



Town of Damariscotta, Maine
Select Board Meeting
Wednesday January 3, 2024
Town Office, 21 School St

5:30 PM

Join Virtually

Meeting: <https://us02web.zoom.us/j/83072624998> | Meeting ID: 830 7262 4998

AGENDA

- I. Pledge of Allegiance**

- II. Call Select Board Meeting to Order**
 - 1. Minutes**
 - i. December 20, 2023 Select Board Minutes

 - 2. Financial Reports**
 - i. Payroll Warrants # _____
 - ii. Accounts Payable Warrants # _____

 - 3. Citizen Comments and General Correspondence**

 - 4. Town Manager's Report**

 - 5. Official Action Items**
 - i. Pedestrian Safety & Accessibility Collaborative Request

 - 6. Select Board's Discussion Items**
 - i. Draft Community Resilience Partnership Resolution
 - ii. Draft Harbor Ordinance Revision
 - iii. Outstanding Personal Property Taxes

 - 7. Executive Session Pursuant to 1 MRSA 405(6)(E): Consultation with Legal Counsel**

 - 8. Adjournment**



**Town of Damariscotta, Maine
Board of Assessors / Select Board Meeting
December 21, 2023
Town Office, 21 School St**

5:30 PM

Join Virtually

Meeting: <https://us02web.zoom.us/j/83072624998> | Meeting ID: 830
7262 4998

Minutes

Select Board Members: Daryl Fraser, Chairperson; Tom Anderson; Dan Hunter; Andrea Keushguerian, and Josh Pinkham

Members Absent: Andrea Keushguerian

Staff Present: Andy Dorr, Town Manager; Lynda Letteney, Recording Secretary

Others Present: Patti Whitten, Cemetery Committee; Geoff Keochakian, LCTV; Elizabeth Waltztoni, *Lincoln County News*

- I. **The Pledge of Allegiance** was led by Chairperson Fraser at 5:30 p.m.

- II. **Call Select Board of Assessors Meeting to Order**
Daryl Fraser opened the meeting with some adjustments. The AOS 93 budget hearing was 12/20. The agenda is modified to eliminate the executive session and to add the RFP

- III. **Call Select Board Meeting to Order at 5:35 p.m.**
 - A. **FFMinutes**
Tom Anderson recommended changes to #9, **Select Board Discussion**. He wanted “speaking for . . .Users” deleted and instead have it say “Tom Anderson commented that as far as. . .” with the rest remaining the same.

Motion (Dan Hunter) to approve minutes from December 6, 2023, with changes
Seconded by Tom Anderson
Vote __4__ / __0__ / __0__

 - B. **Financial Reports**
 1. Payroll Warrants #25-26-27-28

Motion (Josh Pinkham) to approve Payroll Warrants #25-26-27-28 .
Seconded by Daryl Fraser
Vote __4__ / __0__ / __0__

 2. Accounts Payable Warrants #29
Motion (Tom Anderson) to approve Accounts Payable Warrant # 29.
Seconded by Daryl Fraser.
Vote __3__ / __0__ / __1__ (Pinkham abstaining) Josh asked for an update on the January payment. Andy said it has been successfully clarified.

 - C. **Citizen Comment and General Correspondence**

1. CLC Ambulance Tom Anderson spoke to this saying that some items are not negotiable; payroll had already been approved. Dan Hunter asked if this was based on the tax valuation of the town. Insurance, capital expenses and telephone are the items with the biggest increase, but not much can be done about them.

2. Lincoln County Sheriff's Office Contract for Animal Control There are proposed changes to the contract, 5% increase in wages and language changes for the indemnity section. Meeting scheduled for 12-28-23 at 2 pm at the Wiscasset office. Both Andy and Jason plan to attend.

D. Town Manager's Report

1. Hodgdon St Update

There are still a few items that need to be finished for this project, most notably the erosion control measures. The engineer provided a list of needed items a couple of weeks ago and the contractor was able to complete most of them. Retainage will be held until this is 100% complete.

2. Parking Lot Project

Our point of contact at EDA had provided notice a couple of weeks ago that future correspondence would flow through another contact and that he had enjoyed working with us. The new point of contact has been involved and Cc'd on most correspondence, so there should be a seamless transition. Phase II documents were submitted December 6th, though I have not heard anything back yet. We will continue to pursue this with the plan of getting RFPs out as soon as possible in 2024. Rick Hornsberg is now the contact person

3. Miles St Phase II

Phase II of Miles St should be on our radar. While we are still closing out Phase I, we should consider budget implications for closing any funding gap to complete Phase II. You may recall that the price to complete Phase II was sought as an Amendment to the Phase I contract and was ultimately too high. This will be a good starting point for us to consider additional funding during the budget process. \$60,000 was committed from private donations to apply towards Phase II sidewalk improvements and are being held by the hospital to be applied in the future. Josh Pinkham said that we need more flexibility with the contractor. We are still trying to get Phase I finalized. We need numbers before going forward.

4. Admin Updates

a. Maine's Tax Stabilization program has reimbursed us \$925 so far. This represents \$5 per application as a recognition for processing fees. Our full reimbursement was submitted in October for \$95,548.25 and should be received by January 15th.

b. Andy is currently reviewing **costs of website updates** as the town was given notice that the platform ours is built on is being upgraded, but we could choose to go a step further. There is also another company that he has been in contact with that has provided me with a comparison in service, features, and price. Depending on what Andy learns and the price to proceed he may decide now if the incentives are timely. The Sunset Platform is being updated and coming in 2024 (version 10) We may want to hold off until next year.

Daryl Fraser added that accessibility remotely is essential. Andy said the current system is manual and clunky; the next step should include ADA. Cost is upwards of \$9000 and should be upgraded every 4 years.

c. **FY 23 audit work** is underway. Cheryl has been working with the auditors to provide the information they need.

5. Public Works Update

a. The **Road Foreman position** has been posted to our website for a few weeks and will now be advertised in the paper for the next few weeks.

b. **Storm clean-up** was managed mostly by Merrill this past week, though Andy assisted the later part of the morning into the afternoon. We were fortunate the damage was not as severe as other parts of the state.

c. There were a few **streetlights** that were out, but Andy coordinated for a company to come in and fix those. The storm delayed their arrival, but these were fixed today.

6. Shellfish Committee

Unfortunately, the weather yesterday canceled the meeting, but the committee will call for another meeting to follow up on discussions around monitoring and conservation efforts. The DMR has a grant opportunity open now for a max award of \$7,000 that can be used to improve management and conservation of municipally managed shellfish resources. Specifically, this funding opportunity seeks to support new or significantly expanded projects that restore shellfish flats, improve shellfish habitat productivity, find and fix pollution sources, work with town and state officials to open closed flats, or increase volunteer participation in municipal management and conservation activities. All licensed holders were contacted and many wanted to come. The regularly scheduled meeting for January

7. Upcoming Meetings/Events

- December 21, 5:30 PM @ Town Office – Select Board Mtg
- December 25, All Day – OFFICE CLOSED
- December 26, Office Opens at Noon
- January 2, 5:30 PM @ Town Office - Comprehensive Plan Mtg
- January 3, 5:30 PM @ Town Office – Select Board Mtg
- January 4, 10 AM @ Town Office – Cemetery Trustees Mtg
- January 8, 6 PM @ Town Office – Planning Board Mtg

8. Heater Road

Adjacent to the Town garage, the deed is okay for the road. They are working on including a small piece connected to this.

E. Official Action Items

1. Cemetery Reserve

Patti Whitten stated that the Stetson Lot monument is in need of some TLC. They can get it repaired for half price if they do it now. Josh Pinkham asked how long it would take. Patti replied 2 weeks if the weather holds. Concern is that if any more marble stone lets go, a walker could be hurt. They need authorization to expend \$6600 from the Cemetery Reserve Fund which currently is about \$35K.

Motion (Hunter) to authorize \$6600 from the Cemetery Reserve Fund to make the necessary repairs to the Stetson lot.

Seconded: Fraser

Vote: 4-0-0

2. Ben Laukka has newly acquired property on Water Stree. There is already power under the road. Sewer and water are already there. He is requesting a pole to do overhead power. There is no defined right-of-way, but they are tracking it down.

Tom suggested contacting the previous owner. Is the pole on their property, alignment with the shed?

Motion (Pinkham) to approve the said utility pole.
Seconded by Anderson
Vote __4__ / __0__ / __0__

3. Environment Record Review

Bids were due the 13th and two came in. The Town is functioning as the entity which carries out the review. There was a unanimous decision to accept the bid from **Haley Ward**, who has previous HUD experience and did the CLC YMCA.

Motion: (Fraser) to accept the bid from Haley Ward for \$15,500
Seconded: Pinkham
Vote: 4-0-4

F. Select Board’s Discussion Items

Tom Anderson - Happy Holidays/Merry Christmas

Dan Hunter nothing

Josh Pinkham Merry Christmas and Happy New Year. He also wanted to thank Merrill and the rest of the crew; their efforts were greatly appreciated.

Daryl Fraser - Happy Holidays

G. Adjournment

Motion (Pinkham) to adjourn.
Seconded by Fraser
Vote _4_ / _0_ / _0_

Respectfully submitted,

Lynda L. Letteney
Recording Secretary

We the undersigned approve the minutes of December 21, 2023, as presented and corrected if need be.

Daryl Fraser, Chairperson

Tom Anderson

Dan Hunter

__Absent__
Andrea Keushguerian

Josh Pinkham

Minutes of the 12-21-23 Select Board meeting signed this date



Follow up from Friday

1 message

Anton Lahnston <antonlahnston@aol.com>

Mon, Dec 11, 2023 at 10:32 AM

To: Andrew Dorr <adorr@damariscottame.com>

Cc: Jean Moon <jean.moon@tidemarkinstitute.org>

Hi Andy — Thank for your time and thoughts on Friday. All very helpful.

As I mentioned in the meeting we are beginning to work on the next version of the Twin Villages Walking Map — 2024 version. We will make various minor changes to update the map and we will include the two suggestions you made. Included will be the important sidewalk on Church Street and the Multi-Use Bi-Lane on Main Street from Hannaford to GBS School. These are both in the planning and committed stage and that will be indicated.

We need funding support and the Town previously contributed \$500 in 2021 for the first map. It would be wonderful if the Town could now contribute \$400 for the 2024 version. I hope that is possible and leave that in your hands. As noted, the Town is listed as a supporter of the map. The contributions are made out to “Twin Villages Downtown Alliance” and send to: Fred Brewer, PO Box 306, Bath, ME 04530. On the memo line indicate PSAC. Of course we are seeking other local funding sources as well

On another subject I am in the process of talking with Jim Kutsch of Damariscotta. Jim is blind and wants to help with ADA compliance in Damariscotta. Jim is now a member of PSAC. I trust he will be willing and able to make an important contribution to the Town’s efforts at increasing compliance which is so important.

I will once again look for your Town Manager’s biweekly updates for the Selectboard. If there is an easy way to include me in the distribution I would appreciate it — or just the link would be helpful. Your notes are invaluable to remain informed on the status of important items.

We will continue to welcome your requests, receive updates and invite your participation. We look forward to Michael Martone’s regular participation on PSAC.

Cheers — Anton

[Sent from the all new AOL app for iOS](#)

Town Manager's Report

December 30, 2023

1. Admin Updates

- a. Staff are anticipating a new state voter registration portal. This will require some additional training, though minimal, and is expected to make the process more efficient for clerks.
- b. Website upgrades have been shelved for now. After additional conversations and out of concern for committing to a platform that may not offer all of what we aim to provide, I suggest taking some time for others to learn about the different platforms and budget in FY 25 for this upgrade to happen. Regardless of the new webhost/service provider, we should expect to see an increase in our annual service fees. Currently, we pay \$2,300 for a legacy product/service level and upgrades will cost between \$7,500 and \$15,000 annually. There are some dramatic differences between what we currently have and what we can upgrade to that will improve user experience as well as easier management/update opportunities for staff.
- c. Following up on the proposal and authorization to replace up to two rooftop units at the Town Office building, I will be meeting with Midcoast Energy staff to evaluate the current condition and discuss a strategy for replacement/upgrade of our HVAC system.
- d. As I have mentioned previously, I will be taking two weeks off following the birth of our child, though that date is not defined. This will cause some of our meetings and the budget process to be fluid. I plan to have budget documents available the first week of February as outlined previously, though that may shift by two weeks. If I am out during a regularly-scheduled board meeting, I would recommend a meeting to approve the warrants so we do not fall behind on payments, but other business should be tabled.

