vacation (144 hrs.)
After forty (40) years of service:	four (4) weeks' vacation (192 hrs.)
After fifty (50) years of service:	five (5) weeks' vacation (240 hrs.)

#### C. Regular Part-Time Employees

All regular part-time employees shall earn paid vacation time in proportion to the hours worked in accordance with the employee's current term of continuous employment and in accordance with the following schedule:

- From Date of Hire - begin accruing two (2) weeks' vacation per year.
- After four (4) years of service – begin accruing three (3) weeks' vacation per year.
- After nine (9) years of service – begin accruing four (4) weeks' vacation (per year.
- After nine-teen (19) years of service – begin accruing five (5) weeks' vacation per year.

Bonus Vacation Service Benefit shall be a one-time occurrence granted on the anniversary of the employee's hire date or when the employee became eligible for benefits according to their years of service as follows:

After ten (10) years of service:	one (1) week vacation
After twenty (20) years of service:	two (2) weeks' vacation
After thirty (30) years of service:	three (3) weeks' vacation
After forty (40) years of service:	four (4) weeks' vacation
After fifty (50) years of service:	five (5) weeks' vacation

#### D. Carryover of Accrued Vacation Leave

Employees may carry over up to one half (1/2) of their annual vacation leave accrual from one year to the next, with the exception of the Bonus Vacation Service Benefit time. Any vacation leave accrual amounts more than one half (1/2) of the unused leave from one anniversary date to the following anniversary date shall be forfeited.

E. Payment of Accrued Vacation Leave Upon Separation

Upon separation from employment with the Town of Camden, employees shall receive in compensation, with exception of any Bonus Vacation Service Benefit time, all unused vacation leave at their current rate of pay.

**The Town's policies related to the accrual and use of vacation and sick time are intended to meet the requirements of Maine's earned paid leave law (26 M.R.S. § 637) and in no event shall employees accrue less than the amount of earned paid leave as set forth in the earned paid leave law referenced above.**

## APPENDIX B - INSURANCE AND RETIREMENT BENEFITS

### A. INSURANCE

Insurances are available to all regular full-time employees. Some Insurance may be available to regular part-time employees without employer participation. Look to each available insurance for eligibility.

#### 1. HEALTH INSURANCE

The Town shall offer group health insurance options for employees and their dependents for those that choose to join the Town's sponsored health insurance plan.

- a. The Town offers three health insurance options with varying degrees of employer and employee participation through the Maine Municipal Employees Health Trust (MMEHT). The options include the following plans:

Each Full-time Employee May Choose One of the Following Options:	
Option 1  Comprehensive Point of Service (POS- C)	Employer Pays: <ul style="list-style-type: none"><li>• Full-time Employees Hired prior to Jan 1, 2007 - 100% up to Family Coverage 100%</li><li>• Full-time Employees Hired after January 1, 2007, 100% Employee: 80% Dependent Coverage-</li></ul>
Option 2  POS 200	Employer Pays: <ul style="list-style-type: none"><li>• Full-time Employees Hired after January 1, 2007, 100% Employee: 90% Dependent Coverage-</li></ul>
Option 3  PPO 2500	Employer Pays: <ul style="list-style-type: none"><li>• ALL Full-time Employees: 100% Employee; 100% Dependent Coverage</li></ul>

- b. Once an employee has chosen an option that choice must remain for the calendar year.

However, each year during Open Enrollment (between November 15<sup>th</sup> and December 15<sup>th</sup>) each employee may choose another health insurance option or stay with their current plan.

- c. Regular-part time employees may choose to enroll in any of the Health Insurance options listed; however, the regular part-time employee is required to pay the entire premium without employer participation.

**2. AFLAC or COLONIAL LIFE SUPPLEMENTAL INSURANCE**

Supplemental insurance (i.e., cancer and accident) through AFLAC or Colonial Life is available to regular full-time and regular part-time employees through payroll deduction.

**3. DENTAL INSURANCE**

The Town agrees to make available a dental insurance plan which shall be funded entirely by the employees who choose to participate.

**4. INCOME PROTECTION**

The Town agrees to make available an income protection plan for short-term disability, which shall be funded entirely by the full-time employees who choose to participate. Late entrance requirements must be met by any employee who does not choose to join the income protection plan upon date of hire.

**5. VISION INSURANCE**

The Town agrees to make available a vision insurance plan which shall be funded entirely by the employees who choose to participate.

**6. WORKERS' COMPENSATION**

The Town provides Workers' Compensation Insurance for all Town employees.

**7. INSURANCE PREMIUMS PRE-TAX**

With the exception of Income Protection, employees are able to pay insurance premiums under a Section 125 Premium Only Plan, which allows employees to pay the premiums on a pre-tax basis.

**B. RETIREMENT**

Social Security is the only 'retirement' plan available to ALL employees.

**1. MAINE PUBLIC EMPLOYEES' RETIREMENT SYSTEM (MainePERS)**

The Town is a Participating Local District (PLD) of the MainePERS. Participation is optional for all regular employees and requires contribution from both employer and employee. The contributions are determined annually by MPERS.

Once an employee makes an election to participate in MainePERS (within 30 days of hire), that election applies to all current and any future employment that employee has with that PLD. There is no second chance (or more) to decline membership, only a second chance (or more) to join during annual open enrollment.

An employee whose job description is one that would require them to work at least 15 hours per week

and accumulate at least 720 hours in 12 consecutive months shall be allowed membership from the first day of employment. Regardless of job description, an employee who has worked more than 15 hours per week and has accumulated at least 720 hours in 12 consecutive months shall become a member as of the first day of the pay period following the end of the 12-month period. Regardless of job description, an employee who accumulates more than 1170 hours in 18 consecutive months shall become a member as of the first day of the pay period following the end of the 18-month period.

2. **SOCIAL SECURITY**

The Town participates in the Social Security System covering all employees. Participation is mandatory and includes contributions from both employer and employee.

3. **MISSION SQUARE RETIREMENT (Formally: ICMA-RC)**

If a regular full-time employee does not choose to join the MPERS PLD plan, the employee may contribute to their selected Mission Square Retirement plan. The Town will contribute an amount that matches the employee's contribution up to five percent (5%).

## APPENDIX C - FAMILY AND MEDICAL LEAVE

Family and Medical Leave will be provided consistent with the Federal Family Medical Leave Act or the Maine Family Medical Leave Act, whichever is applicable. FML will run concurrently with all other leave and leave benefits, including but not limited to Workers' Comp., and Short-Term Disability, and will while the employee is using their own accrued leave (such as sick, vacation, and compensatory time).

### **Federal FMLA (Family Medical Leave Act)**

The Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons.

### **Covered Employers**

The FMLA only applies to employers that meet certain criteria. A **covered employer** is a:

- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year
- Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

### **Eligible Employees**

Only eligible employees are entitled to take FMLA leave. An **eligible employee** is one who:

- Works for a *covered employer* (The Town of Camden).
- Has worked for the employer for at least 12 months.
- Has at least 1,250 hours of service for the employer during the 12-month period immediately preceding the leave; and
- Works at a location where the employer (Town) has at least 50 employees within 75 miles (in the Town of Camden all employees work within a 75-mile radius of the Town Hall)

The 12 months of employment do not have to be consecutive. That means any time previously worked for the same employer (including seasonal work) could, in most cases, be used to meet the 12-month requirement. If the employee has a break in service that lasted seven years or more, the time worked prior to the break will not count *unless* the break is due to service covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), or there is a written agreement, including a collective bargaining agreement, outlining the employer's intention to rehire the employee after the break in service. See "FMLA Special Rules for Returning Reservists".

### **Leave Entitlement**

An eligible employee shall be entitled to twelve (12) workweeks of paid leave during a twelve (12) month period for one or more of the following reasons:

- the birth or placement of a child for adoption or foster care.
- to care for a spouse, child, or parent who has a serious health condition.
- for a serious health condition\* that causes the employee to be unable to perform the essential functions of their job; or
- For any qualifying exigency arising out of the fact that a spouse, child, or

parent is a military member on covered active duty or call to covered active-duty status.

- a serious health condition, which shall be defined as an illness of a serious and long-term nature resulting in recurring or lengthy absences. Treatment of such an illness would occur in an inpatient situation at a hospital, hospice, or residential medical care facility, or would consist of continuing care provided by a licensed health care provider.

\*A serious health condition means an accident, injury, impairment, or physical or mental condition that involves either inpatient care or continuing treatment by a health care provider.

When both spouses are employed by the Town, they are each entitled to twelve (12) work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

An eligible employee may also take up to **26 workweeks** of leave during a "single 12-month period" to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, child, parent, or next of kin of the servicemember. The "single 12-month period" for military caregiver leave is different from the 12-month period used for other FMLA leave reasons.

### **Intermittent Leave**

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time they work each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations.

The Town may, in its discretion, allow an employee to take intermittent leave or work a reduced schedule because of the birth, adoption, or placement of a child. The Town will review the individual circumstances involved, considering the needs of the Town, the employee's length of service, number of requests, duties, workload, and the employee's job performance.

### **Notice**

Employees generally must request leave 30 days in advance when the need for leave is foreseeable. When the need for leave is foreseeable less than 30 days in advance or is unforeseeable, employees must provide notice as soon as possible and practicable under the circumstances.

If the Town acquires knowledge that a leave may be for a FMLA-qualifying reason, the Town will provide the employee with notice concerning their eligibility for FMLA leave and their rights and responsibilities under the FMLA. The Town will also notify employees whether leave is designated as FMLA leave and the amount of leave that will be deducted from the employees' FMLA entitlement.

### **Certification**

In the event an employee is requesting a leave, or the employer has acquired information

the employee is going to be on leave, the Town may require certification in support of the leave from a health care provider. The employee must provide a copy of the certification to the Town in a timely manner (Fifteen calendar days will be allowed to provide the certification to the Town.)

When a medical leave is not foreseeable, employees must provide the required certification within 15 calendar days after the Town's request for certification unless it is not practical under the circumstances to do so. Failure to provide the required medical certification may result in the denial of foreseeable leaves until such certification is provided. In the case of unforeseeable leaves, failure to provide the required medical certification within 15 days of being requested to do so may result in a denial of the employee's continued leave. Any request for an extension of the leave also must be supported by an updated medical certification.

### **Calculation of Leave**

Eligible employees can use up to twelve (12) weeks of leave during any twelve (12) month period. The Town will use a rolling twelve (12) month period, measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the Town computes the amount of leave the employee has taken under this policy, subtracts it from the twelve (12) weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken five (5) weeks of leave in the past twelve (12) months, they could take an additional seven (7) weeks under this policy.

### **Maintenance of Benefits**

An employee shall be entitled to maintain group health insurance coverage on the same basis as if they had continued to work at the Town.

If the employee informs the Town that they do not intend to return to work at the end of the leave period, the Town's obligation to provide health benefits ends.

Vacation, sick, and holidays will not accrue once paid leave has been exhausted, consistent with the Town's paid leave policies. However, the use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined. Seniority of position is not affected.

### **Job Restoration**

Upon return from FML leave, an employee shall be restored to their original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.

Employees taking leave due to the employee's serious health condition are required to obtain medical certification that the employee is able to resume work prior to returning from leave.

Employees accepting employment elsewhere while on FML may be disciplined, up to and including discharge.

### **Maine Family Medical Leave**

#### **Covered Employers**



The Maine Family Medical leave requirement applies to employer who meet the following criteria:

- Private employer that employs 15 or more employees at one location in the State of Maine
- The State, including the executive, legislative and judicial branches, and any State department or agency that employs any employees.
- Any Town, Town or municipal agency that employs 25 or more employees.
- Any agent of an employer, the State, or a political subdivision of the State

### **Eligible Employees**

Only eligible employees are entitled to take Maine Family Medical Leave. Eligible employees are:

- Employees who have worked for the Town for 12 consecutive months. No minimum hours required.

### **Leave Entitlement**

An eligible employee shall be entitled to ten (10) workweeks of paid leave during any two years for one of the following reasons: (The two-year period in which leave may be taken is determined by a twenty-four-month period measure from the date of an employee's first FML leave begins.)

- Employee's serious health condition
- Birth of the employee's child or the employee's domestic partner's child
- Placement of a child 16 years of age or less with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner
- A child, domestic partner's child, parent, domestic partner, sibling, or spouse with a serious health condition
- The donation of an organ of that employee for a human organ transplant
- The death or serious health condition of the employee's spouse, domestic partner, parent, sibling, or child if the spouse, domestic partner, parent, sibling, or child is a member of the state military forces as defined in Title 37-B, Section 102, or the United States Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

### **Intermittent Leave**

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time they work each day or week for a single qualifying reason. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operations.

The Town may, in its discretion, allow an employee to take intermittent leave or work a reduced schedule because of the birth, adoption, or placement of a child. The Town will review the individual circumstances involved, considering the needs of the Town, the employee's length of service, number of requests, duties, workload, and the employee's job performance.

### **Notice**

An employee may request the leave in writing with 30 days' notice, and complete an Application for Family and Medical Leave, except in the case of a medical emergency or

sudden illness. The Town may also declare the leave. For events that are unforeseeable 30 days in advance, but are not emergencies, the employee must notify the Town as soon as they learn of the need for the leave, ordinarily no later than one or two working days after the employee learns of the need for the leave. FMLA leave request forms and medical certification forms can be obtained from the Human Resources office.

### **Certification**

An employee may also be required to provide medical certification during the leave, along with periodic updates on their status and intent to return to work. If their leave was requested because of their own serious health condition, the employee will be required to provide medical certification of their availability to return to work.

When a medical leave is not foreseeable, employees must provide the required certification within 15 calendar days after the Town's request for certification unless it is not practical under the circumstances to do so. Failure to provide the required medical certification may result in the denial of foreseeable leaves until such certification is provided. In the case of unforeseeable leaves, failure to provide the required medical certification within 15 days of being requested to do so may result in a denial of the employee's continued leave. Any request for an extension of the leave also must be supported by an updated medical certification.

### **Calculation of Leave**

Eligible employees can use up to twelve (10) weeks of leave during any twenty-four (24) month period. The Town will use a rolling twenty-four (24) month period, measured backward from the date an employee uses any FML leave. Each time an employee uses leave, the Town computes the amount of leave the employee has taken under this policy, subtracts it from the twelve (10) weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken five (5) weeks of leave in the past twenty-four (24) months, they could take an additional five (5) weeks under this policy.

### **Maintenance of Benefits**

Employees taking leave under the Maine FML may continue their benefits during their leave at the employee's expense. Vacation, sick, and holidays will not accrue once paid leave has been exhausted, consistent with the Town's leave policies.

### **Job Restoration**

When an employee returns from Maine FML, they will be restored to the same or an equivalent position unless:

- Employment with the Town would have terminated if no leave had been taken.
- Employee has given notice of their intent to terminate employment during their FMLA leave; or
- Employee, with or without reasonable accommodations, cannot safely perform the essential functions of the job to which they may be restored.

Employees accepting employment elsewhere while on FML may be disciplined, up to and including discharge.

## **APPENDIX D - DRUG AND ALCOHOL TESTING POLICY**

### **I. INTRODUCTION**

The Town of Camden is committed to a drug and alcohol-free workplace.

In order to ensure the safety of its employees and the general public, as well as compliance with Federal Regulations, the Town has adopted this policy.

The Town of Camden takes pride in its employees who perform critical duties in a truly effective manner with safety foremost in their minds. This policy strengthens our commitment to a safe workplace.

### **II. PROHIBITION ON ALCOHOL AND DRUG USE**

The Town of Camden explicitly prohibits:

A. The use, possession, solicitation for, or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription by an employee within any Town-owned facility, property, or vehicle, or at any work location, while on duty.

B. Being impaired or under the influence of legal or illegal drugs or alcohol while on duty, even if the use of drugs, alcohol or prescription medication occurred off premises or during non-work hours.

C. CMV Operators: The presence of any detectable amounts of prohibited substances in the system of any employee who operates a CMV (commercial motor vehicle on behalf of the Town. "Prohibited substances" shall include illegal drugs, alcohol, or prescription drugs not taken in accordance with a valid prescription given to the employee.

D. Safety Sensitive Operators: The presence of any detectable amounts of substances in the system of any Town employee who operates Town-owned motor vehicles or heavy machinery/equipment (non-CMV licensees) on behalf of the Town. "Prohibited substances" shall include illegal drugs (with the exception of marijuana), alcohol or prescription drugs not taken in accordance with a valid prescription given to the employee.

### **III. PROGRAM ADMINISTRATOR**

The Town Manager has been designated by the Town as the Alcohol/Drug Testing Program Administrator. In this function, the Town Manager will provide answers to any questions from drivers, employees, or the public in general.

The Program Administrator will handle all information on all tests as confidential. The Program Administrator may provide such information as necessary to enable the appropriate Department Head to take the proper actions as warranted.

#### **IV. PROGRAM OBJECTIVES**

- A. To provide employees with access to confidential counseling and/or rehabilitation programs and to detect illegal and unauthorized substance abuse and contraband in the workplace.
- B. To reduce the opportunities for accidents and injuries and prevent damage to property.
- C. To improve productivity, ensure quality and to minimize employee absenteeism and tardiness.
- D. To comply with Federal Requirements for drug and alcohol testing of drivers.

#### **V. SCOPE OF POLICY**

The policy will apply to all Town of Camden CMV and Safety Sensitive employees.

The term “CMV employee” shall refer to any employee whose job description or qualifications require the employee to hold a Commercial Driver’s License or to drive a Commercial Motor Vehicle as that term is defined in 49 CFR §382.107.

The term ‘Safety Sensitive employee’ shall refer to any employee whose job description or qualifications require the employee to operate Town-owned motor vehicles and/or heavy machinery/equipment that, based on its nature, machinery used/location/surroundings or its influences upon other operations or individual could potentially pose a threat to the safety of employee, a co-worker, customers, or others.

Unless otherwise qualified, the term “employee” shall refer generally to any full-time, part-time, or temporary employee of the Town of Camden whose job description/qualifications are classified as a CMV or Safety Sensitive employee.

All employees shall receive a copy of this policy, as well as a copy of the educational materials covered in the employee education session on substance abuse.

#### **VI. DRUG AND ALCOHOL TESTING**

The Town of Camden will conduct drug and/or alcohol testing under any of the following circumstances:

- A. For-cause testing: The Town Manager may require an employee to submit to a drug and/or alcohol test at any time the employee’s supervisor or the Program Administrator has probable

cause (as defined in 30-A M.R.S.A. § 682(6) to believe that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances: evidence of drugs or alcohol on or about the employee's person or in the employee's vicinity, unusual conduct on the employee's part that suggests impairment or influence of drugs or alcohol, or patterns of physically negligent behavior. A Town employee will also be tested following any accident in accordance with 49 CFR § 382.303.

The supervisor requesting the testing shall document the specific facts, symptoms, or observations by completing a "Reasonable Suspicion Record" form and providing it to the Program Administrator. The Program Administrator shall act in accordance with the appropriate sections of this policy. All employee reports will be kept strictly confidential.

B. Pre-employment testing: Any offer of employment for a job that includes operation of a CMV, heavy equipment/machinery or Town-owned motor vehicle as part of the occasional or usual job requirements shall be contingent upon the successful applicant passing drug testing, even if the offer is being made to an existing Town employee.

C. Random testing: Any CMV or Safety Sensitive Town employee may be selected at random for drug and/or alcohol testing at any interval determined by the Town of Camden. The Town of Camden has entered into an agreement with a third-party administrator (TPA) to pool Town employees with others in order to randomly select the CMV/Safety Sensitive employees for testing and then notify the Program Administrator of the person or persons chosen.

D. Return-to-duty. An employee who previously tested positive must submit to an alcohol test and/or drug test before they may return to duty. The result(s) must be negative to return to work.

E. An employee who previously tested positive and has returned to duty must submit to follow-up testing as required by the Program Supervisor. A Town employee who tested positive must submit to at least six (6) alcohol and/or drug tests during the first twelve (12) months after returning to work. Follow-up tests will be unannounced and may continue for up to sixty (60) months after returning to work, not to exceed twelve (12) per year, as determined by a substance abuse professional. Random and follow-up alcohol testing may be conducted just before, during, or just after an employee's performance of safety-sensitive duties. Random drug testing does not have to be conducted in immediate time proximity to performing safety-sensitive functions.

F. Outside drug tests. If an employee is tested for drugs or alcohol outside of the employment context and the results indicate a violation of this policy, or if an employee refuses to submit to testing under this policy, the employee may be subject to appropriate disciplinary action, up to and possibly including discharge from employment.

## **VII. SUBSTANCES TESTED**

Where testing is permitted or required pursuant to Section VI, the following substances will be tested to determine their presence:

1. Alcohol
2. Marijuana (CMV operators only)
3. Cocaine
4. Amphetamines
5. Phencyclidine (PCP)
6. Opiates

#### **VIII. PRESCRIPTION DRUG USE**

Employees covered by this policy may use prescription drugs and “over the counter” medications provided:

1. The prescription drugs or their generic equivalent have been prescribed to the employee within the past 12 months by an authorized medical practitioner.
2. Employees do not consume prescribed drugs more often or in greater quantity than is prescribed by the employee’s physician, and do not allow any other employee to consume the prescribed drug.
3. Any employee who has been informed that a medication could cause adverse side effects while working shall inform their supervisor prior to using these substances. The Town, at all times, reserves the right to have a licensed physician determine if use of a prescription drug or medication by an employee produces an adverse effect on performing work for the Town. If such a finding is made, the Town may notify the employee’s physician (with permission) to determine if other medications are available which would not seriously affect the employee’s ability to work safely. The Town will make reasonable accommodations, when possible, to accommodate an employee’s need to use medication.

#### **IX. TESTING PROCEDURES**

The Town of Camden will maintain a contract with a properly licensed medical provider to perform the Town’s alcohol and substance abuse testing. When an employee has been randomly selected, s/he will be notified by their appropriate supervisor, and both will proceed directly to the testing area. All randomly selected individuals must comply with the testing.

Providing a urine sample for substance abuse testing shall only be conducted in a medical facility supervised by a licensed physician or nurse. Employees and job applicants for Town employee positions shall not be required to provide a urine sample while being observed, directly or indirectly, by another individual. The test subject shall leave any personal belongings including any unnecessary clothing, coat, jacket, or similar outer garment outside the collection area.

All specimen samples shall be collected, sealed, and stored in compliance with the

National Institute on Drug Abuse (NIDA) guidelines as required by Federal Law, and transported to a licensed and certified laboratory for actual testing. The chain of custody requirements for these samples shall be in accordance with NIDA guidelines and Federal Regulations to protect the sample from being tampered and to verify the identity of each sample and test results. When the sample is first collected, a portion of the sample shall be segregated according to federal regulations.

Cutoff levels for positive samples shall be as specified by the Maine Department of Health and Human Services in rules set forth at 10-144 CMR c. 265.

All alcohol testing will be conducted with a Breath Testing Device (EBT), which will be administered by the same medical facility as the substance testing. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a negative test.

If the alcohol concentration is 0.02 or greater, a second confirmation test must be conducted within fifteen (15) minutes. The employee and the individual conducting the breath test shall complete the alcohol testing form to ensure that the results are properly recorded. Any individual who conducts the testing must be trained to operate the EBT and proficient in the breath testing procedures.

At the request of the employee or applicant at the time the test sample is taken, the MRO shall:

- A. Segregate a portion of the sample for the employee or applicant's own testing. Within five (5) days after notice of the test result is given to the employee or applicant, the employee or applicant shall notify the MRO of the testing laboratory selected by the employee or applicant, and the MRO shall promptly send the segregated portion of the sample to the named testing laboratory. The employee shall pay the cost of testing the segregated sample if the test is positive and the Town shall pay the cost of the test is negative. (Applicants shall pay the cost of testing the segregated sample regardless of the test results.) If the employee is aware of a situation that may have led to the positive test, such as taking of prescription or other medicines, s/he should make the fact known to the MRO within the required time after notification of a confirmed positive test.
- B. In the case of an employee only, have a blood sample taken from the employee by a licensed physician, registered physician's assistant, registered nurse, or a person certified by the Department of Health and Human Services to draw blood samples. The MRO shall have this sample tested for the presence of alcohol or marijuana (CMV employees only) metabolites. If the employee requests that a blood sample be taken as provided in this paragraph, the MRO may not test any other sample from the employee for the presence of these substances.

The Town shall utilize the services of a Medical Review Officer (MRO) to interpret any confirmed positive test. An MRO is a licensed physician who is responsible for receiving the laboratory results. The MRO has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's medical history and any other medical information. The MRO shall have

the authority to discuss an employee's test result with the employee prior to notifying the Town. Once the employee has been notified and the MRO is satisfied with the accuracy of the test results, the Town shall be notified.

If an employee or applicant wishes to challenge the result of a confirmed positive test, they may present a written appeal to the Program Administrator within five (5) working days of receiving notice of the test result. The appeal shall include the employee or applicant's signature, the date of submission and the reasons for the appeal. Upon receipt of an appeal, the Program Administrator shall forward the appeal to the MRO and schedule a meeting of the employee/applicant, Program Administrator and MRO to be held within ten (10) working days of the appeal. The appellant shall not be charged with any costs of the appeal. If, following the meeting, the Program Administrator and MRO deem that the test result is credible and reliable, the employee may be referred for discipline or rehabilitation.

An employee may be placed on paid leave, be transferred to a different position at the same rate of pay, or have his duties altered during the pendency of any drug testing or appeal, and any disciplinary process that may follow.

#### **X. PROHIBITED CONDUCT BY TOWN EMPLOYEES**

In addition to the conduct outlined in Section II of this Policy, any Town employee of the Town of Camden shall not do any of the following:

1. Report to work and/or remain on duty with an alcohol concentration greater than 0.00.
2. Possess any alcohol while on duty or in any vehicle owned or operated by the Town of Camden.
3. Use any alcohol while on duty or in any vehicle owned or operated by the Town of Camden.
4. Use any alcohol within four (4) hours of going on duty.
5. Use any alcohol within eight (8) hours after an accident which has required the Town employee to be tested for alcohol concentration.
6. Refuse to submit to a required alcohol and/or controlled substance test.
7. Report to or remain on duty when using any controlled substance, except when used under a physician's orders and when the physician has informed the Town employee in writing that the use will not affect the safe operations of heavy equipment or motor vehicle. In the case of a written warning by the physician, the employee shall report this to their supervisor immediately.
8. Report to or remain on duty if the employee has tested positive for controlled substances (Exception for non-CMV employees: Marijuana). A Town employee shall be prohibited from operating heavy equipment/machinery or motor vehicle for 24 hours following a test revealing an alcohol concentration of 0.04 or greater or the presence of any controlled substance (Exception for non- CMV Employees: Marijuana).

Failure to comply with these rules is a violation of this policy and will result in disciplinary action and/or referral to a certified rehabilitation program.



## **XI. REFUSAL TO TEST**

Failure to submit to testing may result in discharge in the case of an employee and will result in no further consideration for employment by the Town in the case of an applicant. Specifically, the following circumstances will be considered a refusal to test:

1. Failure to report to the designated testing area within thirty (30) minutes of being notified to submit to a required random test.
2. Failure to accurately provide a sufficient sample to be tested, either breath or urine, unless medically determined impossible to do so.
3. Determination by the testing laboratory that the employee or applicant has twice substituted, adulterated, diluted, or otherwise tampered with a sample in an attempt to influence test results.

## **XII. DISCIPLINARY ACTION**

Any employee who engages in conduct prohibited by this policy may be subject to disciplinary action up to and including dismissal.

Any employee who tests positive the first time for drugs or alcohol following any random or “for cause” test under this Policy will be offered an opportunity for rehabilitation for up to six (6) months. The offer of rehabilitation does not apply to job applicants. Any period of rehabilitation that prevents the employee from attending work shall be governed by the provisions in the Personnel Policy regarding medical leaves of absence. If an employee refuses the opportunity for rehabilitation, the Town will proceed with disciplinary action in accordance with the Personnel Policy and Maine law.

Employees who test positive a second time will be referred immediately for disciplinary action and will not be given a further opportunity for rehabilitation.

Town employees who are found to have an alcohol concentration greater than 0.00, will be placed on unpaid leave for a minimum of twenty-four (24) hours.

During the period the Town is awaiting an employee’s test result due to a post-accident or reasonable suspicion circumstance, the Town may transfer the employee to another position with no reduction in pay or benefits. The Town also reserves the right to place an employee on paid suspension. A determination as to whether an employee is placed in another position or placed on suspension may be based, but not limited to, initial assessment of responsibility for and/or the severity of the accident, if applicable; the observed condition of the employee, if applicable; the employee’s work history; length of employment; current job performance and the existence of past disciplinary actions.

## **XIII. EMPLOYEE/APPLICANT RIGHTS AND RESPONSIBILITIES**

It is the responsibility of each employee to report to work and remain fitness for duty. Furthermore, each employee is responsible to seek help before alcohol and drug problems affect job performance or result in a positive test.

In the event of a positive drug test result, employees and job applicants shall have the opportunity to present an alternative explanation for the drug test result by contacting the Medical Review Officer (MRO). This shall be done no later than five (5) days after notification of the result. No further action will be taken if there is a justified explanation, or there is a reasonable doubt as to the accuracy of the result or chain of custody of the sample.

Any employee or job applicant with a positive test result may also, upon written request within five (5) working days, have the right to any information relating to the test result and procedures.

Upon successfully completing a drug rehabilitation program under this Policy, as determined by the rehabilitation or treatment provider in consultation with the Town, the employee is entitled to return to their previous job, if it is available, or to any other available position for which the employee is qualified by skill or experience, and for which the employee is not medically disqualified.

Any subsequent confirmed positive test may result in suspension without pay and/or termination.

#### **XIV. CONFIDENTIALITY OF INFORMATION**

Unless the employee or applicant consents, all personal information acquired by the Town in the testing process is confidential and may not be released to any person other than the employee or applicant who is tested, the Program Administrator, respective Department Heads or designees, the MRO, the EAP or Rehabilitation Provider and appropriate federal and state officials. The foregoing shall not prevent the release of information that is required or permitted by state or federal law or the use of information in any grievance procedure, administrative hearing, or civil action relating to the imposition of the test or the use of the test results. A driver may authorize release of such information to a subsequent employer upon written request from the driver.

#### **XV. EDUCATIONAL SESSIONS / EMPLOYEE ASSISTANCE**

The Town will provide each employee with a copy of the written policy. The Town will also provide printed material which describes the effects of alcohol and/or drugs on the individual's health, work, and personal life, as well as information on the signs and symptoms of alcohol or drugs. Employees will be requested to sign a receipt for these materials. In addition, the Town will provide training on drug and alcohol abuse to supervisors of Town employees for at least sixty (60) minutes on each topic.

Any employee who wishes to seek personal and confidential advice on alcohol and/or drugs may contact the Town's Employee Assistance Provider. An employee

who chooses to voluntarily admit himself/herself to a substance abuse rehabilitation program may receive up to six months' leave for that purpose. Any period of rehabilitation that prevents the employee from attending work shall be governed by the provisions in the Personnel Policy regarding medical leaves of absence.

## **APPENDIX E - TECHNOLOGY USE AND SOCIAL MEDIA POLICY**

This policy governs the use of the Town's electronic communications and information systems by Town employees, elected officials, and appointees. All communication systems, computer equipment, mobile devices, software issued by the Town to employees, and all information transmitted by or stored in these systems are the property of the Town.

The Town retains control, custody and supervision of all computers and networks owned or leased by the Town. As such, users should have no expectation of privacy in connection with the use of said equipment and/or networks. The Town reserves the right to monitor and remove any hardware, software, data, e-mails, social media content, files or settings on computer systems or devices when deemed appropriate.

Users shall not access messages or information using another employee's password without permission of the Town Manager. Unauthorized duplication, dissemination, removal, installation, alteration of files, passwords, programs, or other property of the Town is prohibited.

### **1. Personal Use**

The Town understands the occasional need for and will permit incidental use of Town equipment for personal use within the guidelines of this policy. The usage must not preempt Town business, must not take up an excessive amount of the employee's work time, and must not violate this or any other policy of the Town of Camden.

Users shall not use Town equipment for personal business interests, for profit or non-profit ventures, for political activities related to a Town office, or in any other way that violates a Town policy or directive of the Town Manager or the employee's Department Head. Questions about whether a use is appropriate should be forwarded in writing to the Town Manager for a determination.

### **2. Software, Hardware, and Games**

All software and hardware required for employees to perform their job will be provided and installed by the Town. Requests for new hardware or software should be made to the employee's Department Head. Games are inappropriate in a business environment and may not be downloaded or played on Town equipment and are prohibited.

Downloads, software, or hardware which have not been approved by the Department Head or IT Administrator may compromise the integrity of the Town's systems and are therefore prohibited.

### **3. E-Mail**

This section relates to both business and personal e-mail sent from and received by a Town computer. The Town provides users with an e-mail address for work-related use. Personal use of the Town's e-mail address is not permitted.

A user's personal e-mail shall not be used to conduct Town business. Any transaction of public business over private e-mail may still be subject to the Freedom of Access Act (FOAA). Never transmit an e-mail they would not want made public. Users should not expect privacy in any activity conducted on a Town e-mail. Members of boards and committees should be careful to avoid any deliberation or substantive discussion of board or committee business by e-mail as it may violate Maine's Freedom of Access laws.

All e-mails must comply with Town policies. Notwithstanding the Town's right to retrieve and read any message or information sent through or stored on the Town's systems, such messages or information should be treated as confidential by other users and accessed only by the intended recipient. Users should not attempt to gain access to another employee's messages or information unless directed to do so by the Department Head or Town Manager.