2. Planning Department

- a. Michael has been working on TIF amendments. Proposed changes to the current TIF program should be available in draft form at the next meeting.

- b. The Planning Board is reviewing some proposed updates to the Site Plan Review Ordinance. Once complete, they will make a recommendation to the Select Board for consideration of a future town meeting vote.
- c. The Town has until July 1 to comply with the former LD 2003 mandate to increase housing opportunities. The state is holding a series of workshops across the state over the next few weeks, including a stop in Damariscotta on February 2nd. The session will be from 10 to Noon at Skidompha library.
- d. Michael and I will be meeting with hospital admin in the next two weeks to discuss the nursing home project and what may be next. We hope to learn more about the challenges, how the status of the project changes their plans, and if there are ways additional partnerships would be valuable to ensuring projects like this in the future.
- e. Staff will be meeting with folks at Inn Along the Way to learn more about their future development plans. You may recall there was an approved site plan a few years ago and although the full extent of the project has been executed, the organization is looking to pick up that effort now.

3. Public Works Update

- a. Work over the last two weeks including tar patching along Water St and in Keene Woods Subdivision.
- b. The EV Charger is waiting for replacement parts and is turned off in the meantime as there is a risk for arcing when unplugging from vehicles. A cover has been placed over the device making it obvious that the unit is out of service.
- c. An effort has been made to organize the garage and yard area. As you may be aware, the current garage is a standard 2-bay garage which makes it difficult to store and work on equipment. The storage tent has a new tarp so we can store implements out of the elements.
- d. The F-550 needs a new U-Joint and is scheduled to be in the shop on Tuesday, January 2. This will limit the output for the department while the vehicle is in the shop.
- e. The Wacker Neuson is also requiring some service (oil leak, replace belts, and remove belt fragments from the water pump impeller). We have reached out to a local diesel mechanic in the hopes of reducing transport time and costs while also supporting a local company. The machine can run in the meantime, but we are trying to minimize its use until the repairs are made.

4. Capital Projects

- a. **Church St/Castner Creek Culvert Replacement**

A meeting is scheduled next week with representatives from the state and GSBSD with respects to this project. We are looking to coordinate the water line replacement project with our culvert replacement to minimize conflict.

I will also be looking for something more formal from the state regarding the award of the grant that will allow us to proceed with the replacement of the existing culvert.

b. Road Improvements

The board should be thinking about the next round of road improvements. Following the road surface inventory, most of our roads need some level of maintenance while some should be rehabilitated and/or reconstructed. This will require the town to look for bond solutions. While this is not always a popular tact to fund projects, we simply do not have the reserve balance to meet our current needs. I expect to review recommendations with the Public Works Committee in the coming weeks and provide an update during the budget review process.

c. Miles St - Phase II

Would the board like to pursue completion of Phase II for CY 24? We have most of the work designed and would need the engineer to prepare bid documents as a stand-alone project. We would work with the hospital again to manage the project in the same manner as Phase I. Although we have not closed the books on Phase I, we can utilize current Sidewalk/Road Reserve funds along with private donations and the hospital's contribution to pay for Phase II.

If there is consensus, I can work with the engineer on preparing the Phase II bid documents.

5. Legislative Updates

LD 1257 - An Act to Increase Housing Capacity and Protect the Municipal Tax Base and Working Lands (Sponsored by Rep. Crafts of Newcastle)

This bill adds to the list of subdivision review exceptions projects that yield three but no more than 18 dwelling units on a single or parcel of land located in a designated growth area within a municipality, provided the project is subject to municipal site plan review. The bill also defines "administrative reviewing authority," as a municipal employee or other designee of a municipality, and "municipal site plan review," which must include criteria regarding storm water management, sewage disposal, water supply and vehicular access. Finally, the bill requires the reviewing authority, when reviewing an application for subdivision

approval, to determine that the proposed subdivision is not located in an area identified and designated in the municipality's comprehensive plan as a rural area, unless the area is a designated growth area or an area for which the municipality has adopted a plan governing the approval of subdivisions.

LD 1672 - An Act to Establish an Affordable Housing Permitting Process
(Sponsored by Rep. Gere of Kennebunkport)

This bill creates the seven-member Affordable Housing Development Review Board, which includes a representative of municipal government, tasked with reviewing proposed affordable and workforce housing developments, effectively circumventing the local processes. In the review process, the board is authorized to preempt municipal ordinances in the process of determining whether to grant or deny the application for a permit. The bill also creates the process by which a housing development may apply for a permit, in lieu of applying for a local permit, provided the development is in a designated growth area or area served by public water or sewer and 50% of the building's square footage is for affordable or workforce housing. The bill also provides that the development is authorized in an area where a municipal ordinance is not consistent with a comprehensive plan and provides that inconsistent ordinances include provisions that require a minimum lot size of more than 5,000 square feet, density restriction, more than two parking spaces per three dwelling units, more than 50 feet of street frontage, and more than 10 feet of front setback, to name a few. The bill also prescribes the procedures the review board must employ, which requires that notice of a hearing be provided to the applicant and the impacted local board. The bill extends appeal rights to the applicant and provides that municipal fees may not be assessed except to connect to utilities and apply for building permits. Finally, the application fee for the special permitting process is \$5,000 per application.

6. Meetings/Events

- January 1 - Town Offices Closed for New Year's Day
- January 2, 5:30 PM @ Town Office - Comprehensive Plan Mtg
- January 3, 5:30 PM @ Town Office - Select Board Mtg
- January 4, 10 AM @ Town Office - Cemetery Trustees Mtg
- January 8, 6 PM @ Town Office - Planning Board Mtg
- January 17, 5:30 PM @ Town Office - Select Board Mtg
- January 20, 10:30 AM @ Town Office - Comprehensive Plan Workshop
- February 1, 10 - Noon @ Skidompha Library - LD 2003 Housing Mandate Session

Community Resilience Partnership Resolution

WHEREAS, the Town of Damariscotta has completed the Community Resilience Partnership's Community Resilience Self-Assessment and List of Community Actions, and held a community workshop on December 5, 2023 which prioritized the following action areas:

Increased Precipitation & Storm Intensity;
Sea Level Rise;
Environmental Protection & Natural Climate Solutions;
Energy Efficiency; and
Engaging Maine People;

BE IT RESOLVED, the Town of Damariscotta commits to participating in the Community Resilience Partnership, which supports community leadership in reducing greenhouse gas emissions and increasing resilience to extreme weather and climate change impacts;

BE IT FURTHER RESOLVED, the Town of Damariscotta designates the Town Planner, Michael Martone to coordinate planning, implementation, and monitoring of energy and resilience projects and to be the primary point of contact to the Community Resilience Partnership;

WHEREAS, the Town of Damariscotta experiences coastal flooding, intense rainstorms, riverine flooding, drought, high heat emergencies, and other natural hazards and seeks to better prepare for future conditions;

WHEREAS, planning for community and infrastructure resilience will protect people, preserve businesses and the local economy, and reduce the impact and costs of natural disasters;

WHEREAS, investing in energy efficiency and weatherization improvements is proven to lower municipal electricity expenses and make buildings more comfortable for employees and visitors;

WHEREAS, transitioning municipal fleet vehicles to electric vehicles lowers fuel and maintenance costs and reduces the uncertainty of variable fuel prices on municipal budgets;

WHEREAS, the Gulf of Maine is warming 99% faster than other oceans around the world, and ocean acidification and warming ocean temperatures pose a serious economic and cultural risk to Maine maritime industries, heritage, and tourism;

WHEREAS, shifting seasonal temperature and precipitation patterns threaten local natural ecosystems and economic activity such as agriculture, tourism and seasonal recreation—including winter sports and other outdoor activities—and public health due to increased incidence of heat-related illness and tick-borne illnesses such as Lyme disease;

WHEREAS, the Town of Damariscotta is prepared to demonstrate leadership in reducing energy use and greenhouse gas emissions, and increasing the resilience of people, infrastructure, and businesses;

WHEREAS, addressing climate change will present economic opportunities for the Town of Damariscotta as well as opportunities to invest in the public good and cost-saving practices;

WHEREAS, the State of Maine's four-year climate action plan, *Maine Won't Wait*, seeks to put Maine on a trajectory to decrease greenhouse gas emissions 45% by 2030 and 80% by 2050, and achieve carbon neutrality by 2045;

WHEREAS, achieving these emissions and resilience goals will require Maine to act with urgency to slow the causes of climate change and prepare people, communities, and the environment for climate-related impacts to come;

WHEREAS, the Community Resilience Partnership provides grants to municipalities and Tribal Governments for activities that lower energy expenses, reduce greenhouse gas emissions, and increase community resilience in alignment with the state's climate action plan and goals.



Support for Communities

Participation in the Community Resilience Partnership is open to all municipalities, federally recognized tribes, and unorganized territories in Maine. The benefits of joining the Partnership include access to funding opportunities, help with project development and grant writing, trainings on important topics, and peer-to-peer learning events.

To join the Partnership and become eligible to apply for grant funding, a community only needs to take 3 simple steps, listed below under Enrolling in the Partnership. Communities may complete the steps to join on their own or by working with a [service provider](#) and neighboring communities to join the Partnership as a group. For communities who are just starting on the road to climate action, working with a service provider during the enrollment process can bring expertise that helps identify new opportunities and priorities.

After joining the Partnership, communities are eligible for [Community Action Grants](#) to support climate action. The information below describes how to get started and apply for funding for climate action in your community. Need ideas? Get inspired with [examples of climate projects by Partnership communities around Maine](#).

Benefits of Joining the Partnership

Tackling climate change is not easy. The Community Resilience Partnership offers many kinds of support for communities who are enrolled regardless of size, capacity, and previous experience with climate-related projects:

1. The enrollment process is designed to help communities take stock of their current activities and identify a few next steps based on their priorities. Two tools, the [Community Resilience Self-Evaluation](#) and the [List of Community Actions](#), help structure early conversations and can illuminate potential near-term projects.
2. Once enrolled, communities are eligible to apply for [Community Action Grants](#) to undertake additional planning efforts or to implement the priorities identified during enrollment. These grants are offered twice a year.
3. In addition to grants, enrolled communities have access to a [Regional Coordinator](#) who can help with developing future project ideas and then aid researching and applying for grants, especially federal grants.

4. Enrolled communities may participate in training sessions hosted by the Regional Coordinators as well as peer-learning and networking opportunities regionally and statewide.

Enrolling in the Partnership

Municipal governments, Tribal Governments, plantations, townships, and unorganized territories in Maine are all eligible “Communities” to enroll in the Community Resilience Partnership.

To join the Partnership, the Community must complete the following steps:

1. Adopt a municipal resolution, or provide a letter from the Tribal Chief, that establishes or designates either a citizen committee or a municipal or tribal government employee to coordinate activities to reduce energy use and costs, transition to clean energy and make the community more resilient to climate change. Plantations, townships, and unorganized territories may alternately provide a letter containing the information above from a Board of Assessors, county UT coordinator, or county council. [Sample language](#) for the resolution is provided.
2. Complete two self-assessments to assess existing progress and identify potential next steps:
 1. [Community Resilience Self-Evaluation](#) – Assess how the community is addressing resilience in existing planning and operations
 2. [List of Community Actions](#) – Indicate which actions the community has already completed or are in progress. (The List may also be a tool to identify future work.)
3. Hold a public workshop(s) to review the self-assessment results and prioritize projects for implementation. Document the meeting agenda(s), participants, minutes, and priority action list, and a description of the steps taken ensure robust community engagement and participation of diverse community voices.
4. Submit the community’s enrollment materials from the first three steps through this [online form](#). Submissions are accepted on a rolling basis, there are no deadlines. (Communities must be enrolled, or have submitted enrollment materials, at the time they apply for a Community Action Grant.)

Staying Enrolled

To maintain active status in the program, every two years communities must:

1. Update Primary Point of Contact information
2. Submit an updated [Community Resilience Self-Evaluation](#)

1. Where have you made progress? What areas are priorities to address next? What factors over the past two years are influencing your revisions?
2. Please indicate any changes compared to the original self-evaluation, if possible.
3. Submit an updated [List of Community Actions](#)
 1. We'd like communities to use this opportunity to revisit the list of actions and note any changes in priorities due to new strategies, goals, funding sources, or completed projects. This is a great time to host another community workshop and get resident input on future priorities, but this is not required.
 2. Please indicate any changes compared to the original list of actions, if possible.

Communities will be notified when the reenrollment deadline is approaching. Reenroll your community now using the [online reenrollment form](#).

If any of these reporting and progress requirements are not met, the community will be listed as inactive and ineligible for further grants. To reactivate, the community must submit an updated Community Resilience Self-Evaluation and List of Community Actions before the next grant deadline for which you are applying.

Get Funding to Take Action

Once a community is enrolled in the Partnership, they are eligible to apply for [Community Action Grants](#). Municipal and tribal governments and unorganized territories in Maine may apply directly for funds to support projects that reduce energy use and costs and make their community more resilient to climate change effects, such as flooding, extreme weather, drought, and public health impacts.

Damariscotta CRP Enrollment – Public Engagement Results & Resources

Damariscotta Community Climate Workshop
 Tuesday, December 5th, 2023
 Coastal Rivers Conservation Trust Headquarters

 Damariscotta Community Workshop Slides.pdf

| Resource | Link |
|---|---|
| Community Resilience Partnership (CRP) <ul style="list-style-type: none"> • <i>State of Maine Program to enhance the ability of communities to adapt to climate change</i> | https://www.maine.gov/future/climate/community-resilience-partnership |
| CRP List of Community Actions <ul style="list-style-type: none"> • <i>Resiliency projects aligning with the CRP and Maine Won't Wait</i> | https://www.maine.gov/future/sites/maine.gov/future/files/inline-files/List%20of%20Community%20Actions_2023-11-02.xlsx |
| Building Stronger Communities – CRP Regional Coordinators <ul style="list-style-type: none"> • <i>Webinars relevant to the CRP</i> | https://www.youtube.com/@crpbindingstrongercommunities |
| Maine Won't Wait <ul style="list-style-type: none"> • <i>State of Maine's four-year climate action plan</i> | https://www.maine.gov/climateplan/sites/maine.gov/climateplan/files/inline-files/MaineWontWait_December2020_printable_12.1.20.pdf |
| Maine Climate Impact Dashboard <ul style="list-style-type: none"> • <i>Interactive tool overviewing existing and impending climate impacts in Maine</i> | https://storymaps.arcgis.com/collections/934e1d7f462740c69a279fbd8375969d |
| Maine Climate Office <ul style="list-style-type: none"> • <i>A resource for climate and weather data, information, research, and educational outreach for Mainers</i> | https://mco.umaine.edu/pubs/climate_summary/ |
| State Mapping Resources <ul style="list-style-type: none"> • <i>Mapping tools for coastal and climate resilience planning</i> | https://resources-lcrpc.hub.arcgis.com/pages/state-mapping-resources |
| Maine Coastal Resilience Web Mapping Tool <ul style="list-style-type: none"> • <i>Predicts future coastal conditions and ecological impacts</i> | https://maps.coastalresilience.org/maine/ |
| NOAA Sea Level Rise Viewer <ul style="list-style-type: none"> • <i>Interactive tool to explore the impacts of sea level rise</i> | https://coast.noaa.gov/slr/#/layer/slr/3/-7740967.1464919755/5470989.096389149/15/satellite/none/0.8/2100/interHigh/midAccretion |

Public Workshop Overview

On December 5th, 2023, workshop participants gathered at Coastal Rivers Conservation Trust to discuss the local impacts of climate change, identify priority areas, and identify actions that the town could take to address their concerns. Following a presentation from the Lincoln County Regional Planning Commission and Coastal Rivers Conservation Trust–CRP Service Providers for the Town of Damariscotta–participants came together in small groups to discuss local climate change experiences, concerns, and interventions.

Identified Concerns:

- Increase in storms and precipitation (5 Votes)
- Loss of shade trees (3 Votes)
- Sea Level Rise (2 Votes)
- Land Use Planning (2 Votes)
- Costs of Inaction (2 Votes)
- Water Temperature & Quality (0 Votes)
- Built Infrastructure (0 Votes)

**[Summary List from Group Discussions in order of participant votes during exit. Some participants left before voting]

Climate Priorities - Small Group Discussion Output:

- Lack of shade trees and heat island effect (in the downtown specifically)
- Solution: Plant more trees/vegetation downtown

- Lack of Urgency
- Solution: Education for older adults around climate change

- Infrastructure
- Solution: Planned retreat

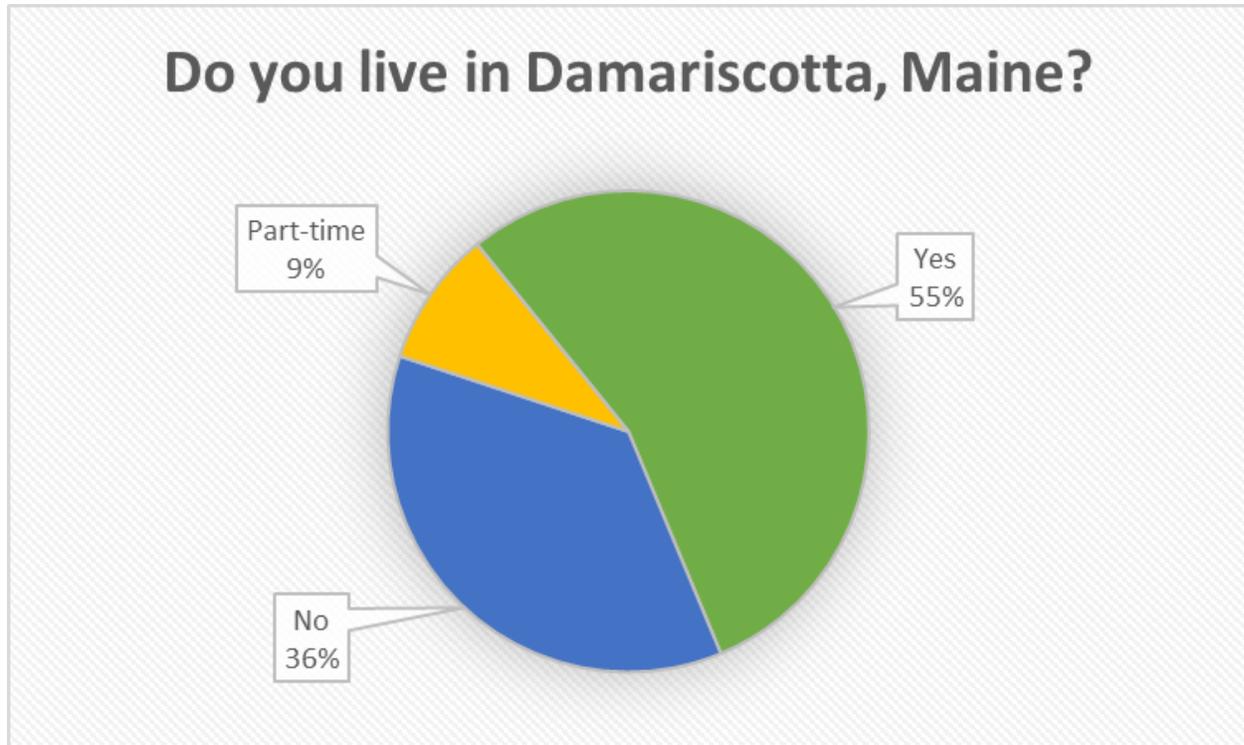
Word to describe the future the groups see for Damariscotta:

- Greener
- Challenging and healthy
- Hopeful and humid

Damariscotta CRP – Summarized Survey Results

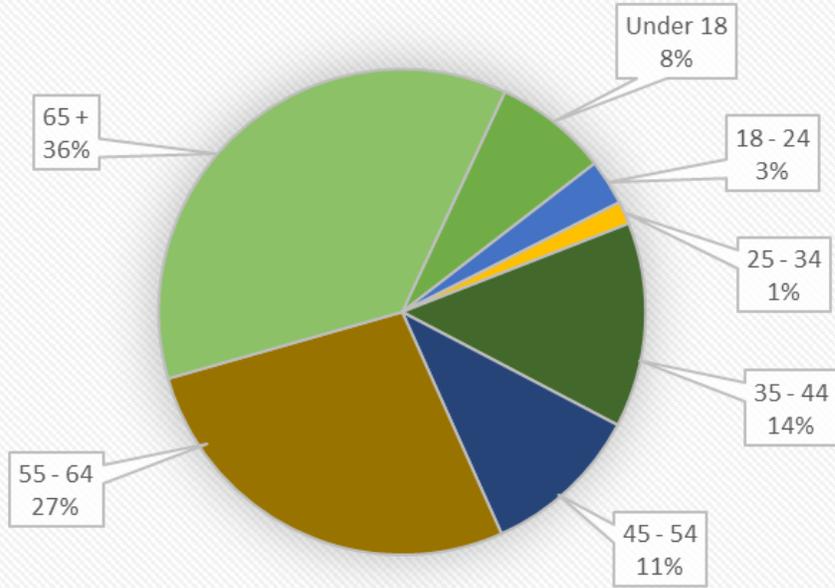
October 16, 2023 - December 11, 2023

Total Respondents: 66

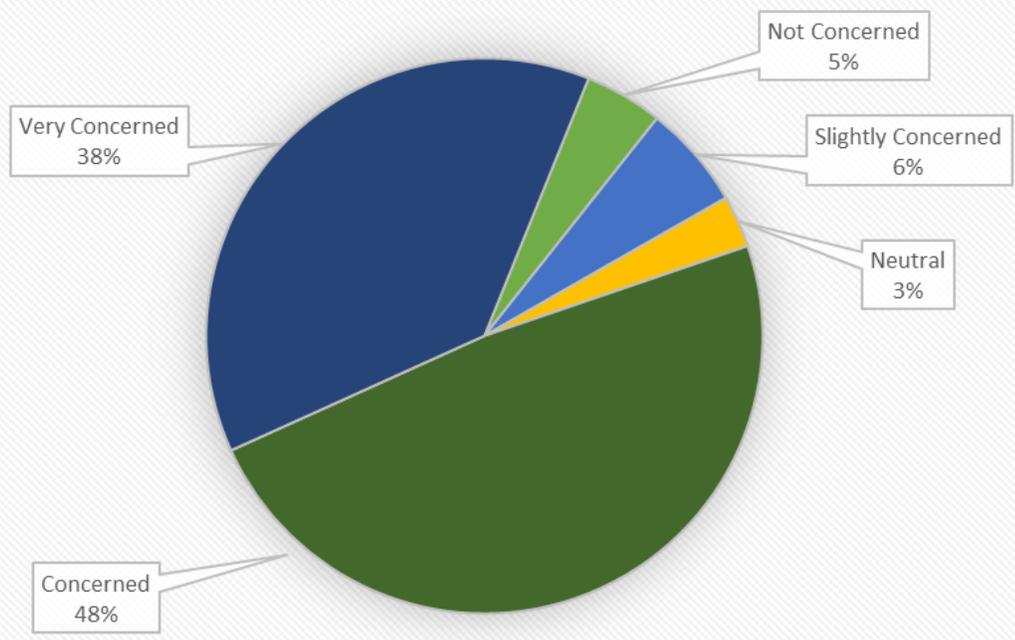


| Part-Time Resident | Non-Resident |
|----------------------------------|--------------------------------|
| Seasonal / Summer Residents | Work in Damariscotta |
| Plans to fully relocate to Maine | Work for Town of Damariscotta |
| | Enjoy visiting Damariscotta |
| | Own property in Damariscotta |
| | Live in neighboring towns |
| | Business owner in Damariscotta |
| | Shop in Damariscotta |