#### **4. Storing and Transferring Documents**

Electronic documents, including e-mails, electronic communication and town-related materials should be stored on the Town's network in accordance with state record retention rules. Incidental communication, which is not an official record or transaction of Town business, should be deleted as soon as it is no longer needed.

Documents or electronic communications classified as protected or private information under data practices requirements should be stored separately from other files whenever possible or given a unique identifier to help ensure that no confidential communication is erroneously provided upon public request.

Any questions regarding whether an electronic communication or other document is a government record for purposes of records retention laws or is considered protected or private under data practices should be referred to the Department Head or Town Manager. Note that from time to time, the Town Manager or IT Administrator may direct employees to follow certain document storage protocols; these must be followed.

#### **5. Internet**

The following considerations apply to all uses of the Internet whether business or personal. The Town provides Internet access to users for Town business. Occasional personal use of the Internet is acceptable within the bounds of all Town policies.

Users may not at any time access inappropriate sites using Town equipment or systems. Some examples of inappropriate sites include but are not limited to adult entertainment, sexually explicit material, material advocating intolerance of other people, races or religions, gambling sites, and sites involving any illegal content or activity. This prohibition includes such information accessed through social media

sites such as Facebook, Myspace, Twitter, and Instagram. If they are unsure whether a site may include inappropriate information, they should not visit it. No software or files may be downloaded from the Internet unless approved in advance by the Department Head or Town Manager.

## **6. Passwords and Physical Security of Equipment**

The IT Administrator is responsible for assigning and maintaining computer passwords. Passwords should not be shared under any circumstances. If it is necessary to access an employee's computer when they are absent, contact the Department Head or Town Manager for permission.

Passwords should not be stored near an employee's computer. If possible, log out of their computer whenever they are out of their office, and do not leave Town equipment unattended at any off-site facility.

## **Social Media**

This section provides guidance for employee use of social media, which should be broadly understood for purposes of this policy to include blogs, wikis, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites, comment areas, and other sites and services that permit users to share information with others in a contemporaneous manner.

Employees should be aware of the effect their actions may have on their coworkers and on the Town of Camden. The information that employees post or publish on social media may be public information for a long time and may not be able to be removed.

This policy, the Town of Camden's Personnel Policy and other Town policies, including but not limited to all harassment, discrimination, confidentiality, and code of conduct provisions, apply to all employee use of social media using Town equipment, made during an employee's work time or within the scope of their duties, or made while representing oneself as a Town employee or official.

Employees may not publish, post, or release any information that is considered confidential or is otherwise protected from public disclosure by statute. If there are questions about what is considered confidential, employees should check with their supervisor and/or the Town Manager. Any content maintained in a social media format that is related to Town business should be treated as a public record under the Freedom of Access laws and must be managed, stored and able to be retrieved to comply with applicable laws.

When an employee is authorized to use social media as part of their job responsibilities, the following additional rules apply:

- a. All social media venues used by the Town for purposes of Town business shall be coordinated and approved by the Department Head or Town Manager, and by the IT Administrator.
- b. An employee acting in their professional capacity must be authorized by

the Town Manager prior to posting to Town administered social media sites and may not post their personal opinion on Town social media sites.

- c. If employees encounter a situation while using social media that threatens to become antagonistic, employees should disengage from the dialog in a polite manner and seek the advice of a supervisor.
- d. Employees using social media as part of their job functions must abide by the laws governing copyright and fair use of copyrighted material owned by others.
- e. Social media networks, blogs and other types of online content sometimes generate press and media attention or legal questions. Employees should refer these inquiries to the appropriate employee or official.
- f. All accounts administered by the Town of Camden, the associated usernames, passwords, and the content therein shall remain the property of the Town.
- g. The Town Manager shall reserve the right to monitor and/or remove content that is posted in violation of this Policy on a Town administered social media site by members of the public or by an employee acting in their professional capacity. This right shall not include the ability to edit or alter content and is subject to the provisions of Maine's Freedom of Access Act, Rules for Disposition of Local Government Records, and related e-discovery laws. Examples of content that may be considered in violation of this policy are vulgar or profane language, personal attacks or discriminatory statements, spam, off-topic comments, comments that advocate illegal activity, solicitations of particular products, services or political organizations, copyright or trademark infringement, confidential information, and information that may compromise criminal or civil investigations. An employee's personal use of social media should not be attributable to the Town or to the employee's job function at the Town. If an employee publishes content while off-duty that involves work or subjects associated with the Town of Camden, a disclaimer should be used, such as "The postings on this site are my own and may not represent the Town of Camden."

Even where such a disclaimer is used, employees should understand that certain comments made on personal time or using personal equipment may nevertheless subject the employee to disciplinary action if the material is harassing to another employee or official, affects the safety or security of any person by compromising confidential Town information, compromises any Town activity or violates any other policy of the Town of Camden. Nothing in this section shall be construed to interfere with, restrain or prevent employee communication regarding wages, hours, or other

conditions of employment.

## **7. Acknowledgment**

Employees must sign the Acknowledgment section of this policy to signify their commitment to comply with this policy and directives set forth by the Town Manager or IT Administrator. An employee who intentionally violates any aspect of this Policy may be subject to disciplinary action, including but not limited to revocation of certain equipment or technology privileges.



## **APPENDIX F- REFERENCE TO THE EARNED PAID LEAVE ACT (TITLE 26 MRS § 637)**

This Appendix serves to reference and clarify the interaction of the Earned Paid Leave Act (“EPL”), with an effective date of January 1, 2021, and the existing Personnel Policy benefits offered to the Employees of the Town of Camden. The Earned Paid Leave Act serves to offer a baseline of benefits available to covered employees of any employer in the State of Maine that employs more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year. The Town of Camden as an employer is therefore subject to the requirements of the Earned Paid Leave Act for certain employees as provided in the EPL.

Importantly, the EPL delegates Rule making, interpretation and enforcement of the EPL to the Maine Department of Labor (“DOL”), and the EPL also preempts any municipality from adopting any ordinance or rule which attempts to regulate the EPL. Thus, the DOL has issued extensive Rules and FAQs for the interpretation and implementation of the EPL. Nothing herein is intended to contradict the DOL Rules regarding the EPL.

The EPL provides for 1 hour of paid leave for every 40 hours worked, for covered employees, up to a maximum of 40 hours per year. The Camden Personnel Policy provides that 1.5 hours of sick time benefit is accrued as for each 40 hours worked for eligible employees. Additionally, vacation benefits accrue as per the schedules attached in Appendix A for employees who qualify as either Full-Time or Part-Time employees; Temporary employees (including seasonal) do not accrue any vacation time benefit. The combined sick leave and vacation accrued benefits offered to covered employees through the Town of Camden will in almost all cases exceed the baseline benefit provided through the EPL.

For Camden employees covered by the EPL, those eligible employees shall enjoy the greater of either (i) the EPL benefits or (ii) the combined leave and vacation benefits accrued through the Camden Personnel Policy but not both; the EPL and Personnel benefits are not cumulative. In no event shall the EPL be considered as additional benefits to be added to the combined sick leave and vacation accrued benefits offered through the Personnel Policy. Stated another way, for employees eligible for EPL, the EPL benefits accrued and vested shall be a floor or base line of benefits which shall be deducted from the combined accrued sick leave and vacation benefits offered through the Personnel Policy. This method of calculating and offering the greater accrued benefits as between the EPL versus the Camden Personnel Policy is consistent with current published Rules and FAQs of the DOL.

The Town intends to note the accrued EPL benefit on payroll stubs for employee information purposes only; such notation is not intended to provide for any additional benefit to the extent that accrued EPL is less than sick leave and/or vacation benefits accrued through the Personnel Policy. Please be aware that some of the EPL accrual calculations are complicated, as certain employee’s jobs are in part exempt from accruing EPL benefits.

By way of illustration, and subject to the DOL Rules as may be modified from time to time, the following provides some context of the detail provided to date from the DOL:

1. Earned paid leave (EPL) shall accrue for all covered Town employees, as defined by the Employment Security Act, 26 MRS §1043(11), at a rate of one (1) hour earned for every forty **(40)** hours worked in one year of employment. A “covered employee” may include a person who is employed by the Town in a full time, part time or per diem capacity.

2. No more than 40 hours of earned paid leave will be accrued during any one-year period of Town employment. The one-year “EPL eligibility period” shall be defined as follows:

(i) Existing Town employees hired prior to 1/1/2021: Accrual of EPL for existing employees will begin on 01/01/2021; such existing employees shall thereafter accrue and use EPL on a calendar year basis (January 1st through December 31st annually).

(ii) Employees hired after 01/01/2021: Employees hired on or after 1/1/2021 will accrue EPL on a rolling one (1) year basis, commencing on their date of hire; such employees shall thereafter accrue and use EPL on an anniversary year basis.

3. Accrual of EPL begins on 1/1/2021, or at the start of Town employment if on or after 1/1/2021, as applicable.

4. Existing employees who have been employed more than 120 days as of 1/1/2021 will begin to accrue 1-hour EPL for every 40 hours worked until the maximum of 40 hours EPL leave has accrued for the calendar year and may begin to use in 1-hour increments for reasons defined in the DOL Rules. Eligible employees hired after 1/1/2021 will begin to accrue 1-hour EPL for every 40 hours worked until the maximum of 40 hours EPL has accrued on a rolling 1 year basis, commencing on their date of hire; such employees shall thereafter accrue and use EPL on an anniversary year basis and may begin to use in 1-hour increments after they have been employed by the Town for 120 days. Employees who are covered by a Collective Bargaining Contract will be ineligible for EPL until the current Contract expires and shall thereafter be covered employees.

5. Covered employees with accrued and unused hours of EPL from the previous year of EPL eligibility (as defined on Section 2 above) will have those unused EPL hours available for (rolled over) in their next year of EPL eligibility, up to a maximum of forty (40) hours. EPL will thereafter continue to accrue up to forty (40) hours in their next EPL eligibility period; however, at no time in any given EPL eligibility period may any employee:

- (i) have more than 40 hours of EPL in their EPL bank.
- (ii) continue to accrue EPL so that their EPL bank exceeds 40 hours; or
- (iii) use more than 40 hours of EPL in any given EPL eligibility period.

6. All EPL used will be paid at the employee’s regular rate of pay as

established in the week immediately prior to taking the earned leave.

7. Unused EPL will be paid out at termination of employment.

8. EPL can be used for any purpose. If EPL is for a scheduled purpose, the Town requires a written notice. The Town can deny a requested date of use if it significantly impacts departmental operations.

9. EPL must be used in increments of one hour.

## **APPENDIX G - EMPLOYEE EXPENSES**

Employees shall be reimbursed for reasonable and necessary expenses incurred while carrying out official Town of Camden business. Prior approval of the Town Manager or Department Head is required. Such reimbursement shall not apply to travel between employee's home and work site. Mileage reimbursement will be provided at the current IRS rate for work related travel.

Employees shall be entitled to reimbursement for meals in a reasonable amount and reasonable expenses for lodging provided those expenses are necessitated directly by the performance of duties as a Town employee. Reimbursement applies to only Town employees. The maximum reimbursement for breakfast is \$15.00 per day; the maximum reimbursement for lunch is \$25.00 per day and the maximum reimbursement for dinner is \$30.00 per day, unless the meals are provided at training at a set fee. No reimbursements will be made without an itemized receipt substantiating the actual amount spent. No expenses for alcoholic beverages will be reimbursed. All reimbursement requests must receive approval from the employee's Department Head/supervisor.

## APPENDIX H– STORM CLOSING POLICY

It is the purpose of this policy to define the procedure and explain the various options available to employees when conditions warrant the closure of various town buildings/facilities. This policy defines the responsibilities of the Town Manager and the employees regarding work schedule and pay in the event of building closure. This policy also defines essential and non-essential employees.

### **POLICY**

The Town of Camden values the safety of its employees. The Town manager or designee may enact this, Policy.

For purposes of this policy **essential employees** shall be defined as all employees who are scheduled to work in the public works department, police department, fire department, wastewater department, or the Camden Snow Bowl and **Non-essential employees** shall be defined as all other staff.

All employees are expected to report to work unless they are notified by their Department Head that they are not required to report. **Essential employees** are required to report to work even though the town offices may be closed per the direction of the Town Manager. **Non-essential employees** are not required to report to work, nor are they required to work from home when the Town Manager closes all non-essential operations.

Any essential or non-essential employee, who has previously arranged for vacation, sick, comp, etc., time off on the closure day will be charged for time off for the entire scheduled work shift regardless of how many hours other employees actually work.

Non-compliance with this policy may result in disciplinary action.

### **ESSENTIAL EMPLOYEES ONLY:**

All Essential employees shall be required to report to designated worksites for their entire shift.

All essential employees who do not report to work on closure days and did not make prior scheduling arrangements with their supervisor will not be paid for their shift.

### **NON-ESSENTIAL EMPLOYEES ONLY:**

All non-essential employees including salaried employees are expected to work as scheduled unless directed to do otherwise by the Town Manager. Those employees who, in their own discretion, feel it is unsafe for them to travel to work may elect to use comp time or vacation time. An employee who elects to take time should report that fact to their Department Head or supervisor using the same procedure used for calling in sick.

If non-essential employees are notified by their Department Head prior to the start

of their workday, they are not required to report to work they will be paid their scheduled time for that day.

Non-essential employees who arrive at the beginning of their scheduled shift will be paid for the entire shift should they be sent home by the Town Manager prior to the end of their shift because of an event under this policy.

## **PROCEDURE**

1. When there is a closure, the Town Manager will contact Department Heads as soon as practical. Department Heads will then contact their employees early enough to stop them from coming to work using their internal telephone tree system.
2. If employees have any questions about a closure and have not been notified before leaving for work, they are encouraged to contact their Department Head.

## APPENDIX I – VEHICLE USE POLICY

### A. Driver Guidelines and Reporting Requirements

1. Town vehicles are to be driven by authorized employees only, except in the case of repair testing by a mechanic. Employees must have a valid and current driver's license to operate a Town vehicle, or a personal vehicle with current auto insurance while on Town business.
2. Employees are expected to drive in a safe and responsible manner, follow all State motor vehicle laws, and to maintain a good driving record.
3. Any employee who has a driver's license revoked or suspended shall immediately notify the Department Head by 9:00 a.m. eastern time the next business day, and **immediately discontinue operation of the Town vehicle**. Failure to do so may result in disciplinary action, including termination of employment.
4. All accidents in Town vehicles, regardless of severity, must be reported to the police and to the Department Head. Accidents are to be reported immediately (from the scene, during the same day, or as soon as practicable if immediate or same day reporting is not possible).

Accidents in personal vehicles while on Town business\* **must** follow these same accident procedures. Accidents involving the employee's personal injury must be reported to the Department Head for a first report of injury, which will be sent to Human Resources for Workers' Compensation purposes. Failing to stop after an accident and/or failure to report an accident may result in disciplinary action, up to and including termination of employment.

5. Drivers must report all ticket violations received during the operation of a Town vehicle, or while driving a personal vehicle for Town business\*, within 72 hours to their Department Head.
6. Motor Vehicle Records will be obtained on all drivers prior to employment and will be reviewed annually. A driving record that fails to meet the criteria stated in this policy or is considered to be in violation of the intent of this policy by the Town Manager, will result in a loss of the privilege of driving a Town vehicle until such time as the driver meets any required criteria.
7. Criteria that may indicate an unacceptable record includes but is not limited to: Three or more moving violations or chargeable accidents within a year or any combination of accidents and moving violations. Chargeable means that the driver is determined to be the primary cause of the accident through speeding, inattention, etc. Contributing factors, such as weather or mechanical problems, will be taken into consideration.

### B. Authorized Use of Town Vehicles

Employee's privilege to operate a vehicle on official business extends only if the driver operates the vehicle in a safe manner. Proper care in the operation of the assigned vehicle, including the use of seat belts, hands free, obeying the speed limit and rules of the road, shall always be exercised.

Town-owned vehicles shall be driven for official use and work purposes only. Personal use of Town-owned vehicles is not permitted. Non-Town personnel are not permitted in Town

vehicles under any circumstance, unless expressly authorized by their Department Head. Unauthorized use will result in disciplinary action.

Town Vehicles shall not be taken home overnight, except as follows:

1. Employees may take a Town-owned vehicle home for one night when attendance at an off-site meeting takes place prior to normal working hours, subject to the approval of the Town Manager or Department Head.
2. Employees who are on call on a 24-hour basis may be allowed to take a Town vehicle home so they can respond as soon as possible. Such employees need to provide a written acknowledgment that they fully understand that the vehicle is used only as part of emergency response and not for personal use.
3. The following positions are authorized to take home a marked or unmarked Town vehicle: Police Chief, Fire Chief, and Public Works Director to allow them, during off-duty hours, to respond to emergency calls for service. Any other personal use of the Town's vehicles during off-duty hours is strictly prohibited.
4. Employees whose positions require that they be available during off-duty hours to respond to emergency situations or for investigative purposes, may with the prior approval of the Town Manager, Police Chief, Public Works Director, or Fire Chief, take a Town vehicle home.