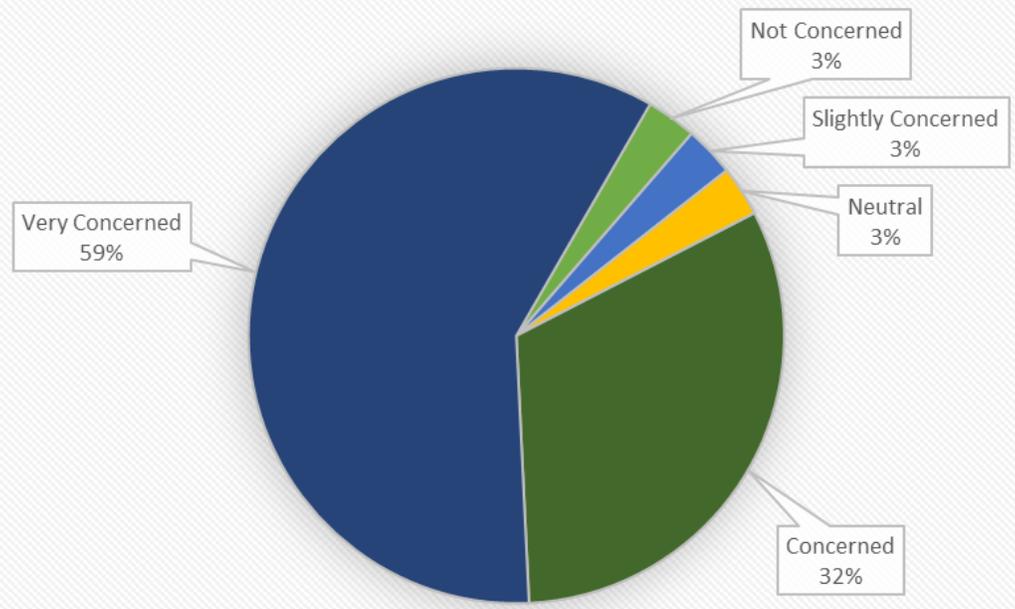
Age Group (to gauge how different generations prioritize climate action)

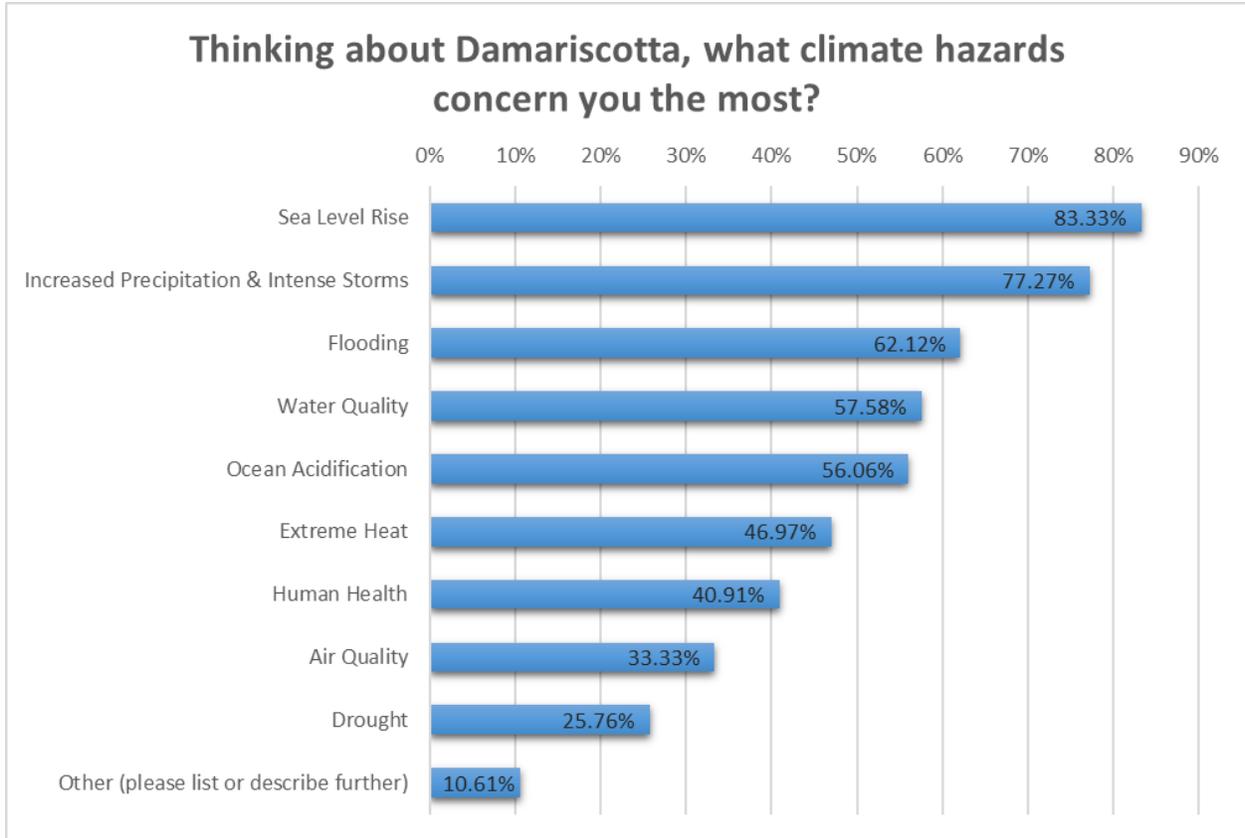


How concerned are you that climate change will affect you individually?

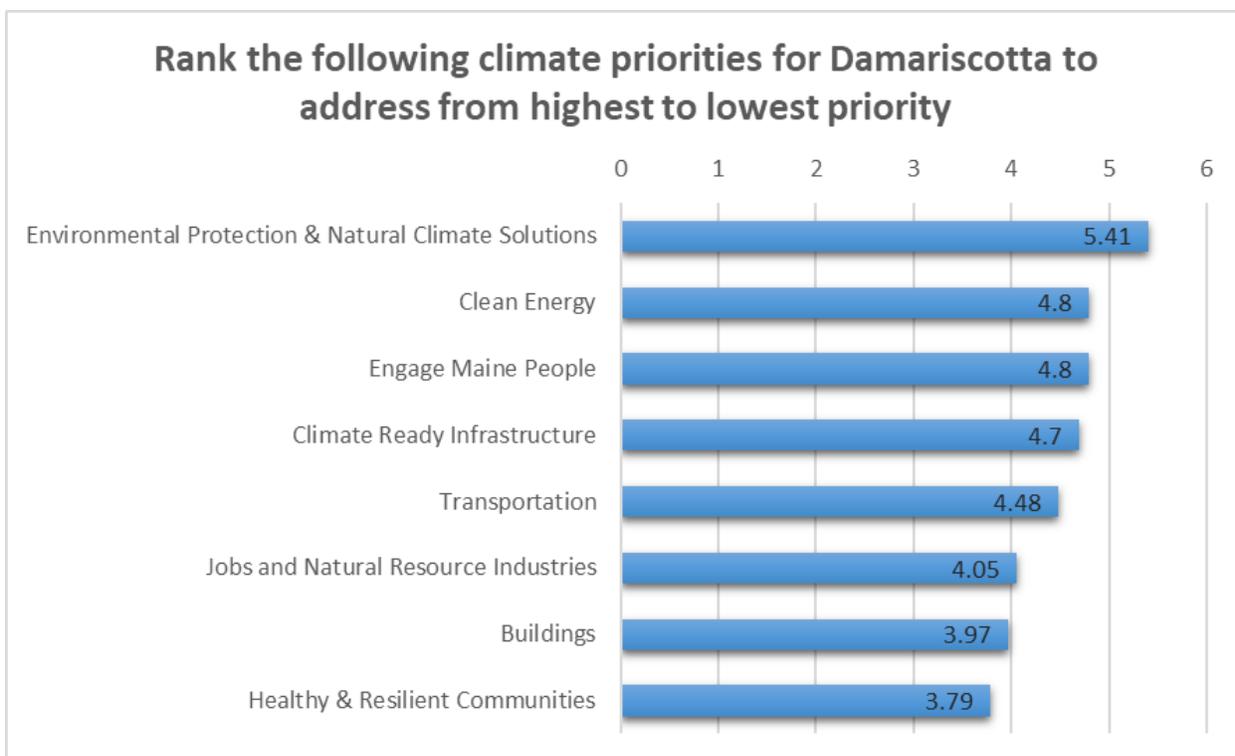


How concerned are you that climate change will affect the Town of Damariscotta?





| Other Responses Included: |
|---|
| Wildlife habitats and food sources |
| Water usage and waste |
| Warming ocean temperatures affecting lobster and other marine life |
| Population increases - Influx of new residents, building new homes, adding to change in environment/climate |
| Loss of critical habitat to native species, and ensuing species extinction. |
| Cigarette smokers |
| Water pollution |



What are two areas where you believe that Damariscotta is doing well to address climate change? *Summarized Responses*

- Addressing the downtown back parking lot flooding & sea level rise
- Public EV charging stations
- Protected/conserved land
- Thrift shops
- Compost facility at the dump
- Local farmer produce at co-op
- Listening to feedback
- Walking infrastructure / walkability of downtown
- Reducing plastic use
- Public awareness of climate change
- Protecting natural and working lands and waters
- Innovating in aquaculture
- Bus stop in town
- Comprehensive planning

What are two areas that you believe are important to address in the future in town around climate change? *Summarized Responses*

What are two areas that you believe are important to address in the future in town around climate change?

- Ocean temperatures impacting marine life and aquaculture
- Bike/walking paths
- improving/expanding sidewalks
- Sustainable development patterns
- Healthy attainable housing
- Reduce town emissions
- Prepare the town for major storms and sea level rise
- Move towards elective vehicles and EV infrastructure
- Impacts of rising temperatures to human health and habitat
- Overfishing
- Protect riparian areas around wetland systems
- Improve energy efficiency with building codes and solar
- Reduce reliance on single passenger vehicles
- Protecting lands and forests
- Plan for influx of new residents
- Retreat buildings/infrastructure from areas vulnerable to sea level rise
- Maintain water quality of Damariscotta river and tributaries to ensure high quality fisheries/oyster industry
- Recycling
- Jobs
- Accessible public transportation
- Cleaner modes of transportation
- Clean energy use
- Engaging and educating more residents around climate change
- Diversify economy
- Building codes
- Communications during storm events

NEWCASTLE-DAMARISCOTTA HARBOR MANAGEMENT ORDINANCE

&

INTERLOCAL AGREEMENT

~~**ADOPTED MAY 13, 2015**~~

WORKING DRAFT March 12, 2020

SECTION 1: PURPOSE

The purpose of this Interlocal Agreement and Ordinance (“Ordinance”) is to insure boater and public safety, provide for consensus among towns bordering the territorial waters of Damariscotta and Newcastle, and to balance the public’s interest in the recreational, commercial, natural and cultural resources and other uses in Damariscotta’s and Newcastle’s waters in the Damariscotta River, Great Salt Bay and the tidal waters of the Sheepscot River.

This ordinance may be terminated by a vote of either Damariscotta or Newcastle upon fourteen days’ notice to the other municipality.

SECTION 2: AUTHORITY

This Ordinance has been prepared under the authority granted to the Towns by 38 M.R.S.A. § 1-§13, operation of vessels and 30-A MRSA, Chapter 141, § 3001 – 3012, home rule ordinance promulgation and 30-A § 4456

SECTION 3: APPLICATION

This Ordinance applies in all tidal waters of the Damariscotta River, Great Salt Bay and the Sheepscot River in the Towns of Damariscotta and Newcastle.

SECTION 4: ADMINISTRATION

Pursuant to 38 M.R.S.A. § 2 through 7, the responsibility for administration of this Ordinance shall be as follows:

- 4.1 Damariscotta/Newcastle Harbor Committee (Harbor Committee) authorization:
- 4.2 The Harbor Committee is authorized to:
 - a. oversee and plan the general operation of the activities on and in the Damariscotta River Great Salt Bay and the Sheepscot River including defining channels and their boundary lines in harbors and waterways,

- b. provide guidance in assigning suitable portions of harbors and other coastal and tidal waters for anchorages, mooring districts, boating facilities owned by the Towns and aquaculture sites,
- c. establish regulations governing for uses of the waterways, navigation lanes, anchorage areas, the towns' boating facilities and mooring districts,
- d. ~~establish, and oversee the duties of the Harbor Master District system in the implementation of the provisions of this Ordinance for mooring permit management in coordination with the Harbormaster and administering towns.~~
- e. Establish permit charges and fee schedules for noncompliance with permitting requirements.
- e.f. adopt written policies and procedures to facilitate administration of the Ordinance,
- f.g. make recommendations for balancing the enhancement of harbor usage with the conservation of natural, cultural and aesthetic resources for the long-range benefit of all stakeholders,
- g.h. assure public participation in deliberations and recommendations to the Boards of Selectmen with four meetings per calendar year, one each quarter, with all meetings open to the public and following due public notice.