### **C. Driver Safety Rules**

1. Driving on Town business and/or driving a Town vehicle while under the influence of intoxicants and other drugs (which could impair driving ability) is forbidden and is sufficient cause for discipline, up to and including termination of employment.
2. No driver shall operate a Town vehicle when their ability to do so safely has been impaired by illness, fatigue, injury, or prescription medication.
3. State of Maine requires that all drivers and passengers operating or riding in a city vehicle must wear seat belts. No unauthorized personnel can ride in Town vehicles unless expressly authorized by the Town Manager or Department Head.
4. Drivers are responsible for the security of the vehicles assigned to them. The vehicle engine must be shut off, ignition keys removed, and vehicle doors locked whenever the vehicle is left unattended.

### **D. Definitions**

**Town Business:** Town business is defined as driving at the direction, or for the benefit, of employer. It does not include normal commuting to and from work.

**Personal Use:** Personal use includes but is not limited to doctors' appointments, personal errands, picking children up from school or daycare, etc. Personal use of a Town vehicle is prohibited unless expressly authorized by the Town Manager or the employee's Department Head.

**Moving Violations:** A violation of the Maine motor vehicle statutes for which points may be assessed.



## **APPENDIX J – PAY PLAN IMPLEMENTATION POLICY**

### **GUIDELINES**

The following guidelines set forth the administration of the Town of Camden's pay plan. The purpose of these guidelines is to provide detail concerning the plan administration, ensure that it is consistently and fairly applied, and provide the necessary flexibility to deal with the job market, the availability of funds, and other circumstances.

Each position will be assigned a pay grade which will contain steps showing the starting and maximum pay across nine steps. The step increments will be approximately 3% for steps A through K.

COLA will be determined annually based on CPIW as of January and will be increased every July 1<sup>st</sup> with a minimum of a 3% increase or CPIW, whichever is greater.

### **A. EVALUATIONS**

1. Personnel will be evaluated annually by their department head, using the evaluation forms approved by the Select Board and provided by the Town Manager. New employees will be evaluated after six (6) months of employment. Department heads will be evaluated annually by the Town Manager, using evaluation forms approved by the Personnel Board.
2. Employees will be given a summary rating of:
  - a. Exceeds work performance standards in significant ways.
  - b. Exceeds work performance standards.
  - c. Meets work performance standards; or
  - d. Does not meet work performance standards, as indicated on the evaluation form.
3. Those employees who receive evaluations of average or above (see 2.a, 2.b., or 2.c. above), will receive a step increase-based on the current step and grade pay plan for Town of Camden.-Employees who do not receive a pay increase for evaluations less than average will remain at their current step for an additional year. If performance improves, the increase will be given at their next anniversary, and they will remain at that step the length of time the pay plan establishes. For example, an employee with 3 years of employment who receives a poor evaluation, and then in the next year improves, she/he would go to Step D, after 4 years of employment, but would remain there for 3 years before going to Step E (the 6- year step).
4. Pay increases will be based on a step and grade pay plan which is annually updated to reflect the cost of living as determined by and approved by the Camden Select Board if funds are appropriated and available.
5. Position pay grade levels will be determined by an analysis of comparable positions within the Town, in other municipalities, the State of Maine, or the private sector, or a combination of the above. The Town will undertake

periodic studies to maintain this comparability.

6. Periodic evaluations may be done concerning those positions for which job assignments and responsibilities have changed over time. Such changes may be recognized by the reclassification of the position to a higher or lower pay classification by a decision of the Select Board as appropriate, each time a position vacancy occurs, the job description will be reviewed and amended as necessary, and the pay grade will be evaluated.

#### **B. PRIOR EXPERIENCE CREDIT**

1. New employees will be placed on the step and grade pay scale based on the new employee's prior experience, training, and the availability of funds..
2. For or a new employee whose position requires supervisory experience, a non- supervisory position requiring a state-mandated annual certification renewal, or a position requiring a national certification, however, employee placement on the pay plan may reflect their prior years of relevant employment while having had supervisory responsibility or holding a currently valid license or certification.
  - a. The following positions qualify as those requiring supervisory experience: Department Heads
  - b. The following non-supervisory positions qualify as requiring State-mandated certification with annual renewal: Police Officers, Code Enforcement Officer, Assessor.
  - c. The following position qualifies as requiring a currently held national certification: Planner.

Under this paragraph, a new employee will be allowed to receive credit for up to 12 years of employment experience relative to "step" placement on the pay grade for that position.

#### **C. RE-CLASSIFICATION**

When a position held by a current employee is reclassified, the employee will be placed at the step of the new grade which corresponds to the employee's number of years of service.

#### **D. PROMOTION**

1. Employees who are promoted to a position with a higher pay classification will be placed on the step of the new grade, which is nearest to their current pay level, yet exceeds it.
2. In salary pay grades in cases where a Town employee is promoted to a higher pay grade either from an hourly grade or from a salaried grade, that employee will be credited with up to 12 years of his/her prior years of service to the Town for pay purposes, as determined by the Town Manager. The number of years of prior service to be applied will be based on the

occupational relevancy of the new position to the employee's prior experience.

<b>Job Title</b>	<b>GRADE</b>
<b>Hourly Positions</b>	
Harbor Master Office Receptionist	<b>5</b>
Parking Ticket Officer	<b>6</b>
Parks & Recreation Cemetery Maintainer	<b>6</b>
Collection System/Filter Press Operator	<b>7</b>
Firefighter I	<b>7</b>
Parks & Recreation Administrative Assistant	<b>7</b>
Public Landing Restroom Attendant	<b>7</b>
Snow Bowl Rental Shop	<b>7</b>
Town Office Custodian	<b>7</b>
Wastewater Filter Press Operator	<b>7</b>
Advanced Parking Ticket Officer	<b>8</b>
Assessor's Clerk	<b>8</b>
Assistant Clerk – Town Office	<b>8</b>
Opera House Promotions/Box Office Manager	<b>8</b>
Public Works Maintenance Specialist	<b>8</b>
Codes/Development Office Administrative Assistant	<b>9</b>
Public Safety Administrative Assistant	<b>9</b>
Public Works Assistant Mechanic	<b>9</b>
Public Works Equipment Operator	<b>9</b>
Town Clerk/Registrar of Voters	<b>9</b>
Wastewater Filter Press Operator/Assistant Mechanic	<b>9</b>
Wastewater Plant Operator	<b>9</b>
Assistant Harbormaster	<b>10</b>
Tax Collector/Harbor Clerk	<b>10</b>
Firefighter II	<b>11</b>
Patrol Officer	<b>11</b>
Public Works Assistant Mechanic	<b>11</b>
Wastewater Equipment Mechanic	<b>11</b>
Wastewater Senior Treatment Plant Operator	<b>11</b>

Public Works Mechanic	12
<b>Salaried Positions</b>	
Parks & Recreation/Snow Bowl Assistant Director	14
Opera House Technical Director	14
Sergeant	14
Sergeant Detective	14
Public Works Foreman	15
Assistant Public Works Director	15
Wastewater Civil Engineer/Operator	15
Mountain Park/Manager (P&R & Snow Bowl)	16
Assistant Assessor	17
Assistant Town Manager/Welfare Director	17
Assistant Fire Chief	17
Assistant Wastewater Superintendent	17
Deputy Finance Director/Treasurer	17
Police Lieutenant	17
Town Planner	17
Code Enforcement Officer/Building Inspector/LPI/Electrical Inspector	18
Assessor	20
Finance Director	20
Fire Chief/Health Inspector	20
Harbormaster	20
Opera House Manager	20
Parks & Recreation Director/Snow Bowl Manager	20
Planning & Development Director	20
Police Chief	20
Public Works Director	20
Wastewater Superintendent/Chief Operator	20

**Town of Camden**  
**Department Head Funding Request Form**

For expenses that do not meet all three of the criteria listed below:

1. The expense is budgeted for (i.e., there is a line item in the current operation budgeting relevant to the expense);
2. There are sufficient funds available in the appropriate line in the operating budget to cover the expense; and
3. The expense is under \$5,000.

The Department Head must complete this entire form and provide the pertinent information to support the requested purchase.

1. What goods or services are you proposing to purchase? Please provide a brief description.

Replace 29-year old drapes in the Camden Opera House auditorium, and add black-out shades for showing films. Existing drapes are worn / damaged.

2. What is the total cost of the goods or services going to be?

\$4,364.23

3. If this proposed expense was budgeted for, but the appropriate expense line does not have sufficient funds to support the expense, will your department's operating budget 'bottom line' be able to absorb the expense? Please confirm with the Finance Director

this will be funded by ticket revenue funds

4. If this proposed expense is to be funded from Reserve Funds, are there sufficient funds to support the expense? Please confirm with the Finance Director.

there are sufficient funds in E5301-0711, so the funds for this project don't need to come from our budget or reserves.

- ◇ Town Manager – Expense Approved
- ◇ Town Manager – Expense Denied
- ◇ Town Manager – Select Board Approval Required (please continue on next page)

Town Manager

Date

TOWN OF CAMDEN Fee & Penalty Schedule		
Effective Upon Approval		
Departments	Current Fee	New Fee
<b>Administration Department</b>		
Copy Cost	B/W is \$0.50 per page. Color is \$1.00 per page	
Freedom of Information	1st hour of research and retrieval is free, \$15.00 for each add'l hour. B/W copy cost is \$0.50 per page. Color cost is \$1.00 per page. \$10 for USB. \$5 for CD.	First 2hrs of research/retrieval is free, \$25/hour for each add'l hour.
Mailing of Freedom of Information	Charge actual mailing cost	
Notarizing Documents	\$10 to Camden Residents & Non-Resident Taxpayers. Service not offered to non-taxpayers	
<b>Code and Planning Department</b>		
<b>Residential 1 &amp; 2 Famly Homes</b>		
Application Fee	\$50	\$75.00
New Construction - including all potentially habitable areas - (6'+ height) per sq.ft.	\$0.50	\$0.60
Modular & Mobile Homes per sq.ft.	\$0.35	\$0.35
Unfinished basements /other areas less 6' per sq.ft.	\$0.35	\$0.40
Renovation Alteration and Repair per sq. ft.	\$0.40	\$0.50
Garages, sheds and accessory bldgs. per sq.ft.	\$0.30	\$0.40
Decks, porches, ramps, stairs per sq. ft.	\$0.30	\$0.40
After the Fact Permit Multiplier for work started without permit	2.5x	3 x
<b>Commercial &amp; Multi-Family (3+ units)</b>		
Application Fee	\$100	\$125
New Construction - including all potentially habitable areas - (6'+ height) per sq.ft.	\$0.75	\$1.00
Renovation Alteration and Repair per sq. ft.	\$0.50	\$0.75
Accessory Structures	\$0.50	\$0.75
Towers per \$1,000 of esitmated cost	\$0.40	\$60
After the Fact Permit Multiplier for work started without permit	2.5x	3x
<b>Flat Fees</b>		
Minor Work as determined by the CEO including roofing, siding, insulation, interior demo	\$50	\$75
Demoliton per structure		
Structure 1,000 sq.ft. or greater	\$500	\$500
Structure b/w 401 and 999 sq.ft.	\$250	\$250
Structure 400 sq.ft. or less	\$50	\$50
Move/Remove Used Mobile Home	\$75	\$75
Signs per sign	\$30	\$50
Blasting	\$75	\$200
Fill and Excavation greater than 100 CY per yr.	\$75	\$150
Fences - Commerical and Multi-Family	\$100	\$100
Fences- Residential Greater than 6' in height	\$25	\$50
Home Occupation	\$25	\$50
Change of Use	\$50	\$75
Certificate of Occupancy	\$0	\$100

<b>TOWN OF CAMDEN Fee &amp; Penalty Schedule</b>		
Effective Upon Approval		
<b><u>Planning &amp; Code Departmetn</u></b>	<b><u>Current Fee</u></b>	<b><u>New Fee</u></b>
<b><i>Shoreland Zone</i></b>		
Minor including clearing of vegeation	\$50	\$75
Major	\$200	\$250
<b><i>Floodplain Management</i></b>		
Minor Development	\$100	\$125
Major (2 Part)	\$200	\$300
Zoning Verifcation		
Resdential (1-2 Units)	\$50	\$75
Nonresidential and Multifamily (3+ units)	\$150	\$250
Erosion Control	\$50	\$75
After the Fact Permit Multiplier for work started		
without permit	2.5x	3x
<b><i>Electrical</i></b>		
Residential - including additioanl wiring, renovation, generator, heat pump, service	\$50	\$60
New Home - Whole House Renovation	\$100	\$125
Non-Residential (commerical & multi-family	\$75 + 1/2% cost	\$75 plus 1% cost of job
After the Fact Permit Multiplier for work started	2.5x	3x
without permit		
<b><i>REINSPECTION FEES</i></b>		
Charged for each occurenace that requires the CEO to conduct	\$50	\$100
<b><i>Planning and Zoning Board of Appeals Fees</i></b>		
<b><i>PB Subdivision Fees</i></b>		
Pre-Application	\$125	\$200
Preliminary Plan Review per lot/unit	\$160	\$225
Final Plan Review per lot/unit	\$160	\$225
Revision or Amendment per lot/unit	\$160	\$225
Minor Field Change per lot/unit	0	\$100
Public Hearing Fee plus cost of hearing notices to be no invoiced after publication	\$150	\$200
Abutter Notice Fee per abutter	\$15	\$20
<b><i>Site Plan Review Fees</i></b>		
Pre-Application	\$100	\$150
Full Site Plan Review	\$400	\$500
Site Plan Amendment	\$300	\$350
Minor Revision Review	\$100	\$150
Minor Field Adjustment	\$200	\$100
Private Way	\$300	\$400
Wireless Tower (New)	\$300	\$600
Public Hearing Fee plus cost of hearing notices to be no invoiced after publication	\$150	\$200
Abutter Notice Fee per abutter	\$15	\$20
<b><i>Zoning Board of Appeals Fees</i></b>		
Administrative Appeal	\$225	\$275
Variance	\$200	\$275
Nonconformance	\$200	\$275
Shoreland Zone Review	\$200	\$300
Special Exception	\$225	\$275

<b>TOWN OF CAMDEN Fee &amp; Penalty Schedule</b>		
Effective Upon Approval		
<b>Code and Planning Department</b>	<b>Current Fee</b>	<b>New Fee</b>
Public Hearing Fee plus cost of hearing notices to be no invoiced after publication	\$150	\$200
Abutter Notice Fee per abutter	\$15	\$20
PB and ZBA After the Fact Multplier	2.5x	3x
<b>Other</b>		
Wireless Antenna CEO co-location (in addition to other permits required)	\$200	\$250
Ordinance Amendments	\$300	\$500
Abutter Notice as may be required	\$15	\$20
<b>BUSINESS LICENSING FEES</b>		
Bottle Clubs	\$1,500	\$1,500
Special Amuesment	\$25	\$75
Liquor License Public Hearing Fee	\$0	\$75
Public Assemblies		
400-1,000	\$25	\$50
1,001-2,000	\$75	\$100
2,001 +	\$150	\$200
Flea Martket	\$0	\$100
Hawking and Pedlling - per event town property	\$50	\$100
Lodging Establishments		\$100
# of bedrooms 1	\$10	
2 or more medrooms + \$1 per bed in exccess of 1	\$10	
Cannabis Cultivation		
Application Fee	\$0	\$1,000
Tier 1 indoor and outdoor	\$0	\$1,000
Tier 2 indoor and outdoor	\$0	\$2,000
Unhosted Short Term Rental	\$100	\$200
Taxi Cabs		
Taxi Cab Business License	\$56	\$70
each additional Tax Cab	\$5	\$10
Taxi Cab Driver License Application	\$56	\$70
Victualers for Restaurants & Lodging Establishments	\$20	\$100

<b>Harbor Dept</b>	<b>Current Fee</b>	<b>New Fee</b>
<b>WAITLIST</b>		
Renewal	\$25.00	\$25.00
<b>FLOAT/MOORING FEES</b>		
<b>FINGER FLOAT</b>		
Resident/Non-Resident Taxpayer	\$750.00	\$800.00
Non-Resident	\$1,500.00	\$2,500.00
<b>INNER HARBOR FLOAT (ONE SIDE)</b>		
Transient	\$750.00	\$900.00
Resident/Non-Resident Taxpayer	\$600.00	\$650.00
Resident/Non-Resident Taxpayer 24ft Float	\$400.00	\$450.00



<b>TOWN OF CAMDEN Fee &amp; Penalty Schedule</b>		
Effective Upon Approval		
<b>Harbor Dept</b>	<b>Current Fee</b>	<b>New Fee</b>
<b>MOORINGS</b>		
Transient Under 40'	\$200.00	\$300.00
Transient 40' and Over	\$250.00	\$350.00
Service	\$200.00	\$300.00
<b>Resident / Non-Resident Taxpayer</b>		
Less than 20'	\$130.00	\$180.00
20'-30'	\$165.00	\$220.00
More than 30'	\$165.00 + \$1.00/ft. over	\$220.00 + \$1.00/ft. over
<b>Non-Resident</b>		
Less than 20'	\$260.00	\$360.00
20'-30'	\$320.00	\$420.00
More than 30'	\$320.00 + \$2.00/ft. over	\$420.00 + \$2.00/ft. over
<b>FISHERMAN FLOAT</b>		
Fisherman Float (May 1 - Oct 31 only)	\$400.00 res /\$500.00 non-res	\$450.00 res /\$550.00 non-res
Application Fee	\$4.00	\$25.00
Winter Access (Nov 1 - April 30 only)	\$100.00	\$100.00
<b>DAYSAILER FEES</b>		
Daysailers (includes pumpout service)	\$2,600.00	\$2,900.00
Seasonal Berthing	\$655.00	\$655.00
Overnight Dockage	\$40.00 / per night	\$40.00 / per night
Off Site Fee - Second Boat - ticket sales only	\$600.00	\$600.00
Pumpout Fee	\$20.00	\$20.00
<b>WINDJAMMER FEES</b>		
Windjammers (includes pumpout service)	\$4,200.00	\$4,500.00
<b>LATE PAYMENT PENALTY PER APPLICATBLE ITEM</b>	\$40.00	\$40.00
<b>DINGHY FEES</b>		
Resident / Non-Resident Taxpayer	\$125.00	\$125.00
Over 20hp	\$225.00	\$225.00
No Motor / Electic Motor	\$75.00	\$75.00
After August 15th	\$65.00	\$65.00
Non-Resident	\$250.00	\$250.00
No Motor / Electic Motor	\$200.00	\$200.00
After August 15th	\$125.00	\$125.00
Dinghy Winter Permit Nov 1 - April 30	\$50.00	\$50.00
Dinghy Removal	\$100.00	\$100.00
<b>OVERNIGHT DOCKAGE</b>		
<b>BERTHING OVERNIGHT Per Foot / Per Night</b>		
Less than 40'	\$2.50/ft	\$2.50/ft
40' - 70'	\$4.00/ft	\$4.00/ft
Over 70'	\$7.50/ft	\$7.50/ft
IH Float	\$50.00 per night	\$50.00 per night
Winter Dockage (November 15 - April 15)		
Up to 60'	\$800.00	\$800.00
Over 60'	\$1,000.00	\$1,000.00
<b>ELECTRICITY FEES</b>		
Electricity - 30 AMP per night	\$15.00/per night	\$45.00/per night
Electricity - 50 AMP per night	\$30.00/per night	\$90.00/per night

<b>TOWN OF CAMDEN Fee &amp; Penalty Schedule</b>		
Effective Upon Approval		
<b><u>Harbor Dept</u></b>	<b><u>Current Fee</u></b>	<b><u>New Fee</u></b>
Cruise Ship Dockage (Max Ship Capacity: 175 Passengers)		\$1600.00 per visit
<b>MISC MOORING FEES NOTE: Remove all Misc Mooring Fees (obsolete)</b>		
<del>Mooring Re-location</del>	<del>\$50/hr</del>	<del>50.00/hr</del>
<del>Mooring Extraction</del>	<del>\$50/hr</del>	<del>50.00/hr</del>
<b>MEMORIAL BENCHES</b>		
New Bench \$600 for bench \$600 10 yr maintenance	\$1,200.00	\$1,500.00
10 year maintenance plan \$60 per year or \$600 for 10 years		
<b><u>Public Works &amp; Wastewater</u></b>		
<b>STREET/ROAD OPENING</b>		
Paved Surface		\$50.00 per Sq. Yard
Concrete Surface		\$75.00 per Sq. Yard
All Other Surfaces		\$50.00 per Sq. Yard
Direct Buried Cable		\$0.20 per Linear Foot
Utility Location		\$5.00 per Structure
<b>DRIVEWAY ENTRANCE</b>		\$100.00
<b>STORMWATER CONNECTION</b>		\$250.00
<b>SEWER CONNECTION</b>	\$5.00	\$500.00
<b>RIGHT OF WAY IMPROVEMENT</b>		
Buried Private Utility (cable, sewer, water or storm water)	\$0	\$750.00
Driveway Aprons	\$0	\$500.00
Landscaping (fences, stone walls, shrubs, other plantings)	\$0	\$500.00
<b>Montgomery Dam Gate Opening &amp; Closing</b>		\$500.00
<b><u>Police Dept</u></b>	<b><u>Current Fee</u></b>	<b><u>New Fee</u></b>
Accident/Incident Reports	\$10	
Private Police Detail	\$65.00 Admin Fee hr +	
	\$260 for first 4 hrs = Total of \$325	

To: Camden Select Board  
Camden Town Manager

From: Opera House Manager

Date: December 6, 2023

RE: Auditorium Drapes Replacement

I would like to install new drapes and black-out shades in the auditorium. This project will cost \$41,364.23, and can be paid for from ticket revenue surplus (not the budget or reserve).

The current drapes were installed in 1994 by Barnes Custom Window Treatments as a part of our major renovation of the Opera House. The drapes are made of damask fabric and lined, and are historically correct.

Over time the drapes have become worn, faded, and in some cases stained by water damage. At one point several years ago, in order to serve the Camden International Film Festival, we temporarily blacked out the windows with black butcher paper (behind the drapes), to try to make them light-tight for showing films. That temporary fix is still in place.

The new drapes would be based on the original design and would be made from RM COCO Essex damask, and will be lined. In addition, there will be black-out roller shades installed behind the drapes, to make the opera house an excellent venue for films.

Barnes designed, fabricated and installed the original drapes, and can recreate them.

This project does not have to be funded by our budget, or by reserves, as we have built up a surplus from ticket revenue from opera house productions.

Thanks you for your help.

Dave Morrison  
Camden Opera House Manager

**Barnes Custom Window Treatments**

PO Box 100 108 Camden Rd

Warren, ME 04864 US

207-273-4093

jimbarnes@barneswindow.com

www.barnesawningsandblinds.com

**ADDRESS**

Town of Camden

Attn: Dave Morrison

29 Elm St / P.O. Box 1207

ME 04843

Camden 236-3353

**QUOTE # 4498****DATE 09/19/2023****SALES REP**

Theresa

		QUANTITY	UNIT PRICE	TOTAL AMOUNT
Mezzanine Level	9		1,470.00	13,230.00T
Pair Arched Top Pinch Pleated Drapery				
Fabric: Essex Damask				
Color: Buttercream				
Lining: FR standard white black out lining				
Mezzanine Level Fire Door	1		1,320.00	1,320.00T
Pair Arched Top Pinch Pleated Drapery				
Fabric: Essex Damask				
Color: Buttercream				
Lining: FR standard white black out				
Mezzanine Level	1		440.00	440.00T
Pinch Pleated Valance for Fire Door				
Fabric: Essex Damask				
Color: Buttercream				
Lining: FR standard white black out				
First Floor Entry Door Panels	6		385.00	2,310.00T
Fabric: Essex Damask				
Color: Buttercream				
Lining: FR standard white black out				
First Floor Windows	9		1,298.00	11,682.00T
Pinch Pleated Drapery				
Fabric: Essex Damask				
Color: Buttercream				
Lining: FR standard white black out				
First Floor Fire Door Panels	2		352.00	704.00T
Fabric: Essex Damask				
Color: Buttercream				
In House Black Out Roller shades	18		450.00	8,100.00T
open roll Alabaster white				
Installation	1		1,500.00	1,500.00

Camden Opera House

SUBTOTAL	39,286.00
TAX	2,078.23
TOTAL	<b>\$41,364.23</b>

Accepted By

Accepted Date



# MEMORANDUM

**To:** Select Board

**From:** Jeremy Martin, Planning and Development Director

**Date:** January 4, 2023

**Re:** Consideration of Pier Moratorium Extension

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## PURPOSE

The purpose of this agenda item is to decide whether to extend the existing Moratorium on Residential Piers, Docks, Floats, Ramps, and other structures in the Outer and Coastal Harbor(s) for another 180 days. This would be the 4<sup>th</sup> extension.

## BACKGROUND

The last extension was approved by the Select Board on July 26, 2023. Since that date the Planning Board held three workshops/discussions about the pier moratorium and possible amendments to further regulate them. This includes a joint workshop with the Harbor Committee that took place on November 14, 2023. The joint workshop was scheduled immediately following the November 8<sup>th</sup> Select Board meeting where the pier moratorium was discussed, and you directed the Planning Board and the Harbor Committee to meet in a joint workshop. The current Moratorium is set to expire on or about January 21, 2023. If the Board does not extend the Moratorium, the Moratorium would end, and the existing ordinance requirements and regulations along with the amendments that voters approved in November would apply. It is important to note that those amendments as they relate to piers only apply to existing piers. Another extension would provide additional time to amend the ordinance to have those recently approved amendments apply to new piers. In addition, the extension would provide additional time for the Planning Board review and proposed additional review criteria for new piers. As you know there were previous discussions and general agreement amongst the Planning Board to prohibit new residential piers and other structures in the outer and coastal harbors. Since then, Bill Kelly, the Town Attorney, and I have done extensive research on the legalities of prohibiting these structures. State law clearly allows municipal planning boards and select boards to regulate the permitting of piers and structures attached to shore based on rational review criteria. However, the state statutes start with the premise that provides shorefront property owners a conditional right to wharf a boat on such a pier or structure, and within it expressly authorizes the municipal officers to require permits and thereafter approve these structures after consideration of navigational safety and other general health, safety and welfare, environmental and wildlife preservation needs.

There are several Maine Law Court cases on this subject. A particular case called *Uliano* (attached) involved the Court's analysis of some broad language found in a state statute that authorized and required the Maine DEP to apply the review criteria for piers extending from shore. The review criteria in Title 38 are as follows: The activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses. The attached case applying these criteria is a helpful example of the Court's analysis of these criteria, but it is also a cautionary tale in that a municipal ordinance should have more detailed and specific criteria, as it is never a good idea to have



barely enough detail in the review criteria such that the constitutionality of the ordinance is a close call (as you will see in the dissenting opinion at the end of the case). One takeaway from Uliano is confirmation that neither state law nor municipal ordinance can outright ban piers and structures, unless a particular coastal area is so sensitive or would be so dramatically impacted that the voters have deemed it could not possibly meet the review criteria. That said, such a prohibition applied to a section of the shoreline is an extreme measure and should be adopted only where justified by existing protection designations. Instead, the path to comply with Maine law is to adopt detailed review criteria that have a rational basis in fact and apply the particular facts of a pier application to the review criteria.

As the review criteria must be rational and appropriate, I have advised the Planning Board to review the impacts and concerns that prompted their inquiry about a prohibition on piers, and then review the existing criteria to see if those criteria adequately address their concerns. The Planning Board is in the early stages of reviewing other town's ordinances and review criteria. In addition, they will be reviewing the State's Natural Resource Protection Act's review criteria, as well as the review criteria of the Army Corps of Engineers. The Uliano case is a very good case to review and provides a good explanation of where the goal posts are on this subject. Justice Alexander's dissent is instructive about vague review criteria.

It is important to remember that piers and other structures are regulated in both Chapter 108 Harbor and Waterways and Chapter 290 Zoning. These two chapters need to be consistent with each other.

## OVERVIEW

If the Select Board does not extend the Moratorium after a public hearing, the moratorium will expire on or about January 21<sup>st</sup>, and the existing Code requirements, standards and regulations would apply. **State law (Title 30-A MRS §4356) prescribes two things that the Select Board must consider in the public hearing: (i) does the "problem giving rise to the need for the moratorium still exist", and (ii) is "reasonable progress being made to alleviate the problem giving rise to the need for a moratorium".** The HC made progress in reviewing the existing ordinances and the issues/concerns identified in the moratorium and made their recommendations to address those issues/concerns. They included but are not limited to adding a requirement to obtain site plan approval and a building permit for "land-attached floats", which is a newly defined term. In addition, other changes included, increasing the height of the walkway of piers and wharves adjacent to the outer harbor to 8' from 6' above mean high water, and to require that piers be designed 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 and storm surge. Those changes were approved by voters in November, but those amendments that dealt with piers only applied to existing piers.

Regardless of what happens with the Planning Board's continuing review of appropriate and rational review criteria, additional amendments are needed to have the standards that were approved by voters in November and that apply to existing piers to apply to new piers.

In order to extend the Moratorium for another 180-days, the board will need to make the following findings:

1. that the problem giving rise to the need for the moratorium still exists; and
2. that reasonable progress is being made to alleviate the problem giving rise to the need for a moratorium.



#### RECOMMENDATION

Based on the work that has been done thus far by both the Harbor Committee and the Planning Board along with the Planning Board's ongoing work, combined with the amendments that went to voters and the need to have those amendments apply to new piers, it is staff recommendation that the SB finds that based on the evidence presented in this memo and at the hearing that the problem giving rise to the moratorium still exists and that reasonable progress is being made to alleviate the problems that gave rise to the moratorium, and the Select Board should vote to extend the moratorium for another 180 days.



# Uliano v. Bd. of Env'tl. Prot.

Supreme Judicial Court of Maine

May 19, 2009, Argued; August 13, 2009, Decided

Docket: Han-08-643

## Reporter

2009 ME 89 \*; 977 A.2d 400 \*\*

ANTHONY ULIANO et al. v. BOARD OF ENVIRONMENTAL PROTECTION

**Prior History:** Uliano v. Me. Bd. of Env'tl. Prot., 2008 Me. Super. LEXIS 193 (Me. Super. Ct., Oct. 24, 2008)

**Disposition:** Judgment affirmed.

**Counsel:** For Anthony and Erin Uliano: Edmond J. Bearor, Esq., Timothy A. Pease, Esq. (orally), Rudman & Winchell, LLC, Bangor, Maine.

For Maine Board of Environmental Protection: Janet T. Mills, Attorney General, Margaret A. Bensinger, Asst. Atty. Gen. (orally), Christopher Taub, Asst. Atty. Gen., Augusta, Maine.

For Intervenors: Phoebe B. Boyer, Salsbury Cove, Maine.

**Judges:** Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, and GORMAN, JJ. Majority: SAUFLEY, C.J., and CLIFFORD, LEVY, and GORMAN, JJ. Dissent: ALEXANDER, J.

**Opinion by:** LEVY

## Opinion

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[\*\*403] LEVY, J.

[\*P1] Anthony and Erin Uliano appeal from a judgment entered in the Superior Court (Hancock County, *Cuddy, J.*) affirming the Board of Environmental Protection's order denying their application for a permit to build a pier pursuant to the Natural Resources Protection Act, 38 M.R.S. §§ 480-A to 480-G (2008). <sup>1</sup> The Ulianos raise numerous issues on appeal, including that the scenic and aesthetic uses standard in section 480-D(1) is unconstitutionally vague, that the Board erred in performing the practicable alternatives analysis required by section 5(A) of the Wetland Protection Rules, and that they have been deprived of their common law right to wharf out. We affirm the judgment.

[\*\*404] I. CASE HISTORY

[\*P2] This is the second time the Ulianos have appealed an order of the Board of Environmental Protection (Board) denying their application for a permit to build a pier. We vacated the Board's first order. See Uliano v. Bd. of Env'tl. Prot. (Uliano I), 2005 ME 88, 876 A.2d 16.

[\*P3] The Ulianos own waterfront property adjacent to Salsbury Cove on Eastern Bay in Bar Harbor with approximately 215 feet of shore frontage. The supra-tidal zone of the Ulianos' shoreline consists of a ledge

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<sup>1</sup> The Natural Resources Protection Act, currently codified at 38 M.R.S. §§ 480-A to 480-G (2008), has been amended since the Ulianos first applied for a permit. The amendments do not affect the issues raised by the Ulianos, and are therefore not relevant to our analysis. See 38 M.R.S.A. §§ 480-A to 480-Z (2001).

outcropping approximately ten feet high, and the intertidal zone consists of gravel, cobble, boulder, and ledge. The shoreline at the eastern end of the Ulianos' property is not as steep as other portions of their shoreline, and an existing stairway at that location provides access to a sand, gravel, and cobblestone beach. On the east, the Ulianos abut the Sand Point Association Common Lot. On the west, the Ulianos abut property held by Rosecliff Cottages, LLC, a company owned and operated by the Ulianos.