4.3 Committee Composition:

- a. The Harbor Committee shall be comprised of six members.
- b. Upon enactment of this Ordinance, the two Towns' Boards of Selectmen shall each designate three members of the public to serve on the Harbor Committee. ~~One member appointed from each Town shall have an initial term of office of one year. One member appointed from each Town shall have an initial term of two years. One member appointed from each Town shall have an initial term of three years.~~
- c. ~~Thereafter, as normal terms of office expire, a~~ppointment to the Committee shall be for three year terms.
- d. The Committee shall annually at the first meeting after the Board of Selectmen has appointed any new members, elect a chairman, a vice-chairman and a secretary from among its own members. Those so elected shall take office at the close of the meeting and shall continue in office until the next annual election. If the chairman's position becomes vacant, the vice-chairman shall succeed to that position and a new Vice Chairman shall be elected.
- e. If any Committee member's position becomes vacant, a replacement shall be appointed by the Board of Selectmen to serve out the remainder of the vacating member's term.

- f. Either Board of Selectmen can, at any time, remove one of their appointed members, with or without cause and initiate replacement.
- g. If a vacancy occurs within three months of a normal term's expiration, the Board of Selectmen that made the initial appointment may either leave the position vacant for the remainder of the term or appoint a new member whose term will fulfill the remainder of the unexpired term.

4.4 Damariscotta River Harbor Master:

A Harbor Master shall be appointed annually by the Boards of Selectmen and receive compensation determined jointly by the Boards of Selectmen. The Harbor Master shall not make arrests or carry a weapon.

The duties of the Harbor Master are to:

- a. promote public safety within the Harbor Districts.
- b. determine acceptable locations of uses and uses to insure boater and public safety.
- b-a. administer and enforce the regulations of this Ordinance.
- e-b. assign mooring sites; conduct or direct ~~conduct~~ inspections, employ harbor Master approved divers, relocation and/or removal ~~of moorings.~~
- c. exercise jurisdiction over all moorings in the Harbor Districts of the Damariscotta River, Great Salt Bay and the tidal waters of the Sheepscot River.
- d. ~~;~~ create, update and maintain waiting lists for moorings.
- e. update annually charts for Harbor Committee review (available at the Town office) depicting Damariscotta River/Great Salt Bay/Sheepscot Harbor Districts, navigation channels, hazard areas, moorings, anchorage areas, public wharves, boat launch facilities, aquaculture sites and marine protected areas.
- f. understand and perform statutory duties and responsibilities as set forth in 38 M.R.S.A. § 1-§13, and mandated by federal statute.
- g. exercise jurisdiction over the entry of any vessel into the harbor districts.
- h. assist local, County, State and Federal authorities in the operation of the Harbor Districts.
- i. attend all Committee meetings and be a non-voting advisor to the Harbor Committee.

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4.5 Deputy Harbor Master(s)

The Towns may appoint one or more Deputy Harbor Masters, set their compensation and describe their responsibilities. A Deputy Harbor Master is authorized to exercise the powers and duties of the Harbor Master subject to the provisions of this Ordinance under the direction of the Harbor Master.

4.6 Selectmen

The Selectmen of either Town shall have the authority to approve wharves, and floats within their respective jurisdictions in District 1.

The Board of Selectmen of the Town having jurisdiction over the harbor territory in an appeal shall hear appeals of decisions, orders, rulings or actions taken by the Harbor Master and Deputy Harbor Master pursuant to Section 14 of this ordinance.

4.7 Permits and Records

The administering town shall maintain records of such licenses and permits as requested by the Committee and the administrators and Boards of Selectmen.

SECTION 5: PLAN & REGULATIONS ON ALL USES

A districting plan of designated Damariscotta River, Great Salt Bay and Sheepscot River tidal waters within Damariscotta and Newcastle is established to implement the purposes of this Ordinance. The Plan consists of designated locations and the regulations governing marine activities within them.

5.1 The Harbor Master shall promulgate a Harbor Map in consultation with the Harbor Committee.

5.2 Establishment of Harbor Districts

There shall be five districts as depicted on the map and as follows:

- a. District 1: Inner Harbor - On the Damariscotta River from the western-most point of Lewis Point downstream to the southern-most edge of Walker's Point (also known as Jack's Point or Barroll's Point) defined by a line across the Damariscotta River to the southern-most edge of Belknap's Point.
- b. District 2: Lower Harbor – On the river from the southern boundary of District 1 (Inner Harbor) downstream to a line connecting the southernmost points of the two town’s boundaries.
- c. District 3: Upper Harbor - On the Damariscotta River from the western-most point of Lewis Point upstream into Great Salt Bay to the Marine Protected Area.

- d. District 4: Great Salt Bay – On the water body beginning at the southerly boundary of the Marine Protected Area northerly to the Newcastle Town line.
- e. District 5: Sheepscoot River-The body of water within the corporate limits of Newcastle that includes the Sheepscoot River and its tidal tributaries including the tidal portion of the Marsh River.

5.3 Navigation Channels

The U.S. Coast Guard (USCG) designates some navigation channels of the Damariscotta River (the River) and Great Salt Bay (the Bay). The Harbor Master and Harbor Committee shall designate additional channels pursuant to 38 M.R.S.A. §2 for the safe and convenient passage of vessels. To obtain approval by the Harbor Master or Selectmen for boating facilities and permanent and seasonal structures in and on waters of the Damariscotta River, Great Salt Bay and the Sheepscoot River an applicant must first receive approval from the U.S. Army Corps of Engineers (ACE). These structures are prohibited in navigation channels except as authorized by the Harbor Master or the Board of Selectmen having jurisdiction.

5.4 Aquaculture Sites

The Harbor Committee, ~~in consultation with the~~ or Harbor Master shall ~~maintain depiction on~~ maps and charts ~~displaying~~ each Maine Department of Marine Resources (DMR) approved site and indicate ~~the~~ type of activity conducted ~~within each site~~.

5.5 Mooring Districts, Anchorage Areas and Public Wharves and Boat Launch Areas

~~The~~ Harbor Committee, in consultation with the Harbor Master, ~~the DMR, the USCG~~ and other authorities shall designate on the map and charts: mooring districts, anchorage areas, public wharves and boat launch facilities. The Committee and Harbor Master shall also determine the duration of anchorage allowed and other time limits for use of water facilities.

5.6 Special criteria for Approval of Wharves, and Floats in District 1

Due to greater activity, safety conditions, and other factors, District 1 is considered a special boater and public safety area. Any person wishing to install or erect a wharf, pier, ramp pilings, or float in District 1 shall make application to the Board of Selectmen having jurisdiction. The Selectmen shall consider special criteria for all proposed wharves, boating facilities, and floats in District 1.

Within 30 days of receiving an application, the Selectmen shall give at least 3 days' public notice of the application in a newspaper, published in the town or Lincoln County, and shall designate in the notice a day and time on which they or their designee will meet on or near the premises described, to examine the same and hear all parties interested.

To approve a use in District 1, the Selectmen must make affirmative findings that:

- a. The proposed use will not adversely affect public safety due to the strong tidal currents in District 1 with special consideration of the currents caused by the Damariscotta-Newcastle Bridge.
- b. The proposed use will not adversely affect public safety due to the eddy currents in District 1.
- c. The proposed use and configuration will provide for safe ingress and egress to and from the proposed use location and be designed to prevent accident and public harm.
- d. The proposed use will not adversely affect public access to the water and placement of moorings.
- e. The proposed use will not adversely affect public safety or convenient use of the channels of the District 1 due to the density and proximity of other uses.
- f. The proposed use complies with all other aspects of this ordinance.

If, following such examination, hearing of all parties interested, and in consultation with the Harbor Master the Selectmen decide that such placement, erection or extension will not be an obstruction to navigation or injury to the rights of others, that all required affirmative findings are met, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing the applicant to make such an erection or extension, and to maintain the same within the limits mentioned in such license. The Selectmen shall, within 10 days after the date of hearing, give written notice by mail of their decision to all parties interested.

[Appeals to the Selectman's decision can be made in accordance with Section 15 of this Ordinance.](#)

SECTION 6: MOORINGS, WHARVES, FLOATS & USES

The Harbor Master is responsible for making all decisions on the location, equipment, duration and rules for acquiring, maintaining, adjusting and removing moorings as set forth below. While mooring gear is owned and maintained by the mooring site assignee; the sites themselves are owned by the State, with permitting and management delegated by the Harbor Committee to the Harbor Master. Mooring registration fees are collected from mooring applicants by the Town office designated by the Boards of Selectmen as the administering town.

6.1 Mooring Assignment Permits

- a. Mooring assignment permits are required for all moorings.
- b. Only one boat may be secured at a mooring at a time without prior approval of the Harbor Master.

- c. Unattended rafting of boats is not permitted.
- d. Mooring assignment permits are not transferable. Mooring equipment may be transferred however, the location of the mooring shall be determined by the Harbormaster
- e. Any rental of the rights to use a mooring must be approved by the Harbor Master. Commercial renting of a mooring requires a separate permit from the Army Corps of Engineers.

6.2 Mooring Assignment Application

- a. Applications are available at the town offices or through the two towns' websites.
- b. Each non-commercial mooring assignment application shall identify the vessel for which the applicant is requesting a mooring assignment permit. Only vessel owners may apply and receive non-commercial mooring assignment permits. The applicant must provide proof of ownership at the time of application. Completed applications shall be submitted to the Harbor Master for review and approval.
- c. Each commercial mooring assignment application other than applications from commercial fishermen shall identify the commercial enterprise requesting the mooring assignment, the purposes for which the mooring assignment shall be used, and the maximum vessel size indicated for the mooring assignment. Except in cases of emergency, securing a vessel to a commercial mooring that exceeds the maximum vessel size indicated on the approved permit shall terminate the applicants mooring assignment permit. The applicant must provide an Army Corps of Engineers permit authorizing commercial use at the time of application. Completed applications shall be submitted to the Harbor Master for review and approval.
- d. Permit fees shall be paid in full at the time of submitting a Registration Application, either new or renewal. Permit fees may be changed from time to time as recommended by the Harbor Committee and approved by the Board of Selectmen. No applications will be processed until all related fees, excise taxes, charges, or penalties have been paid in full.

6.3 Vacant Moorings

Moorings that are vacant for more than three years become subject to removal following 14 days notice sent by first class mail to the applicant's address indicated on the mooring assignment permit application.

6.4 Mooring Assignments

Applicants will be assigned an appropriate mooring site by the Harbor Master on a first come – first serve basis pursuant to the priority guidelines of Section 6.5.

6.5 The Harbor Master shall have authority to approve or disapprove a mooring permit application and/or assigning a mooring location to a Commercial Marine Facility only after a public hearing is held on the application, attended by the Harbor Master and Harbor Committee. No mooring permit will be issued or renewed to a Commercial Marine Facility nor will there be an assignment of a mooring location for a Commercial Marine Facility, unless all necessary Army Corps of Engineers permits have been obtained.

6.6 Waiting lists

When there are more applicants for a mooring assignment than mooring spaces available, the Harbor Master shall create and maintain a waiting list in accordance with Section 6.65(a). When a mooring space becomes available it shall be offered in accordance with Section 6.65(a) to the first applicant on the list for which its configuration is appropriate for the dimensions and weight of the applicant's vessel.

a. Priority Guidelines

Moorings shall be assigned in accordance with the sequential priority category list, but subject to the exceptions to priority allocation under 6.6(b).

Sequential Priority Categories are:

1. Shorefront owners with a request for locations immediately adjacent to frontage;
2. Resident commercial vessel owners;
3. Resident pleasure vessel owners;
4. Non-resident commercial vessel owners;
5. Non-resident pleasure vessel owners;
6. Vessel owners with multiple mooring locations.

b. Exceptions to Sequential Priority Allocation

1. If less than 10% of all moorings are currently assigned to non-resident commercial applicants, then the next available space, if suitable, shall be offered to the first such applicant on the list;
2. If less than 10% of all moorings are currently assigned to non-resident pleasure vessel applicants, then the next available space, if suitable, shall be offered to the first such applicant on the list;
3. If neither non-resident commercial or non-resident pleasure vessel applicants currently constitute 10% of moorings assigned, then whichever has the lowest percent shall be offered the first available and suitable space; and
4. Shorefront owners applying for a mooring in front of their property shall not be placed on a waiting list but assigned a mooring space, based only on the

suitability of the location, the ownership of a vessel and payment of the fee. If mooring space fronting their property is not suitable they may apply in the usual manner for mooring space in the designated mooring areas

c. Waiting Lists

Applicants may decline a mooring space when offered without losing their position on the list. Waiting list positions may be retained from one year to the next by submitting a new application before April 1st of the following year. Applications not renewed shall be removed from the waiting list on that date.

6.7 Mooring Reassignment

Moorings may be reassigned only by the Harbor Master.

6.8 Mooring Tackle Standards

- a. Minimum mooring weight and type shall be established on a boat by boat basis by the Harbor Master based on the location of the mooring, weight and type of boat.
- b.

| GRANITE BLOCK MOORINGS | BOTTOM CHAIN | TOP CHAIN |
|--|---------------------|------------------|
| 500 LB GRANITE BLOCK-BOATS TO 1,000 LBS | 1/2" CHAIN | 3/8" CHAIN |
| 1,000 LB GRANITE BLOCK-BOATS TO 2,500 LBS | 5/8" CHAIN | 1/2" CHAIN |
| 2,000 LB GRANITE BLOCK-BOATS TO 7,000 LBS | 3/4" CHAIN | 1/2" CHAIN |
| 3,000 LB GRANITE BLOCK-BOATS TO 12,000 LBS | 3/4" CHAIN | 5/8" CHAIN |
| 4,000 LB GRANITE BLOCK-BOATS TO 24,000 LBS | 3/4" CHAIN | 5/8" CHAIN |

| MUSHROOM ANCHORS | BOTTOM CHAIN | TOP CHAIN |
|-------------------------------------|---------------------|------------------|
| 50 LB MUSHROOM-BOATS TO 250 LBS | 1/2" CHAIN | 3/8" CHAIN |
| 75 LB MUSHROOM-BOATS TO 400 LBS | 1/2" CHAIN | 3/8" CHAIN |
| 100 LB MUSHROOM-BOATS TO 800 LBS | 1/2" CHAIN | 3/8" CHAIN |
| 150 LB MUSHROOM-BOATS TO 1,500 LBS | 5/8" CHAIN | 1/2" CHAIN |
| 200 LB MUSHROOM-BOATS TO 2,500 LBS | 5/8" CHAIN | 1/2" CHAIN |
| 250 LB MUSHROOM-BOATS TO 4,000 LBS | 5/8" CHAIN | 1/2" CHAIN |
| 300 LB MUSHROOM-BOATS TO 8,000 LBS | 3/4" CHAIN | 5/8" CHAIN |
| 400 LB MUSHROOM-BOATS TO 14,000 LBS | 3/4" CHAIN | 5/8" CHAIN |
| 500 LB MUSHROOM-BOATS TO 24,000 LBS | 3/4" CHAIN | 5/8" CHAIN |

- b. All moorings must have adequate bottom chain to reach the surface at half tide for complete top chain inspection by boat.
- c. All moorings in the Inner Harbor (District 1) must have enough scope for double the water depth at high tide due to limited swinging room.
- d. Boats outside the Inner Harbor must have a scope of three times the water depth at high tide.
- e. All moorings must be equipped with a mooring buoy adequate to support its mooring chain at high tide.

6.9 Mooring Markings

Permittees shall conspicuously affix a buoy identification to their buoy stating the owner's name and mooring space number. All mooring markings must comply with USCG regulations.

6.10 Transient Moorings

The Towns may provide transient moorings within its territorial jurisdiction on the Damariscotta River, Great Salt Bay and the Sheepscot River.

6.11 Change or Addition of Vessel

A non-commercial mooring assignment is valid only for the vessel or vessels indicated on the current application and approved by the Harbor Master. If different or additional vessels are to be secured at a non-commercial mooring assignment a revised application must be submitted to the Harbor Master for approval prior to securing the new vessel. A resubmitted application does not trigger the waiting list or priority allocation regulations of this ordinance.

6.12 Floats on Moorings

Floats, not to exceed ~~12x20~~ ~~6-x~~ 18 feet in dimension, may be allowed on moorings but require Harbor Master and Army Corps of Engineers approval to determine mooring size requirements and adequate swinging room. Floats must be marked (route~~ed~~ in or with nameplate) with ownership information including phone number.

6.13 Boats on Moorings, Wharves or Floats

- a. Boats (~~not more than~~ 12 feet ~~or less~~ in length), ~~shall be identified~~ with the owner's name and telephone number affixed thereon, used to access vessels moored or anchored in one of the designated Harbor Districts ~~or for other purposes approved by the Harbor Master~~ may tie up on a continuing basis at certain floats designated by the Harbor Master ~~provided they display on the inner side of the transom the current year's dinghy sticker~~. Such boats are to be tied by the bow only in designated areas.

- b. A person shall not place moorings, wharves, or floats in navigation channels or hazard zones. The Harbor Master shall treat moorings, wharves, or floats in navigation channels or hazard zones as abandoned watercraft and may order the owner to remove said object.

6.14 Inspection of Moorings

All moorings must be inspected. Inspection shall be the responsibility of the mooring assignee with documentation to the Harbor Master. The mooring gear that can be accessed above the water surface must be inspected annually by a Harbor Master approved mooring inspector. Mooring bottom gear inaccessible from a boat must be inspected every three years by an Harbor Master approved diver. An ongoing record of inspections is maintained by the Harbor Master and the Harbor Committee Master. When deficiencies are noted, the Harbor Master will issue a written statement to the mooring assignee with appropriate remedies and a time frame for completing them.

6.15 Mooring fees

Moorings fees will be assessed on an annual basis by the Boards of Selectmen with input from the Harbor Committee. Fees will be collected at the town office designated as the administering town by the Boards of Selectmen

6.16 Non-compliance

In response to non-compliance with any provision of this section, the Harbor Master or Deputy Harbor Master may deny a permit application, revoke a permit, or direct mooring tackle to be removed from Damariscotta and Newcastle waters at the owner's expense and be subject to all other penalties under this ordinance.

6.17 Temporary Use of Moorings or Floats

Temporary use of a mooring by a vessel other than the permitted one is allowed for up to 14 days provided the temporary vessel is of the same or smaller size and weight as the permitted vessel. The Harbor Master must approve such use.

6.18 Use of Floating Commercial Wharves

Commercial floats and wharves may be permitted by application to the Harbor Master, if governed by Section 5.5, with design plans that meet generally accepted float and wharf construction standards that are approved by the Army Corps of Engineers, and in consideration of the following criteria and in conformance with all other provisions of this ordinance:

- a. Overall physical location of the proposed project.
- b. The number and size of floats.

- c. The method of attachment, anchoring, mooring or securing the float
- d. Impact on other uses near or adjacent to the proposed project.
- e. Geographic location and overall configuration of the proposed project.

Floats and wharves shall be inspected and registered annually by the Harbor Master with a fee paid by the owner to the administering town. Annual inspections, submitted to the Harbor Master, consist of examination of the general condition of the float and its mooring system or its attachment to shore, and if multiple floats, attachment to each other. If there is access for the public and/or patrons and the floats are attached to the shore or to constructed facilities, the annual inspection is to include gangway, handrails, accessible life rings, and all other equipment required to meet boater and public safety standards.

6.19 Non-conforming Uses of Moorings or Floats or Wharves

- a. Operation of Moorings or Floats

The on-going use of a mooring, float or wharf in existence before the effective date of this Ordinance that becomes a non-conforming use as a result of the adoption of this Ordinance may continue so long as it meets equipment standards of this Ordinance and its use is not substantially changed. Substantial changes, as determined by the Harbor Master include, but are not limited to, substituting a heavier or longer boat, changing the dimensions, weight, chains or other gear of the mooring, float or wharf or changing the location of the mooring, float or wharf. When a substantial change is proposed, the change shall conform to the regulations of this Ordinance. Nothing in this Subsection precludes the annual inspections of non-conforming moorings, floats or other boating facilities for above-water gear and tri-annual inspections for underwater gear. Nothing in this Subsection precludes the Harbor Master from imposing or enforcing requirements of use to protect the public safety upon non-conforming uses.

- b. A vacated non-conforming mooring or float shall be removed by the assignee within 14 days after notification by the Harbor Master.

6.20 Floating Pump-out Station

The Towns may install and maintain a float for the purpose of collecting and storing sewage from commercial and recreational boaters on a mooring in the harbor. The regulations regarding the dimensions and use of this float shall be determined by the Committee subject to requirements of the Army Corps of Engineers and other federal and state regulatory agencies.

SECTION 7: NATURAL AND HISTORIC RESOURCES

7.1 Aquaculture, Clamming, Worming and Commercial Fishing

Applicants for aquaculture licenses in the Damariscotta River, the Great Salt Bay and the Sheepscoot River in the Towns of Damariscotta and Newcastle shall be subject to the regulations and procedures of MRSA Title 12, Chapter 605 §6072 and the Maine Department of Marine Resources. Commercial and recreational clammers, wormers and fishermen shall be subject to the regulations of MRSA Title 12, Chapter 605 §6072 and all pertinent local ordinances and regulations of Newcastle and Damariscotta ordinances.

7.2 Wildlife Conservation

- a. In administering this ordinance, the Harbor Master shall consider impacts to wildlife by referring to existing wildlife documentation including, but not be limited to, inventory and information sources available through Maine Inland Fisheries & Wildlife and the Maine Natural Areas Program. The Harbor Master shall also consult with local experts such as the Coastal Rivers Conservation Trust (CRCT) ~~Damariscotta River Association (DRA)~~ and the Darling Marine Center regarding impacts on wildlife.
- b. The Harbor Master shall specifically consider impacts or potential impacts to critical wildlife habitat such as areas important to the migration of fish and other aquatic species, wildlife corridors, horseshoe crab spawning grounds, alewife migratory movements, eel grass beds, bird colonies and eagle nesting sites and any site or area associated with endangered, threatened or rare species.
- c. In siting moorings, floats, wharves and other marine facilities and uses, the Harbor Master shall consider the impact on existing protected lands which serve the public through water access, boat access, beach access, shore fishing, recreational mussel picking and other recreational fishing areas, kayaking and other recreational boating areas.

7.3 Historic and Archeological Resources

The Maine Historic Preservation Commission (MHPC) has identified prehistoric and historic archeological sites below the high water line in the five districts. The Harbor Committee and Harbor Master shall cooperate with the MHPC in reviewing any conservation measures consistent with MHPC regulations within the designated harbor districts of Section 5. The Harbor Committee and Harbor Master shall cooperate with the MHPC in reviewing development proposals with structures located below the high water line when a MHPC permit is required.

SECTION 8: MARINAS

8.1 Marina Requirements

Consistent with the requirements administered by each of the Towns’ Planning Boards, including but not limited to the Shoreland Zoning Ordinance, the application, review and

consideration for approval of moorings, slips, floats and boating facilities of marinas shall be based on the requirements of Sections 5, 6 and 7 of this Ordinance.

8.2 Moorings and Shoreside Vehicle Parking

Marina owners shall provide parking spaces for moorings or slip rental spaces in accordance with each Town’s land use and site plan review ordinances

SECTION 9: ABANDONED WATERCRAFT, FLOATS, BOUYS, MATERIALS AND FISH SHANTIES

9.1 Prohibition

No person shall abandon or cause to be abandoned any watercraft, fish shanty or related equipment or appurtenances within the waters of the Damariscotta River, Great Salt Bay, Sheepscot River in the Towns of Damariscotta and Newcastle.

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9.2 Presumption

Watercraft, floats, moorings, rafts and any other gear in the waters of the Damariscotta River, Great Salt Bay and the Sheepscot River. within the Towns of Damariscotta and Newcastle without registration or an approved permit by the Harbor Master or another State or Federal agency shall be declared abandoned.

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9.3 Procedures

Upon determining that watercraft, floats, moorings, rafts or other gear has been abandoned pursuant to 9.2, the Harbor Master shall take possession of such item and shall make reasonable efforts to identify and notify the owner. If the Harbor Master deems an abandoned item to be a nuisance, a threat to navigation or a safety hazard, it may be impounded until compliance with all procedures pursuant to 25 M.R.S.A. §3501-3507 have been met. All expenses and fines pursuant to 38 M.R.S.A. §12, and the net proceeds of any auction, shall accrue to the Town.

SECTION 10: HARBOR USE REGULATIONS

10.1 Operators of all watercraft will adhere to established and posted 'No-Wake' zones and speed limits.

10.2 No water skiing or "tubing" will be allowed in the Inner harbor/District 1.

10.3 Boat size and tie-up time limits and location at Town Landings shall be observed. This information shall be posted at Town Landings.