**[\*P4]** In February 2001, the Ulianos applied for a Natural Resources Protection Act (NRPA) permit to construct a 95' x 6' private, recreational pier with a 50' seasonal aluminum ramp and 16' x 20' wooden float. The height of the pier would be approximately seventeen feet at mean low water. The purpose of the pier is to provide access to a recreational boat and to permit swimming at all tides. The Ulianos' application generated significant public interest, resulting in a request that the Board assume jurisdiction over the application. The Board declined jurisdiction, and in August 2001 the staff of the Department of Environmental Protection (Department) approved the Ulianos' application.

**[\*P5]** In September 2001, abutters to the Ulianos' property appealed the Department's order to the Board. The Board granted the appeal in February 2002, finding that the use of a dinghy in conjunction with a mooring was a practicable alternative to the proposed pier, that the cumulative impact of the pier would be significant, and that the pier would unreasonably interfere with existing scenic and aesthetic uses of the coastal wetland. The Ulianos appealed the Board's decision to the Superior Court, which affirmed the Board's order. The Ulianos then appealed the Superior Court's judgment, which we vacated with instructions that the case be remanded to the Board for further findings. See Uliano I, 2005 ME 88, P 26, 876 A.2d at 23.

**[\*P6]** Specifically, we found that the Board had promulgated two regulations in its Wetland Protection Rules that require an analysis of practicable alternatives and an assessment of cumulative impact, but failed to relate these two additional regulatory requirements to the Board's overall evaluation, pursuant to section 480-D(1), of whether the pier would unreasonably interfere with existing scenic and aesthetic uses. *Id.* PP 11-14, 18-20, 876 A.2d at 19-20, 21. We found that the Board further erred by grounding its finding of cumulative impacts on speculation that the Ulianos' pier would generate more pier construction. *Id.* PP 19-20, 876 A.2d at 21. Finally, we found that the Board's section 480-D(1) findings did not permit meaningful appellate review because the findings merely summarized the evidence and failed to explain why the Ulianos' pier would unreasonably interfere with existing scenic and aesthetic uses. *Id.* PP 23, 25, 876 A.2d at 21-22.

**[\*P7]** On remand, the Board reopened the record to receive additional evidence on practicable alternatives to the proposed pier and impacts of the proposed pier on existing scenic, aesthetic, recreational, and navigational uses. The Board conducted **[\*\*405]** two site visits in October 2005 and held a public hearing in March 2006.

**[\*P8]** In February 2007, the Board again denied the Ulianos' application. In its decision, the Board first addressed the issue of practicable alternatives and noted that it was considering the existence of practicable alternatives as a factor in its assessment of whether the proposed pier would unreasonably interfere with existing scenic and aesthetic uses of the coastal wetland. The Board then found that the Ulianos had at least two practicable alternatives to constructing a pier. First, it determined that the Ulianos could use a dinghy and an outhaul system to access a boat on a mooring based on evidence that such a system is commonly used throughout Eastern Bay and was used by the previous owner of the Ulianos' property. Second, it determined that the Ulianos could maintain their boat at a yacht club located approximately three miles away.

**[\*P9]** The Board then turned to its analysis of section 480-D(1) to determine whether the proposed pier would unreasonably interfere with existing scenic, aesthetic, recreational, and navigational uses of the coastal wetland. The Board concluded that the proposed pier would have a significant adverse impact on several existing scenic and aesthetic uses of the coastal wetland, including "persons walking the intertidal area, enjoying the common area of the Sand Point Association, [and] boating in the near-shore area of Eastern Bay." The Board based this finding on evidence that Eastern Bay is "relatively undisturbed and unobstructed" and contains only two piers; that access to Eastern Bay is achieved primarily through walkways, paths, and stairways; and that the Ulianos' proposed pier would traverse the intertidal area and dominate the landscape:

The Board finds that the relevant stretch of shoreline when considering potential scenic and aesthetic impacts of this project is within Eastern Bay, from Hadley Point to Parker Point. This area is geographically distinct from the larger, deeper, and more open Frenchman Bay to the east. With the exception of the two older piers in Emery Cove and the walkway at the east of Sand Point, the permanent piers cited by the applicants are all located in Frenchman Bay and are not relevant to the Board's consideration of the impact of the proposed project on Eastern Bay.

Within Eastern Bay, the Board finds that, due to the terrain, the configuration of the shoreline, and the nature of the existing development, the visual impact of the proposed pier will vary depending upon the vantage point from which it is viewed. The visual impact of the proposed pier will be greatest for persons walking the intertidal area, enjoying the common area of the Sand Point Association, or boating in the near-shore area of Eastern Bay. Given the nature of Eastern Bay, there is a relatively large expanse of intertidal area at low tide between Mount Desert Island Biological Laboratory to the west of the proposed development site and the Ovens to the east that is easily walked. Evidence in the record indicates that persons living in the vicinity of the proposed project enjoy walking this shoreline as tides permit. For these users of the coastal wetland, the pier would be a significant visual intrusion, traversing the entire width of the intertidal area (approximately 95 feet) at a height above grade of between ten feet (at the shoreline) to 17 feet (at mean low water). While persons walking the intertidal area would be able to pass beneath the dock, the dock would dominate the landscape and partially obstruct **[\*\*406]** and/or fragment the view along the intertidal area and across Eastern Bay, significantly detracting from the visual and aesthetic quality of the resource and thereby interfering with this use of the coastal wetland. In addition the proposed pier would be located approximately 160 feet west of the Sand Point Association Common Lot and would interfere with views of Eastern Bay from the Common Lot. The Board finds that the proposed pier would have a significant adverse impact on the scenic and aesthetic value of the wetland.

The Board also finds that the proposed pier would have a significant adverse scenic and aesthetic impact on the uses of the area by boaters in Eastern Bay and, in particular, kayakers and small boat users who frequent the near-shore area. Evidence in the record indicates that this area is used daily during the summer (weather permitting) by organized kayak groups who launch at Hadley Point to the west or Hulls Cove to the east. The project would also negatively impact such uses by neighbors who keep kayaks on the Sand Point Association Common Lot and who kayak in the immediate vicinity of the proposed project. The visual impact of the proposed project on boaters in Eastern Bay would diminish with increased distance, but the pier would continue to be visible at many points throughout the Bay especially when reflecting the sunlight.

For persons utilizing Lamoine Beach and Lamoine State Park located on the opposite shore of Eastern Bay, more than one mile across water from the proposed development site, the proposed pier would not generally be visible given the distance across Eastern Bay and the orientation of the pier.

With respect to other recreational and navigational uses, evidence in the record indicates that persons walking the intertidal area or kayaking near-shore will be able to pass beneath the pier between the granite cribs. While persons testified that they currently sail near-shore during high tide and that the proposed pier will limit their ability to do so, this limitation is not unreasonable given the size of Eastern Bay. The appellants also testified that the proposed pier, to be located approximately 160 feet west of the Sand Point Association Common Lot, may obstruct the use of the beach and the launching of small boats from this area; however, there is not sufficient evidence in the record to support this contention.

Based on the Board's site visit, photographs, testimony and other evidence in the record, the Board finds that the applicants' project will have an adverse impact on the existing scenic and aesthetic uses of the coastal wetland between Hadley Point and Parker Point for the reasons set forth above.

The Board also concluded that the proposed pier would not have an adverse impact on recreational and navigational uses of the coastal wetland.

**[\*P10]** Having determined that the impact of the proposed pier on existing scenic and aesthetic uses would be adverse, the Board considered whether the impact would be unreasonable in light of the factors designated by

section 5(D) of the Wetland Protection Rules.<sup>2</sup> Applying these **[\*\*407]** factors, the Board concluded that the impact would be unreasonable because: (1) the proposed pier would not benefit the wetland and the harm to the aesthetic value of the wetland would be long-term; (2) the coastal wetland was not extensively developed and residents had refrained from building piers; (3) the pier would provide no public benefit; (4) the Ulianos would only benefit from the pier for a few months each summer; and (5) the Ulianos could already use their property for boating and swimming at most tide levels. In addition, the Board found the impact of the proposed pier would be unreasonable as the Ulianos had at least one practicable alternative.

**[\*P11]** The Ulianos appealed the Board's decision to the Superior Court, which affirmed the Board's order. The Ulianos filed this appeal.

## II. STANDARD OF REVIEW

**[\*P12]** When the Superior Court acts in an appellate capacity to review a decision of an administrative agency, we review the agency's decision directly for an abuse of discretion, error of law, or findings not supported by the evidence. *York Ins. of Me., Inc. v. Superintendent of Ins.*, 2004 ME 45, P 13, 845 A.2d 1155, 1159. "An administrative decision will be sustained if, on the basis of the entire record before it, the agency could have fairly and reasonably found the facts as it did." *CWCO, Inc. v. Superintendent of Ins.*, 1997 ME 226, P 6, 703 A.2d 1258, 1261. Where an appellant challenges the findings in an administrative decision, "the appellant cannot prevail unless he shows that the record compels contrary findings." *Kroeger v. Dep't of Env'tl. Prot.*, 2005 ME 50, P 8, 870 A.2d 566, 569. "Inconsistent evidence will not render an agency decision unsupported." *Seider v. Bd. of Exam'rs of Psychologists*, 2000 ME 206, P 9, 762 A.2d 551, 555.

## III. DISCUSSION

**[\*P13]** The Ulianos contend that: (A) the scenic and aesthetic uses standard in section 480-D(1) is unconstitutionally vague and the Board's conclusion that the proposed pier would adversely affect scenic and aesthetic uses is not supported by substantial evidence; (B) the Board erred in performing the practicable alternatives analysis as required by section 5(A) of the Wetland Protection Rules, and its conclusion that a practicable alternative exists is not supported by the record; and (C) the Board's order denies the Ulianos their common law right to wharf out.<sup>3</sup>

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<sup>2</sup> Pursuant to its duties under NRPA, the Board enacted the Wetland Protection Rules to help administer the criteria for permits listed by the statute. See 38 M.R.S. § 341-D(1-B) (2008). The factors provided by section 5(D) of the Wetland Protection Rules include:

the degree of harm or benefit to the resource; the frequency of similar impacts; the duration of the activity and ability of the resource to recover; the proximity of the activity to protected or highly developed areas; traditional uses; the ability of the activity to perform as intended; public health or safety concerns addressed by the activity; and the type and degree of benefit from the activity (public, commercial or personal).

<sup>2</sup> C.M.R. 06 096 310-5 § 5(D) (2007).

<sup>3</sup> The remaining issues raised by the Ulianos do not merit lengthy discussion. First, the Ulianos contend that the Board's findings are inadequate because they are expressed in a narrative format and provide only a "mere recap" of the record evidence. Although the Board's decision sets forth a narrative summary of the witnesses, exhibits, and positions of the parties, it is also interspersed with statements of fact that represent the Board's findings. See *In re Marpheen C.*, 2002 ME 170, P 6, 812 A.2d 972, 974 (finding no error in narrative approach to fact-finding). As noted by the dissenting opinion, at the outset of its decision, the Superior Court was critical of the Board's narrative approach. This criticism is followed, however, by the court's comprehensive review of the Board's order and the court's conclusion that the order should be affirmed. Regardless of the strengths or weaknesses of the Board's narrative approach, the Board's ultimate findings of fact and legal conclusions can be readily identified in the Board's order. It is, therefore, susceptible to meaningful appellate review.

Second, the Ulianos contend that the Board misapplied section 5(D) of the Wetland Protection Rules. Contrary to this contention, the Board appropriately considered the factors contained in section 5(D) in analyzing the impacts of the proposed pier on existing scenic and aesthetic uses.

**[\*\*408]** A. Title 38 M.R.S. § 480-D(1)

1. The Constitutionality of Section 480-D(1)

**[\*P14]** Every applicant for a permit must demonstrate that the proposed activity meets nine standards set forth in section 480-D. See 38 M.R.S. § 480-D(1)-(9). In particular, the Ulianos challenge the "existing uses" requirement that:

**1. Existing uses.** The activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses

as being unconstitutionally vague and an unconstitutional delegation of authority. See *id.* § 480-D(1). The Ulianos contend that this standard, as applied to scenic and aesthetic uses, is overly subjective and provides no guidance as to how much interference with scenic and aesthetic uses is permissible.

**[\*P15]** To a significant degree, both vagueness and unlawful delegation challenges are concerned with the issue of definiteness. Thus, a statute is vague "when its language either forbids or requires the doing of an act in terms so vague that people of common intelligence must guess at its meaning, or if it authorizes or encourages arbitrary and discriminatory enforcement." *Town of Baldwin v. Carter*, 2002 ME 52, P 10, 794 A.2d 62, 67 (quotation marks omitted) (citation omitted). Similarly, legislation delegating discretionary authority to an administrative agency is unconstitutional if it fails to "contain standards sufficient to guide administrative action." *Lewis v. Dep't of Human Servs.*, 433 A.2d 743, 747 (Me. 1981). Indeed, vagueness and unlawful delegation are often raised simultaneously and properly treated as a single inquiry. See *Secure Environments, Inc. v. Norridgewock*, 544 A.2d 319, 321-24 (Me. 1988) (discussing whether an ordinance was "impermissibly vague, and thus represent[ed] an unconstitutional delegation of legislative authority"). Such is the case here.

**[\*P16]** The operative terms of section 480-D(1), as they relate to scenic and aesthetic uses, are defined either by NRPA itself, by their plain meaning, or by reference to well-established legal principles. We consider, in turn, the terms (a) "activity"; (b) "existing scenic and aesthetic uses"; and (c) "unreasonably interfere"; and then consider these terms in relation to (d) whether a regulatory standard is necessarily void for vagueness if it is not susceptible to quantitative measurement.

a. "Activity"

**[\*P17]** Section 480-D(1) only applies to the specific activities listed in section 480-C(2)(A)-(D):

- A.** Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B.** Draining or otherwise dewatering;
- C.** Filling, including adding sand or other material to a sand dune; or
- D.** Any construction, repair or alteration of any permanent structure.

38 M.R.S. § 480-C(2)(A)-(D). In addition, section 480-D(1) only applies when the foregoing activities are located in, on or over a protected natural resource, or adjacent **[\*\*409]** to specific natural resources. 38 M.R.S. § 480-C(1). Protected natural resources encompass a discrete collection of natural environments, including "coastal sand dune systems, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, community

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Third, the Ulianos assert that the Board arbitrarily selected the geographic area relevant to its section 480-D(1) analysis. Contrary to the Ulianos' assertion, the Board's determination of the relevant geographic area was based on competent evidence in the record.

public water system primary protection areas, great ponds or rivers, [and] streams or brooks." 38 M.R.S. § 480-B(8).

b. "Existing Scenic and Aesthetic Uses"

**[\*P18]** Section 480-D(1) employs "existing," "scenic," and "aesthetic" to describe "uses." A "use" is "the application or employment of something for some purpose." *The American Heritage Dictionary* 1331 (2d College ed. 1982). "Uses" involve human activity. A scenic or aesthetic use of a protected natural resource is therefore a human activity arising from the unique scenic or aesthetic qualities of the resource.

**[\*P19]** Section 480-D(1) also requires that scenic and aesthetic uses be "existing" in order to be protected. The definition of "exist" is "[t]o have . . . actuality." *Id.* at 475. The term "existing" establishes that the scenic and aesthetic uses of a protected natural resource do not include theoretical uses; rather, the term "existing" limits scenic and aesthetic uses to those activities that are extant at the time a permit application is submitted.

**[\*P20]** "Scenic," as it relates to the natural environment, describes the features of a landscape. See *id.* at 1097. "Aesthetic," as it relates to the natural environment, describes objects or areas of visual beauty within that environment. See *id.* at 83. As used in section 480-D(1), "scenic" and "aesthetic" qualify "uses." Consequently, section 480-D(1) does not require applicants to identify everything that may be "scenic" or "aesthetic" within a particular resource, but rather directs applicants to identify the scenic or aesthetic "uses" within the resource that are protected by section 480-D(1). Ultimately, it is the "existing uses" within a resource that are protected by section 480-D(1) from unreasonable interference, and not everything within the resource that may be considered scenic or aesthetic.

c. "Unreasonably Interfere"

**[\*P21]** To "interfere" means to "come between so as to be a hindrance." *Id.* at 669. "Reasonableness is a well defined concept under the common law." *Town of Baldwin*, 2002 ME 52, P 13, 794 A.2d at 68 (quotation marks omitted). As such, statutes prohibiting activities that have unreasonable effects are generally not unconstitutionally vague. See *id.* Indeed, in *In re Spring Valley Development*, 300 A.2d 736, 739, 749-53 (Me. 1973), a case quite similar to this, we upheld the constitutionality of the Site Location of Development Law, currently codified at 38 M.R.S. §§ 481-490 (2008), in the face of a void for vagueness and unlawful delegation challenge. Our analysis centered on the law's regulation of "unreasonable effect[s] upon existing uses":

The requirement that the Commission must be satisfied that there will be no adverse effect upon the natural environment is the very substance of the Legislature's efforts to reduce despoilation of the environment to a minimum. While most such developments may be expected to "affect" the environment adversely to the extent that they add to the demands already made upon it, it is the *unreasonable* effect upon existing uses, scenic character and natural resources which the Legislature seeks to avoid by empowering the Commission to measure the nature and extent of the proposed use against the environment's capacity to tolerate the use.