10.4 Operators shall observe all regulations of the Marine Protection Act in District 4 The Great Salt Bay.

10.5 Illegal Operations

a. No overnight anchoring is allowed in District 1. No unattended daytime anchoring is allowed in District 1.

b. Whoever operates any watercraft, however propelled, on or in waters of Newcastle or Damariscotta, (1) recklessly, (2) in a manner which endangers any person or property, or (3) while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana shall be guilty of a Class E crime as provided in M.R.S.A. 38 §13.

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10.6 Excessive noise is regulated by the Towns' ordinances.

SECTION 11: POLLUTION CONTROL

11.1 Except in case of emergency imperiling life or property or unavoidable accident, collision or stranding, no person shall discharge or suffer or permit the discharge of sewage, petroleum products, garbage, trash or other refuse of any kind, by any method, means or manner into or upon the Towns of Damariscotta and Newcastle, wharves, floats or the waters of the Damariscotta River Great Salt Bay or Sheepscot River.

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11.2 No person shall establish a live-aboard use unless 1) the vessel has established and identifiable access to property with shoreline of the Damariscotta River, Great Salt Bay or Sheepscot River which is equipped with wastewater pump-out facilities; 2) sewage holding tanks attached to each marine toilet; and 3) the vessel's sewage system shall not be equipped with "Y" valves to permit overboard discharge.

11.3 No person shall establish a live-aboard use for more than fourteen (14) consecutive days on any type of watercraft, float, or wharf within the Harbor Districts without prior approval of the Harbor Master. Any live-aboard use longer than 14 consecutive days constitutes a continuing live aboard use. Any live aboard use 14 consecutive days or less shall constitute a temporary live aboard use.

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11.4 Upon request from the Harbor Master, a person maintaining a live-aboard use shall provide proof of each of the elements listed in Section 11 to the Harbor Master's satisfaction.

SECTION 12: SHORELINE PUBLIC ACCESS

12.1 To insure that the town landing facilities of the Towns of Newcastle and Damariscotta are available for use by the general public, the Town's wharves and floats shall be used only for loading and unloading as posted.

12.2 Boats 12 feet or less in length and used exclusively to access vessels moored or anchored in one of the Harbor Districts may tie-up on a continuing basis at specific sides of certain floats designated by the Harbor Master for that purpose provided they display a current year's dinghy sticker.

12.3 Swimming and recreational fishing from town landings are permitted provided they do not cause litter, disturb the peace or interfere with the docking, loading or unloading of vessels.

The public shall use town landings at their own risk.

- 12.4 EQUIPMENT: No person shall place or maintain on town landing facilities any boats, barrels, boxes, gear, traps, pots, nets, sails, equipment or any other materials longer than necessary for the prompt loading or unloading of the same, subject to the exception stated in 12.2.
- 12.5 TYING TO PUBLIC FLOATS: No person shall leave any vessel tied to the ends or fronts of any public float of the Towns of Damariscotta or Newcastle for any purpose, including fueling, loading or unloading of supplies, for longer than the posted period except for emergencies or with the approval of the Harbor Master.
- 12.6 BLOCKAGE OF PUBLIC RAMPS/FACILITIES: No person shall place or cause to be placed any vessel, boat cradle, trailer, vehicle or other object on a town ramp, wharf, parking lot or other town harbor facility in such a way that it blocks or impedes access by other users.
- 12.7 BAIT: No person shall place or maintain on public facilities any fish or other bait, except for immediate delivery to a vessel ready to receive same, without written permission from the Harbor Master.

SECTION 13: ENFORCEMENT

- 13.1 It shall be the duty of the Harbor Master to oversee enforcement of the provisions of this ordinance and the watercraft laws of the State of Maine on the jurisdictional waters of Damariscotta and Newcastle. If he/she finds ~~that any party is~~ violations of the provisions of this ordinance, he/she shall notify appropriate law enforcement agencies and the in writing the person responsible for such violation, indicate the nature of the violation and order the action necessary to correct such violation.
- 13.2 The Harbor Master and his deputies shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Harbor Master shall also investigate all complaints of alleged violations of this Ordinance.
- 13.3 When the above action does not result in the correction or abatement of the violation or nuisance condition, the Harbor Master with approval of the Selectmen having jurisdiction or the Selectmen on their own motion may institute any and all actions and proceedings including holding hearings, imposing fines, or seeking court ordered imposition of injunctions or fines that may be necessary to enforce the provisions of this Ordinance in the name of the municipality.

SECTION 14: VIOLATIONS

- 14.1 A person is guilty of failure to obey an order of the Harbor Master or a Deputy Harbor Master if the person fails to obey any lawful order of the Harbor Master authorized by this Ordinance pursuant to 38 M.R.S.A. Chapter 1. Failure to obey an order of a Harbor Master is a Class E crime and subject to imprisonment and/or fines to be recovered on complaint by the Harbor Master before the District Court.

14.2 A person may also be subject to fines and injunctive action under this ordinance pursuant to 30-A M.R.S.A. § 4452.

SECTION 15: APPEALS

- 15.1 The Board of Selectmen of the Town having jurisdiction shall hear an appeal by any aggrieved person affected directly or indirectly by a decision, order, rule, act or failure to act by the Harbor Committee or Harbor Master or his or her deputies. Appeal must be made within 30 days of such administrative action
- 15.2 An appeal shall be submitted to the Town Clerk on a form provided by the Board of Selectmen of the Town having jurisdiction, and shall describe the complaint and the relief sought. The original appeal form shall be kept on file at the Town Office of the Town having jurisdiction. A copy shall be forwarded to the Chairman of the Board of Selectmen in that Town.
- 15.3 The Board of Selectmen of the Town having jurisdiction shall act on any appeal within forty-five (45) days of its receipt by the Town. An extension of the forty-five (45) day requirement may be mutually agreed in writing between the applicant and the Town. The Board of Selectmen shall set a hearing date taking into consideration the schedules of the applicant and Board of Selectmen members. Notice of the hearing shall be posted at the Town Office not less than seven (7) days prior to the hearing. In its decision, the Board of Selectmen shall grant or deny relief from any order, rule, act or failure to act by the Harbor Committee or Harbor Master or his or her deputies, except that in no instance shall its decision violate State or Federal regulations, or this Ordinance. Any failure by the Board of Selectmen to issue a written decision within the time limits above shall constitute a denial.
- 15.4 At the hearing, the Board of Selectmen shall hear any oral or documentary evidence that is relevant and material. Appellants, defendants or their agents shall have the right to present oral and documentary evidence, to submit rebuttal evidence, and to conduct reasonable cross-examinations.
- 15.5 The minutes of the hearing, together with all documentary evidence presented in the proceeding, shall constitute the official record of the appeal. The record shall include a written statement of the Board of Selectmen’s findings and conclusions and its decision, and shall be filed at the Town Office. Notice of the decision shall be mailed or hand delivered to appellants and defendants or their agents within seven (7) days of a decision, and copied to the Harbor Committee or Harbor Master. Any failure by the Board of Selectmen to issue a written notice or decision within the time limits above shall constitute a denial.
- 15.6 An appeal to Superior Court may be made within thirty (30) days from any act or decision of the Board of Selectmen.

SECTION 16: CONFLICT OF REGULATIONS

Whenever a specific provision of this Ordinance conflicts with or is inconsistent with another specific provision of this Ordinance, or of any specific provision of any other ordinance, regulation or statute administered by the municipality or State, the more restrictive specific provision shall control.

Where this ordinance conflicts with the Harbor Ordinance of either Town, the Harbor Ordinance of the Town shall control.

SECTION 17: SEVERABILITY

If any section, subsection, clause, phrase or word of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of any other section, subsection, paragraph, sentence, clause, phrase or word of this Ordinance.

SECTION 18: EFFECTIVE DATE AND POSTING

18.1 The effective date of this ordinance is the date of enactment.

18.2 A copy of this Ordinance certified by the Town Clerks shall be retained in the Town's files.

SECTION 19: AMENDMENT

This Ordinance may be amended by majority vote of the registered voters of the Towns.

SECTION 20: BUDGET & COSTS

The Towns of Newcastle and Damariscotta shall jointly and equally fund all costs of the Harbor Committee including enforcement costs. All fees shall be paid as described elsewhere in this ordinance. The administering town shall attribute operational costs to the appropriate Harbor accounts expended in the administration of the harbor, the Harbor Committee, and the Harbor Master.

SECTION 21: DEFINITIONS

In general all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms are defined below as they are used in this Ordinance.

Administering Town. The town office designated by both Boards of Selectmen as the office that shall process the licenses and permits required by this ordinance and as otherwise empowered in this ordinance.

Anchoring. To secure a vessel to the bottom within a body of water by dropping an anchor(s) or other ground tackle, which is carried aboard a vessel when underway as regular equipment.

Army Corps of Engineers (ACE) Permit. Permit issued by the Army Corps of Engineers that is required for floats, rental moorings and commercial moorings.

Channel. Areas of the Harbor kept open for navigation or other purposes by rule or regulation of the Towns Harbor Master, the Harbor Committee, the Army Corps of Engineers, the U.S. Coast Guard, or other regulatory or legislative body.

Commercial Vessel. Watercraft that generate income by their use and operation.

Dinghy. A watercraft twelve feet or less to access moored or anchored vessels.

Float. A movable floating platform that in the normal course of its use is secured to a wharf, pier or mooring and not designed for self-propelled navigation. Floats include but are not limited to lobster cars, fisherman work floats and upwellers.

Live-Aboard Use. The residential use of watercraft, floats, or other boating facilities.

Marina. A shorefront facility providing one or more of the following services: boat berthing, boat launching, boat storage, boat repair and servicing, sale of marine supplies and/or fuel, sale and/or servicing of marine equipment and accessories, and wastewater pump-out facilities.

Mooring. All equipment and methods used to secure a watercraft to a specific location on the water, other than those that are connected to the shore.

Commercial mooring. A mooring assigned to a commercial enterprise involved in sales, service, storage, construction, repair or operation of vessels for hire or used to moor watercraft which are serviced by the business or used as a maneuvering device for leaving or entering a berth, which may be used by a suitable sized vessel with the permission of such commercial enterprise to which the mooring is assigned.

Non-commercial mooring. Any mooring that is not a commercial mooring.

Transient mooring. Town designated mooring for temporary use by visitors.

Mooring Assignment. A specific location on, in, and under the waters governed by this ordinance, selected by the Harbor Master, for placement of mooring gear and tackle to allow a vessel to be secured to that location through the use of a mooring.

Mooring Assignment Permit. A permit required for use of a specific mooring assignment, granted by the Harbor Master pursuant to this ordinance.

Non-resident. For the purposes of this Ordinance, a non-resident is a person who does not qualify under the definition of resident.

Rafting. The act of securing one vessel to another, or the act of allowing two vessels to remain secured to each other.

Rental mooring. Mooring site assigned to an individual or business, the use of which is rented or leased.

Resident. For purposes of this Ordinance, a resident shall mean any person who resides or owns residential property in the Towns of Damariscotta, Newcastle or Nobleboro.

Shorefront owner. An owner of a parcel of land that borders upon the waters governed by this Ordinance.

Watercraft. Any mobile floating apparatus.

Wharf. A permanent platform contiguous with the shoreline used to berth, load and unload vessels including piers.