**[\*\*410]** *In re Spring Valley Dev.*, 300 A.2d at 751 (emphasis in original).

**[\*P22]** *In re Spring Valley Development* underscores that a reasonableness determination is a fact-specific inquiry. See also *United States v. Banks*, 540 U.S. 31, 36, 124 S. Ct. 521, 157 L. Ed. 2d 343 (2003) ("[W]e have treated reasonableness as a function of the facts of cases so various that no template is likely to produce sounder results than examining the totality of circumstances in a given case . . ."). We recognized the same with respect to section 480-D(1) in *Uliano I* when we concluded that it was improper for the Board to treat its practicable alternative analysis as determinative, and that it must instead consider the practicable alternatives as part of determining reasonableness: "Whether a proposed project's interference with existing uses is reasonable depends on a multiplicity of factors, one of which is the existence of a practicable alternative. A balancing analysis inheres in any reasonableness inquiry." 2005 ME 88, P 13, 876 A.2d at 19.

**[\*P23]** Consequently, whether a proposed activity will unreasonably interfere with an existing scenic or aesthetic use will necessarily depend on the specific circumstances of a given case. In *Kroeger*, for instance, we affirmed the Department's finding that a proposed dock would unreasonably interfere with the scenic and aesthetic uses based on the specific scenic uses made of Somes Sound by "the boaters and hikers who flock to Acadia for the scenic beauty of the area." 2005 ME 50, P 16, 870 A.2d at 571. Given the factual nature of the reasonableness inquiry, it is the applicant's burden to establish facts that "demonstrate[] that the proposed activity meets the standard[] set forth in [section 480-D(1)]." 38 M.R.S. § 480-D. As illustrated by *Kroeger*, an applicant may be aided by expert testimony in meeting this burden. See 2005 ME 50, PP 11-13, 870 A.2d at 570 (evidence on unreasonable interference included "the experts' reports on existing scenic uses and the visual impact of the proposed dock"). There was no expert testimony offered by the Ulianos on this issue in this case.

#### d. Quantitative Standards

**[\*P24]** The Ulianos specifically contend that the scenic and aesthetic uses standard is unduly vague because it is completely lacking in quantitative standards, citing, in particular, our decision in *Kosalka v. Town of Georgetown*, 2000 ME 106, 752 A.2d 183. In *Kosalka*, we held that a municipal zoning ordinance that required an applicant to demonstrate that a proposed project would "conserve natural beauty" was an unconstitutional delegation because the standard was an "unmeasurable quality, totally lacking in cognizable, quantitative standards." 2000 ME 106, P 17, 752 A.2d at 187. *Kosalka* is in accord with a line of decisions that have held, "in the conditional use context[,] that 'in order to withstand attack as an impermissible legislative delegation of authority, ordinances that establish criteria for acceptance of a conditional use must specify sufficient reasons why such a use may be denied.'" *Id.* P 12, 752 A.2d at 186 (quoting *Gorham v. Town of Cape Elizabeth*, 625 A.2d 898, 900 (Me. 1993)). See also *Wakelin v. Town of Yarmouth*, 523 A.2d 575, 577 (Me. 1987) (holding the terms "intensity of use" and "density of development" not sufficiently quantifiable); *Cope v. Inhabitants of the Town of Brunswick*, 464 A.2d 223, 227 (Me. 1983) (whether a use would comply with the "health, safety and welfare of the public and the essential character of the area" was a "legislative question"); *Stucki v. Plavin*, 291 A.2d 508, 511 (Me. 1972) (ordinance authorizing zoning board to approve a use provided the use "shall meet the approval" of the board failed to prescribe sufficient standards); **[\*\*411]** *Waterville Hotel Corp. v. Bd. of Zoning Appeals*, 241 A.2d 50, 52 (Me. 1968) ("subject to the approval of the Board of Zoning Appeals" was not "limited by legislative standards").

**[\*P25]** Section 480-D(1)'s scenic and aesthetic uses standard is distinguishable from the municipal ordinances whose terms we have found unconstitutionally vague due to their failure to provide cognizable, quantitative standards. First and foremost, unlike the terms in section 480-D(1), which are susceptible to a logical construction as discussed above, the standards at issue in the *Kosalka* line of cases were wholly subjective and permitted municipal employees or board members to make "legislative-type decisions based on any factor they independently deem[ed] appropriate." *Kosalka*, 2000 ME 106, P 16, 752 A.2d at 187. Identifying an existing scenic or aesthetic use for purposes of section 480-D(1) and determining whether a proposed activity will unreasonably interfere with those uses is a far more concrete exercise than the amorphous command we considered in *Kosalka* requiring an applicant to prove that a project will "conserve natural beauty."

**[\*P26]** Second, the *Kosalka* line of cases involved delegations of relatively boundless discretion by municipal ordinances. We have long distinguished such delegations of authority from those established by acts of the Legislature. See *Lewis*, 433 A.2d at 748. Unlike a municipal delegation of authority to a town zoning board, the State's delegation of authority to an executive agency, the Board of Environmental Protection, to administer section 480-D(1) and other provisions of NRPA is subject to the Maine Administrative Procedure Act and its procedural protections. See 5 M.R.S. §§ 8001-11008 (2008); 38 M.R.S. § 341-D (2008). We have previously recognized that "in such cases in which the statutory enactment of detailed specific standards is impossible, the presence of adequate procedural safeguards to protect against an abuse of discretion by the administrators of the law[] compensates substantially for the want of precise legislative guidelines and may be taken into consideration in resolving the constitutionality of the delegation of power." *Finks v. Me. State Highway Comm'n*, 328 A.2d 791, 796 (Me. 1974).

**[\*P27]** Unlike the municipal ordinances considered in the *Kosalka* line of cases, NRPA not only involves a delegation of authority by the legislative branch to the executive branch to regulate uses that do not lend themselves to precise guidelines, but also subjects the delegated authority to the procedural protections of the Maine Administrative Procedure Act. The procedural history of the Ulianos' application demonstrates the high degree of scrutiny that can result from this approach.

**[\*P28]** Third, pursuant to 38 M.R.S. § 341-D(1-B), the Board is required to promulgate rules, subject to the Maine Administrative Procedure Act, that are "necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering." As the rules promulgated by the Board are themselves subject to the Maine Administrative Procedure Act, they are subject to public notice, modification, and judicial review. See *Ne. Occupational Exch., Inc. v. State*, 540 A.2d 1115, 1117 (Me. 1988). Consequently, by providing significant protection against abuses of discretion by the Board in exercising its rule-making authority, the requirement that the Board promulgate rules subject to the Maine Administrative Procedure Act compensates "substantially for the want of precise [legislative] guidelines." **[\*\*412]** *Id.* (quotation marks omitted). <sup>4</sup> This requirement stands in contrast to the municipal delegations considered in the *Kosalka* line of decisions, in which municipal board members were not authorized or presumed to have the expertise necessary to formulate an interpretation of the delegated authority through a rulemaking process, but were instead left to "decide . . . legislative question[s] anew." *Cope*, 464 A.2d at 227. <sup>5</sup>

#### e. Conclusion

**[\*P29]** Unlike Shakespearean notions consigning beauty to the eye of the beholder, <sup>6</sup> the concept of scenic and aesthetic uses within a particular natural resource is, when viewed through the lens of modern sensibilities, sufficiently definite so that such uses can, in any given case, be reliably identified based on competent proof. The same is true as to the determination of whether, under all relevant circumstances, a proposed activity will unreasonably interfere with the uses. The fact-finding required to give effect to NRPA's protection of existing scenic and aesthetic uses is no more imprecise or speculative than the fact-finding required to determine the best interests of a child in a custody proceeding or the mental state of a criminal defendant in a criminal prosecution.

**[\*P30]** The standard is also not constitutionally deficient simply because it is not couched in empirical terms. Although scenic and aesthetic uses are not readily susceptible to quantitative analysis, the Constitution does not demand such an analysis in order to subject those uses to legal protection. <sup>7</sup> We have previously recognized

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<sup>4</sup> Indeed, in *Conservation Law Foundation, Inc. v. Department of Environmental Protection*, 2003 ME 62, P 31, 823 A.2d 551, 561, we treated section 480-D(1)'s existing uses criterion as sufficiently definite to enable the Board to promulgate standards providing for permits by rule.

<sup>5</sup> In fact, the Board has promulgated regulations that implement and expand upon section 480-D(1)'s scenic and aesthetic uses standard. See 2 C.M.R. 06 096 315 (2003). The regulations provide detailed factors for evaluating whether a proposed activity will unreasonably interfere with existing scenic and aesthetic uses. For example, in addition to evaluating the "visual elements of the landscape," which include "landscape compatibility," "scale contrast," and "spatial dominance," the Board considers:

the type, area, and intransience of an activity related to a scenic resource that will be affected by the [applicant's proposed] activity, the significance of the scenic resource, and the degree to which the use or viewer expectations of a scenic resource will be altered, including alteration beyond the physical boundaries of the activity.

*Id.* at 315-3 § 9. The regulations further provide that "scenic resources" include, but are not limited to, "locations of national, State, or local scenic significance." *Id.* at 315-4 § 10. A scenic resource with national or statewide significance is one "visited by large numbers who come from across the country or state." *Id.* A scenic resource of local significance is one "visited primarily by people of local origin." *Id.* Thus, the Board's regulations provide significant instruction on how to both interpret and implement section 480-D(1)'s scenic and aesthetic uses standard. The Ulianos do not raise any issues concerning the Board's adoption of the regulations, or the applicability of the regulations to their application.

<sup>6</sup> See William Shakespeare, *Love's Labour's Lost* 31 (Richard David ed., London: Methuen 1956) (1598).



**[\*\*413]** that "[o]bjective quantification, mathematical certainty, and absolute precision are not required by either the United States Constitution or Maine Constitution." *Town of Baldwin*, 2002 ME 52, P 7 n.2, 794 A.2d at 66; *see also Davis v. Secretary of State, Div. of Motor Vehicles*, 577 A.2d 338, 341 (Me. 1990). In delegating decision-making authority to an executive agency, a statute need not provide determinate criteria as long as it offers "an intelligible principle to which the person or body authorized to act is directed to conform." *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 472, 121 S. Ct. 903, 149 L. Ed. 2d 1 (2001) (quotation marks omitted). Thus, in *Whitman*, the Court held that a statute requiring the Environmental Protection Agency to set ambient air quality standards "requisite to protect the public health" was not a vague delegation of authority because "requisite" meant "not lower or higher than is necessary." *Id.* at 475-76.

**[\*P31]** Every state, Maine included, has a substantial interest in the preservation of its unique scenic and aesthetic qualities. Thus, in *Brophy v. Town of Castine*, 534 A.2d 663, 664 (Me. 1987), a town's set-back requirement relative to the water's edge was found to be a valid exercise of the police power because it "reasonably promotes the town's interest in preserving, for the public's aesthetic welfare, those areas from development." NRPA's protection of scenic and aesthetic uses is a similar exercise of the police power. It rests on the Legislature's finding that "the cumulative effect of frequent minor alterations and occasional major alterations of [protected natural resources] poses a substantial threat to the environment and economy of the State and its quality of life." 38 M.R.S. § 480-A. We have no reason to question this legislative finding. As such, NRPA's protection of scenic and aesthetic uses serves a significant governmental interest and is a valid exercise of the police power.

**[\*P32]** The operative terms contained in section 480-D(1) render the statute susceptible to a logical construction that provides meaningful guidance to both permit applicants and those who are duty-bound to administer it. The statute's regulation of scenic and aesthetic uses does not render it unconstitutionally vague and does not result in an unconstitutional delegation of legislative authority.

## 2. The Section 480-D(1) Analysis

**[\*P33]** The Ulianos contend that the administrative record does not support the Board's conclusion that the proposed pier will unreasonably interfere with existing scenic and aesthetic uses. Specifically, they assert that the Board failed to explain the significance of the natural resource at issue and that the natural resource must be of special significance to justify the denial of their permit. They further assert that the Board mischaracterized the shoreline as "relatively undisturbed and unobstructed," and contend that the shoreline is substantially developed based on the presence of four existing piers and numerous structures, particularly stairways. Finally, they contend that the Board erred by distinguishing two of the four alleged **[\*\*414]** piers as "grandfathered" piers, and that section 480-D(1) does not permit the Board to distinguish between piers that are "grandfathered" and those that are not.

**[\*P34]** Contrary to the Ulianos' first assertion, although the Board must consider the significance of the natural resource, it is not required by statute or rule to expressly find that the resource is an area of special significance in order to deny a permit. As a coastal wetland, the shoreline at issue has already been designated as a "resource[]" of state significance" having "great scenic beauty and unique characteristics," 38 M.R.S. § 480-A, and the Department

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<sup>7</sup> Thus, it is established that aesthetic interests are sufficiently real and definite to confer legal standing to sue. In *Summers v. Earth Island Institute*, 129 S. Ct. 1142, 1149, 173 L. Ed. 2d 1 (2009), for example, the Supreme Court concluded that a concrete injury can arise if the harm of a proposed activity "in fact affects the recreational or even the mere esthetic interests of the plaintiff." Similarly, "environmental plaintiffs adequately allege injury in fact when they aver that they use the affected area and are persons for whom the aesthetic and recreational values of the area will be lessened by the challenged activity." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 183, 120 S. Ct. 693, 145 L. Ed. 2d 610 (2000) (quotation marks omitted). *See also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 562-63, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992) ("Of course, the desire to use or observe an animal species, even for purely esthetic purposes, is undeniably a cognizable interest for purpose of standing."); *Minn. Pub. Interest Research Group v. Butz*, 358 F. Supp. 584, 595 (D. Minn. 1973) ("The scenic use is self-explanatory. The rustic, natural scenery of the [Boundary Waters Canoe Area] is one of the main reasons for its heavy recreational use.").

has already determined that "[a]ll coastal wetlands . . . are considered wetlands of special significance," 2 C.M.R. 06 096 310-3 § 4 (2007). As the Legislature and the Department have already found coastal wetlands to be of special significance, the Board is not required to make an explicit finding that the shoreline is particularly significant before denying the Ulianos' permit.<sup>8</sup>

**[\*P35]** The Ulianos' additional reliance on *Kroeger* for the proposition that the Board was required to make an express finding of special significance is misplaced. The Ulianos contend that, in *Kroeger*, the Department found that *Somes Sound* was a significant natural resource that justified the denial of a pier permit, and that the Board must make a similar finding here before denying their permit. Although in *Kroeger* the Department noted that the proposed pier was located in "the only natural fjord on the east coast of the United States," 2005 ME 50, P 10, 870 A.2d at 569-70 (quotation marks omitted), this fact was not dispositive. Rather, the location of the proposed pier in *Somes Sound* was one of several factors leading to the Department's conclusion that the proposed pier would unreasonably interfere with existing scenic and aesthetic uses. See *id.* PP 10-14, 876 A.2d at 569-570; see also *Uliano I*, 2005 ME 88, P 24, 876 A.2d at 22 (noting that in *Kroeger* the Department considered the significance of *Somes Sound* in considering the uses of the natural resource).

**[\*P36]** Contrary to the Ulianos' next assertion, the Board did not lack evidentiary support for its characterization of the shoreline as "relatively undisturbed and unobstructed." The Ulianos misapprehend the record in arguing that the shoreline between *Hadley Point* and *Parker Point* contains four piers. As evidence for their position, the Ulianos cite to the Department's original order from 2001 approving the Ulianos' permit. However, the record developed after the Department's original order supports the Board's finding that there was "undisputed evidence that the only existing piers between *Parker Point* and *Hadley Point* are two grandfathered piers located in *Emery Cove* . . . [and an] older walkway structure." In particular, the evidence supports the Board's finding that the two piers cited by the Ulianos, the "*Milliken/Northern Lights*" and "*Moya*" piers, are both located east of *Parker Point* in *Frenchman's Bay*.

**[\*P37]** Moreover, the Ulianos' contention that evidence of stairways along the shore compels a finding that the shoreline **[\*\*415]** is developed is inapt. The Board found that the "[a]ccess to the coastal wetland in this area is achieved primarily by individual walkways, paths or stairways to the beach." Although the interveners testified that the number of stairways had grown over the years, and that these structures were not ideal, their testimony did not suggest that these structures unreasonably interfere with the scenic and aesthetic uses of the shoreline, nor did other evidence establish this point. Rather, the evidence supported the Board's finding that because the primary access to the shoreline was achieved through stairways and walkways rather than piers, the Ulianos' proposed pier would "dominate the landscape" such that it would unreasonably interfere with the scenic and aesthetic uses of the shoreline. Such evidence included testimony that the Ulianos could not see any piers along *Eastern Bay* from their project site, that the Ulianos' pier would be the first individual recreational pier within *Eastern Bay*, and that the two piers in *Emery Cove* were "tucked" away and not visible from the rest of *Eastern Bay*.

**[\*P38]** Regarding the Ulianos' final assertion, the Board did not attach significant meaning to the term "grandfathered" in describing the two existing piers located in *Emery Cove*. The Board's finding that the shoreline was "relatively undisturbed and unobstructed" was conditioned on evidence showing that there was an absence of piers in the vicinity, not on evidence showing that the Board ignored the presence of piers due to their designation as grandfathered piers. As the Board suggests in its brief, the term "grandfathered" is a shorthand, though technically imprecise reference that the two piers were built prior to the enactment of *NRPA*. There is no error in the Board's use of the term in this manner.

## B. Practicable Alternatives

### 1. The Performance of the Practicable Alternatives Analysis

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<sup>8</sup> Indeed, in addressing a different issue in their brief, the Ulianos concede that the Board has no authority to find that a particular coastal wetland has a special significance that makes it more deserving of protection than other coastal wetlands: "One problem with this statement is that *all* coastal wetlands are considered wetlands of special significance. . . . So, that means the Board cannot simply designate one coastal wetland as deserving of more protection than another."

**[\*P39]** The Ulianos contend that the Board erred by performing the practicable alternatives analysis required by section 5(A) of the Wetland Protection Rules before determining the degree of interference with existing uses pursuant to section 480-D(1). Section 5(A) of the Wetland Protection Rules provides that "[n]o activity shall be permitted if there is a practicable alternative to the project that would be less damaging to the environment." 2 C.M.R. 06 096 310-3 § 5(A) (2007).

**[\*P40]** In our previous decision in this case, we stated that "the Board's consideration of practicable alternatives to a proposed project is a factor that should be balanced in its section 480-D(1) analysis." *Uliano I*, 2005 ME 88, P 13, 876 A.2d at 19-20. This statement addressed the Board's error of failing to "relate its finding that a practicable alternative exists to its overall determination of whether the relevant section 480-D criteria were satisfied." *Id.* P 11, 876 A.2d at 19. It did not simultaneously announce a specific methodology by which the Board must perform the balancing analysis. Therefore, the Board did not err by addressing the existence of practicable alternatives in its order before discussing the degree of impact on existing uses.

**[\*P41]** Furthermore, contrary to the Ulianos' assertion, the Board did determine the degree of impact on existing uses. In its section 480-D(1) analysis, the Board specifically found that the Ulianos' proposed pier would be a "significant visual intrusion" for persons walking the intertidal area, and that the pier would have a "significant adverse scenic and aesthetic impact on the uses of the area by boaters." Having found that the degree of impact on those existing scenic and aesthetic uses **[\*\*416]** would be significant, the Board then found that the degree of impact would be unreasonable because, among other reasons, "the applicants do have at least one practicable alternative that would be less damaging to the environment." The Board's analysis therefore properly determined the degree of impact on existing uses, and further related its finding that a practicable alternative exists to its determination of whether the section 480-D(1) criteria were satisfied.

## 2. The Evidence Supporting the Practicable Alternatives Analysis

**[\*P42]** The Ulianos assert that the record does not support the Board's practicable alternatives analysis for a variety of reasons. They contend that the Board: (1) inaccurately described the shoreline relevant to the practicable alternatives analysis by including the shoreline of the abutting property belonging to Rosecliff Cottages; (2) erred by relying on evidence that neighbors used dinghies and outhaul systems on their own properties to conclude that such a system was a practicable alternative on the Ulianos' property; (3) erred by finding that a dinghy and outhaul system had previously been used on the Ulianos' property; (4) failed to acknowledge that the bottom stairs on the eastern shoreline of their property are inundated at high tide and unsafe to use; and (5) erred by finding that the use of a yacht club three miles away was a practicable alternative.

**[\*P43]** Contrary to the Ulianos' first assertion, the Board did not err in describing the relevant shoreline applicable to the practicable alternatives analysis. Although the Board noted that the Ulianos "own two adjoining parcels," it concluded that "[t]he proposed project would be located on the parcel associated with the primary residence and having 215 feet of shore frontage." The Board did not expand its practicable alternatives analysis to consider the existence of a practicable alternative for the Ulianos on the Rosecliff Cottages property or on any other stretch of shoreline. Indeed, the Board found that a practicable alternative existed specifically because the eastern shoreline of the Ulianos' parcel associated with their residence permitted the use of an outhaul system.

**[\*P44]** The Board also did not err by finding that the use of outhaul systems by neighbors was relevant to the existence of a practicable alternative. Had the Board concluded that an outhaul system was a practicable alternative based solely on evidence that neighbors used such a system on their own properties, it is likely that the Board's finding would be inadequate. However, the Board also found that there was unrefuted testimony that an outhaul system had been used previously on the Ulianos' property. Taken together, the evidence of use of outhaul systems by both neighbors and the Ulianos' predecessor support the Board's finding that the use of such a system was not only practicable, but practicable on the Ulianos' particular property.

**[\*P45]** In their third assertion, the Ulianos misapprehend the record evidence in contending that it is "simply untrue" that the Ulianos' predecessor used an outhaul system. In its decision, the Board stated that "[t]here was

also testimony, which was not refuted, that such a system has been used at the applicants' property in the past." The Ulianos attribute this testimony to Marty Lamson, who spoke on behalf of the Ulianos at the Board's hearing. The substance of Lamson's testimony was that he owned property behind the Ulianos, and that with permission from the Ulianos' predecessor he had used an outhaul system for "two or three years" from a **[\*\*417]** set of stairs on the Rosecliff Cottages parcel, but had given up as it was difficult, his children had lost interest in sailing, and his business was busy. The Board accounted for Lamson's testimony in its decision by stating that "[t]wo persons testified . . . that they have used a dinghy to access a mooring at or in the vicinity of the project site, but that it was difficult . . . [and] that they no longer maintain a boat . . . [because of their] family's loss of interest in sailing and business time commitments."

**[\*P46]** In fact, the unrefuted testimony that the Board identified was that of Phoebe Boyer, an intervener, who testified that the previous owner of the Ulianos' property "kept [a dinghy] at the steps that are on the--near the Sand Point Association property line." The Board's finding that the Ulianos could maintain an outhaul system from the existing stairway on "the shoreline at the eastern end of the applicants' lot, adjacent to the Sand Point Association Common Lot" is consistent with and supported by Boyer's testimony.

**[\*P47]** Contrary to the Ulianos' fourth assertion, although the Board could have credited the Ulianos' testimony that the bottom steps of the stairs on their eastern shoreline are inundated at high tide and therefore too dangerous to use a dinghy and an outhaul, the Board was not required to do so. *See Preston v. Tracy*, 2008 ME 34, P 11, 942 A.2d 718, 720. The Board found that evidence of "numerous small boats, including kayaks, canoes and dinghies, stored along the shoreline and the presence of outhaul lines and moorings substantiat[ed] testimony that this is a common method of accessing . . . boats throughout Eastern Bay," and further found that the Ulianos' predecessor had maintained a dinghy at the steps of the eastern shoreline. The Board did not err in crediting this evidence.

**[\*P48]** Finally, the Board's finding that the use of a yacht club three miles away was a practicable alternative is supported by the record. The Board was presented with evidence showing that the yacht club was actively seeking new members and that it could provide deep-water access to a boat at all tides. *See Kroeger*, 2005 ME 50, P 20, 870 A.2d at 572.

#### C. The Right to Wharf Out

**[\*P49]** The Ulianos contend that the Board's denial of their permit application eliminates their common law right to wharf out from their property and therefore constitutes an unreasonable regulation of their right to wharf out.

**[\*P50]** Subject to reasonable regulation, common law provides a riparian landowner the right to wharf out to the navigable portion of an abutting body of water. *Great Cove Boat Club v. Bureau of Pub. Lands*, 672 A.2d 91, 95 (Me. 1996); *see also Britton v. Dep't of Conservation*, 2009 ME 60, PP 15, 22, 974 A.2d 303, 308, 309. Reasonable regulation of the common law right to wharf out includes the requirement that a riparian landowner acquire a permit before constructing a wharf. *Great Cove*, 672 A.2d at 95.

**[\*P51]** Given that the acquisition of a permit prior to the construction of a pier is a reasonable regulation of the common law right to wharf out, the Board's denial of the Ulianos' application does not constitute an unreasonable regulation of their right to wharf out from their property. *See Hannum v. Bd. of Env'tl. Prot.*, 2006 ME 51, P 26 n.4, 898 A.2d 392, 402. The right to wharf out is not an unconditional right.

The entry is:

Judgment affirmed.

**Dissent by:** ALEXANDER

## Dissent

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**[\*\*418]** ALEXANDER, J., dissenting.

**[\*P52]** I respectfully dissent.

**[\*P53]** The Court's action today licenses the Board of Environmental Protection (Board) to invoke the unreasonable interference with scenic or aesthetic uses standard in 38 M.R.S. § 480-D(1) (2008), to approve or reject proposed shorefront improvements solely on the basis of whether the Board, or project opponents, like the looks of the project or not. As is often said: "Beauty is in the eye of the beholder." Because standards of beauty or aesthetics are essentially personal and unquantifiable, our constitutional due process standards do not permit the approval or disapproval of applications to be based on vague standards such as beauty or aesthetics that can be arbitrarily and capriciously applied without giving any guidance as to what is necessary for approval or disapproval.

**[\*P54]** The Board's support for its rejection of the Ulianos' proposed dock is stated across ten single-spaced pages of rambling and obscure reasoning. In its order, the Board concludes that the dock "would have a significant adverse impact on the scenic and aesthetic value of the wetland" and "on the uses of the area by boaters in Eastern Bay and, in particular, kayakers and small boat users who frequent the near shore area." The Board appears to justify rejecting the application by noting that "the proposed pier would be in a viewshed that is not extensively developed." The Board did not define "viewshed" for us, but it appears to mean what you can see from somewhere else--particularly a nearby, private club whose members led the opposition to the Ulianos' project. Thus, the Board observes that "[t]he visual impact of the proposed project on boaters in Eastern Bay would diminish with increased distance, but the pier would continue to be visible at many points throughout the Bay especially when reflecting the sunlight."

**[\*P55]** The Board seems to conclude that since others, particularly "beach combers," "boaters," "kayak groups," and members of the nearby private club, could see the Ulianos' proposed pier, and it would represent an alteration of their "viewshed," the proposal would unreasonably interfere with existing scenic and aesthetic uses.<sup>9</sup> If this proposal can be rejected on this basis, then any alteration of any existing shorefront, lakefront or riverfront can be similarly rejected. Most areas with such waterfronts have their own unique natural beauty. None of the language in 38 M.R.S. § 480-D(1), the Board's regulations, or the Board's order provides any hint of what an applicant could present to win approval of a change in the waterfront once neighbors or water users object that the project might change their "viewshed" in some way.

**[\*P56]** We have held repeatedly that findings in administrative orders, when required by law, must be sufficiently specific to permit understanding and meaningful appellate review. *Schwartz v. Unemployment Ins. Comm'n*, 2006 ME 41, P 10, 895 A.2d 965, 970; *Hannum v. Bd. of Env'tl. Prot.*, 2003 ME 123, P 12, 832 A.2d 765, 769. See also 5 M.R.S. § 9061 (2008); 1 M.R.S. § 407(1) (2008). In fact, we said the same thing in our previous remand of this case. *Uliano v. Bd. of Env'tl. Prot. (Uliano I)*, 2005 ME 88, PP 23-25, 876 A.2d 16, 21-22.

**[\*P57] [\*\*419]** Despite our direction in the prior remand, the Superior Court found that the Board's rambling narrative did not permit meaningful appellate review.

It is clear that the Board's "findings" are done in a narrative format that does not make for meaningful appellate review in accordance with the direction of the Law Court in its 2005 review of this matter [*citing Uliano I*].

**[\*P58]** If our prior precedent is to be respected, that finding alone should require a remand for clear findings that facilitate meaningful appellate review. As the trial court found, when an administrative agency "fails to make sufficient and clear findings of fact and such findings are necessary to judicial review, we will remand the matter to the agency or board to make the findings." *Carroll v. Town of Rockport*, 2003 ME 135, P 30, 837 A.2d 148, 157; see also *Christian Fellowship & Renewal Ctr. v. Town of Limington*, 2001 ME 16, PP 11-19, 769 A.2d 834, 838-41.

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<sup>9</sup> Significantly, the Board found that the proposed pier would not interfere with actual existing uses such as launching boats from the nearby private club, walking on any existing beach, or boating in the bay. The Board indicated that area where the proposed pier would be constructed was a steep, rocky embankment.

Sufficient, clear findings are particularly important if an agency acts pursuant to a vague standard that is difficult to quantify.

**[\*P59]** In *Kosalka v. Town of Georgetown*, 2000 ME 106, 752 A.2d 183, we held that an ordinance that required a project applicant to show that a project would "conserve natural beauty" was unconstitutionally vague and violative of due process standards. That standard, like the scenic and aesthetic uses standard here, provided little direction as to what was required for project approval and invited rejection of applications based on nothing more objective than the reviewer's sense of "beauty." In *Kosalka*, we cautioned land use regulatory agencies that individuals seeking to make improvements to their property "are entitled to know with reasonable clarity what they must do under state or local land use control laws to obtain the permits or approvals they seek." *Id.* P 12, 752 A.2d at 186.

**[\*P60]** Prior to *Kosalka*, we had struck down an ordinance reliant on a "compatible with existing uses" standard as failing "to articulate the quantitative standards necessary to transform the unmeasured qualities . . . into specific criteria objectively usable by both the Board and the applicant. . . ." *Wakelin v. Town of Yarmouth*, 523 A.2d 575, 577 (Me. 1987). See also *Cope v. Town of Brunswick*, 464 A.2d 223, 225 (Me. 1983) (ordinance void for vagueness that allowed denial of application upon determination that use would "adversely affect the health, safety or general welfare of the public," or would "alter the essential characteristics of the surrounding property"); *Waterville Hotel Corp. v. Bd. of Zoning Appeals*, 241 A.2d 50, 52-54 (Me. 1968) (ordinance void for vagueness that allowed denial of application upon determination that use would be "detrimental to the neighborhood").

**[\*P61]** As we noted in *Kosalka*, a land use control, to pass the due process test, must answer two questions: (1) "what must an applicant do to obtain a permit," and (2) "under what set of facts should the [Board] grant or deny the application." 2000 ME 106, P 16, 752 A.2d at 187.<sup>10</sup>

**[\*P62] [\*\*420]** The Board's findings applied to *Uliano's* application do not suggest answers to either of these questions. Whether something unreasonably interferes with existing scenic and aesthetic uses or alters someone's "viewshed" are questions that can be answered only in the eyes of the beholder. That standard and its application by the Board offer no "quantitative standards necessary to transform the unmeasured qualities . . . into specific criteria objectively usable by both the Board and the applicant. . . ." *Wakelin*, 523 A.2d at 577. As every pier, every development, will have some scenic and aesthetic impact, any pier or other alteration of someone's "viewshed" can be approved or disapproved purely on the whim of the reviewer, without any objective criteria to guide the applicant, appellate reviewers, or future applicants.

**[\*P63]** The Board's order is also ambiguous in its treatment of the "reasonable alternative" requirement. The order appears to apply the reasonable alternative requirement to the application only because the application fails the scenic and aesthetic test in the eyes of the Board beholders. If so, then the invalidity of the scenic and aesthetic test ends the necessity to consider reasonable alternatives. If the reasonable alternative requirement is an independent requirement, then it too has vagueness problems. However, because the scenic and aesthetic uses issue must be resolved in the Ulianos' favor, fairness requires that the reasonable alternatives issue be reexamined in light of the changed outcome on the dominant scenic and aesthetic uses issue.

**[\*P64]** I would vacate the Superior Court's judgment and remand to the Superior Court for further remand to the Board of Environmental Protection with direction to: (1) determine that the scenic and aesthetic uses standards applied to deny the Ulianos' application are void for vagueness and inapplicable to the Ulianos' application, and (2) reconsider the reasonable alternatives issue in light of the determination that the scenic and aesthetic uses criteria

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<sup>10</sup> The Court's opinion attempts to minimize *Kosalka* and the other opinions in which we have decided that land use control regulations were void for vagueness, suggesting that due process requires more rigorous review of municipal regulations than of State regulations. The Court suggests, therefore, that terms viewed as void for vagueness when appearing in municipal regulations can be viewed as sufficiently specific when appearing in State regulations. This fanciful position is perhaps necessary to allow the Court to distinguish our prior opinions that have found terms very similar to the terms at issue here void for vagueness. But this position is utterly lacking in support in application of our constitutional, due process standards that apply equally to the State and municipalities.

are not enforceable and must not be considered in any way in determining the need, if any, to consider any reasonable alternative.

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End of Document

# **MORATORIUM ORDINANCE**

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

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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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