Insert language and signature blanks required by Towns here

| | Accts | Non-Interest Due | Balance Due | Original PP Commit | % Uncollected | | Accts | Assessment | Exempt | Total Value | Tax Due |
|------|-------|------------------|--------------|--------------------|---------------|--|-------|------------------|-------------------|------------------|---------------|
| 2009 | 1 | \$ - | \$ 0.05 | \$ 163,310.75 | 0.00% | | 299 | \$ 12,782,100.00 | \$ (422,600.00) | \$ 12,359,500.00 | \$ 163,310.75 |
| 2010 | 25 | \$ 5,001.03 | \$ 11,292.69 | \$ 156,411.77 | 3.20% | | 285 | \$ 14,536,300.00 | \$ (2,966,500.00) | \$ 11,569,800.00 | \$ 156,411.77 |
| 2011 | 23 | \$ 2,968.64 | \$ 5,669.29 | \$ 114,244.17 | 2.60% | | 269 | \$ 11,393,500.00 | \$ (3,225,400.00) | \$ 8,168,100.00 | \$ 114,244.17 |
| 2012 | 19 | \$ 1,312.70 | \$ 2,394.39 | \$ 113,490.21 | 1.16% | | 255 | \$ 11,631,200.00 | \$ (3,459,700.00) | \$ 8,171,500.00 | \$ 113,490.21 |
| 2013 | 17 | \$ 909.96 | \$ 1,610.46 | \$ 116,426.33 | 0.78% | | 255 | \$ 11,204,000.00 | \$ (3,236,900.00) | \$ 7,967,100.00 | \$ 116,426.33 |
| 2014 | 12 | \$ 715.74 | \$ 1,216.62 | \$ 122,879.27 | 0.58% | | 239 | \$ 11,139,700.00 | \$ (3,006,900.00) | \$ 8,132,800.00 | \$ 122,879.27 |
| 2015 | 13 | \$ 1,446.30 | \$ 2,343.60 | \$ 117,062.20 | 1.24% | | 243 | \$ 9,997,400.00 | \$ (2,594,800.00) | \$ 7,402,600.00 | \$ 117,062.20 |
| 2016 | 14 | \$ 2,728.84 | \$ 4,237.81 | \$ 130,912.70 | 2.08% | | 251 | \$ 9,384,300.00 | \$ (1,629,100.00) | \$ 7,755,200.00 | \$ 130,912.70 |
| 2017 | 15 | \$ 2,360.85 | \$ 3,515.84 | \$ 136,053.46 | 1.74% | | 258 | \$ 9,432,700.00 | \$ (1,530,600.00) | \$ 7,902,100.00 | \$ 136,053.46 |
| 2018 | 18 | \$ 4,016.63 | \$ 5,669.42 | \$ 148,913.26 | 2.70% | | 254 | \$ 10,616,000.00 | \$ (1,765,300.00) | \$ 8,850,700.00 | \$ 148,913.26 |
| 2019 | 15 | \$ 2,735.14 | \$ 3,828.00 | \$ 143,229.73 | 1.91% | | 262 | \$ 11,276,600.00 | \$ (2,654,600.00) | \$ 8,622,000.00 | \$ 143,229.73 |
| 2020 | 12 | \$ 837.20 | \$ 1,138.08 | \$ 140,040.95 | 0.60% | | 267 | \$ 11,889,000.00 | \$ (3,191,400.00) | \$ 8,697,600.00 | \$ 140,040.95 |
| 2021 | 14 | \$ 789.60 | \$ 977.88 | \$ 156,664.00 | 0.50% | | 294 | \$ 12,694,300.00 | \$ (2,902,800.00) | \$ 9,791,500.00 | \$ 156,664.00 |
| 2022 | 13 | \$ 621.86 | \$ 694.38 | \$ 126,101.90 | 0.49% | | 302 | \$ 10,871,600.00 | \$ (2,814,000.00) | \$ 8,057,600.00 | \$ 126,101.90 |
| 2023 | 19 | \$ 998.23 | \$ 1,031.59 | \$ 123,482.85 | 0.81% | | 252 | \$ 10,185,100.00 | \$ (2,768,700.00) | \$ 7,416,400.00 | \$ 123,482.85 |
| 2024 | 82 | \$ 27,433.37 | \$ 27,479.98 | \$ 126,101.90 | 21.75% | | 232 | \$ 10,871,600.00 | \$ (2,814,000.00) | \$ 8,057,600.00 | \$ 126,101.90 |

If the tax collector fails for any reason to enforce the statutory lien within the required time limitations, the tax collector loses the benefit (i.e., priority) of the statutory tax lien. The collector then is left with only the option of pursuing a general civil action of debt, in which any attachment loses its statutory priority over other liens/mortgages on the property. In practical terms this means that any judgment obtained may be worthless and the tax collector may find it necessary to pay the tax out of his or her own pocket. For these reasons, tax collectors should be sure to use one of the remedies discussed above, wherever applicable, within the time limitation fixed by law.

Choice of Remedies

Where more than one method is provided by statute for enforcing any kind of tax, the choice of method is left entirely to the tax collector. Moreover, the tax collector is free to use different methods on different taxes; that is, the tax collector may use the tax lien mortgage process to enforce one real estate tax, the tax deed process to enforce a second, and the civil action with special attachment to enforce a third. The remedies provided by law are additional; they are not mutually exclusive. 36 M.R.S. § 188.

Delinquent Personal Property Taxes

Maine state law provides three statutory methods for the collection of personal property taxes. They are: (1) the personal property tax lien process; (2) distraint of personal property; and (3) arrest. In addition, as in the case of real property taxes, a municipality may bring a civil action in court to collect personal property taxes.

The Personal Property Tax Lien Process

Under 36 M.R.S. § 612, a statutory lien exists on individual items of “personal property” as defined in 36 M.R.S. § 601, but only if the description of the property in the inventory and valuation meets the requirements of 11 M.R.S. § 9-1504. When § 612 originally was enacted, it applied only to personal property with an assessed value of more than \$200. That limit was repealed in 1985, making the lien available in connection with all legally assessed personal property. This process is the one most frequently used by municipalities; the lien and the procedure to enforce it are discussed at length in MMA Legal Services’ *Guide to Municipal Liens*.

Distraint of Personal Property

Distraint is the taking and detention of personal property as security for a debt. 36 M.R.S. §§ 991 to 998. Technically, distraint can be used to enforce any delinquent tax. In practice, however, it is applied only to personal property taxes. The tax collector is **not** advised to attempt to use it to enforce real estate taxes.

As applied to the enforcement of personal property taxes, it involves the seizure and sale of the personal property of a delinquent taxpayer who refuses to pay. The seizure is done either by the tax collector or by an officer duly empowered to act by the tax collector. There is no time limitation on the enforcement of taxes by distraint other than the six-year statute of limitations. 14 M.R.S. § 752; *Topsham v. Blondell*, 82 Me. 152, 19 A. 93 (1889). Moreover, the tax collector can distraint property in any part of the state, as well as in the place where the tax is assessed. 36 M.R.S. § 991.

Although it is a legal and effective means of collection, distraint is also quite technical and therefore should only be used when the tax collector believes that the taxed property is going to be moved or other methods will be ineffective. Distraint is also a drastic process, and for this reason, it must be used only in the manner expressly provided by statute and only with the advice of an attorney. **MMA Legal Services strongly advises that this process only be used with the advice and assistance of legal counsel.**

The Distraint Process

The distraint process must be strictly followed to be effective and to avoid personal liability on the part of the tax collector. *Capitol Bank and Trust Co. v. City of Waterville*, 343 A.2d 213, 218 (Me. 1975). To utilize this enforcement method, the tax collector must make a written demand on the taxpayer or issue a warrant of distress to any sheriff, deputy, or constable for service on the taxpayer.

If the tax collector makes the demand, it must be “reasonable.” 36 M.R.S. § 991. Although the statute does not define “reasonable,” it presumably means, among other things, that the demand must allow a reasonable time within which to pay. For example, see 36 M.R.S. § 995, which requires payment within 10 days of the officer’s delivery of a summons to the taxpayer. Demand also must be sufficient to apprise the taxpayer that it is an official request for payment. *Clark v. Gray*, 113 Me. 443 (1915); and *Miller v. Davis*, 88 Me. 454 (1896). Sending out tax bills is not a sufficient demand in this sense, *Clark v. Gray*, 113 Me. at 448, nor is the tax assessment itself. *Inhabitants of Town of Frankfort v. Waldo Lumber Co.*, 128 Me. 1, 145 A.241 (1929).

The demand also must be “personal,” which presumably means that it must be delivered to the taxpayer by the tax collector or the tax collector’s authorized agent, such as a deputy tax collector. The demand is not legally effective if it is mailed. *Clark v. Gray*, 113 Me. at 444-45, 94A at 881. It should be delivered to the person assessed whenever possible. If the person assessed is not available or refuses to accept the demand, it can be left at that person’s last and usual place of abode with any person of reasonable age and discretion with instructions to give it to the assessed person. See Appendix 6 for a sample written demand.

If the tax collector chooses to issue a warrant authorizing distraint to a constable within the collector's municipality, or to a sheriff or deputy sheriff of the county where the distraint is to occur, the tax collector must wait at least three months after the date of commitment to issue the warrant to the constable or officer. 36 M.R.S. § 994. The warrant must be of the same "tenor" as the assessor's commitment to the collector, with "appropriate" changes. 36 M.R.S. § 994. This means that the warrant of distress must state the statutory authority for its issuance (which can be found at § 994) and meet the requirements listed in § 995; otherwise, it is void. *Jacques v. Parks*, 96 Me. 268 (1902). See Appendix 6 for a sample Warrant of Distress and Return.

The principal difference in procedure when a constable or officer, rather than the tax collector, enforces the collection is that before service of the warrant issued by the tax collector, the officer must deliver a summons from the tax collector to the delinquent taxpayer, or leave it at the taxpayer's last and usual place of abode. 36 M.R.S. § 995.

Pursuant to § 995, the summons must state: (1) the amount of the tax due; (2) a demand that it be paid within ten days from the date the summons is left; and (3) that if the tax due is not paid, then the officer shall serve the warrant the same as the tax collector might have done. At the expiration of the full ten days, the officer may distraint and hold the property for sale in the manner prescribed in Title 36 M.R.S. §§ 991 and 992. See Appendix 6 for a sample Summons.

The distraint statute also contains an especially important exception to the requirements above for situations in which the tax collector, at any time after the commitment, has reason to believe that delay would jeopardize payment of the tax, such as by allowing the taxpayer to dissipate his assets. 36 M.R.S. § 996. In such a case, the collector may: (1) issue a warrant **before** the 3-month period from its date of commitment; or (2) in this or a regular warrant, direct the officer to demand **immediate** payment, and to serve the warrant **without further notice** if payment is not made; or (3) **after** issuing either warrant, subsequently direct the officer to demand immediate payment, and to serve the warrant without further notice if payment is not made, notwithstanding any unexpired term under the 10-day summons; or (4) the tax collector can demand **immediate** payment, and thereupon distraint the property if payment is not made. 36 M.R.S. § 996. *Capital Bank & Trust Co., v. City of Waterville*, 343 A.2d at 216.

If the taxpayer fails or refuses to honor the tax collector's demand, or if a warrant of distress is served upon on the taxpayer, then any of the taxpayer's tangible personal property which is located within the state and not exempt from attachment for debt may be seized, or "distrained." 36 M.R.S. § 991. Exempt property includes, for example, the family automobile, household goods, tools of the trade, and certain other personal effects, up to established limits of value. See 14 M.R.S. § 4422. Where the property is too bulky to be physically seized,

notice to the taxpayer or his agent with custody of the property is sufficient to distraint it. 72 Am. Jur.2d, *State and Local Taxation*, § 762 (2018) (citing case law). The distrained property **does not need to be the property that was assessed**. 36 M.R.S. § 991.

Since distraint is not the enforcement of a lien (i.e., seizure of lien property or collateral), the property distrained must be owned by the taxpayer at the time it is seized. In the case of property being leased, the “owner” is generally the person who is leasing out the personal property (the “lessor”). One exception to this rule is when personal property located within the state but owned by a nonresident has been taxed to the person who has it in his possession (i.e., the lessee). See 36 M.R.S. § 603(3), which permits personal property to be taxed to either the nonresident owner or the person who has possession of it. In such a case, the personal property can be distrained from the person in possession.

Where personal property has been taxed to the lessor (i.e., owner) but is to be distrained in the hands of an innocent lessee (i.e., renter), fairness would dictate that the lessee be provided with a copy of the tax collector’s demand or the officer’s summons should the lessee choose to pay the tax in order to avoid a distraint. Specifically, notice should be provided to the lessee if the lessee has been paying the taxes on personal property that were assessed to the lessor and a lien has been created on the lessee’s behalf pursuant to 36 M.R.S. § 603(3)(B).

In the case of mortgaged personal property, mortgaged personal property may be distrained provided the mortgagor has possession. Prior notification of the person holding the mortgage (the “mortgagee”) is not legally necessary and would not be advised, as the mortgagee would have an interest in preventing the distraint from occurring. See 36 M.R.S. § 604. If a mortgagee has already legally gained possession of collateral, the property cannot then be distrained. *Capitol Bank and Trust Co. v. City of Waterville*, 343 A.2d at 213. Conversely, if the property has been distrained before the mortgagee has legally gained possession of it, the lien acquired by distraint is superior to other security interests. *Hunter v. United States*, 352 F.Supp. 5, 7-8 (D. Me. 1972). Because of the confusion that can surround the distraint of mortgaged property, the tax collector should check with the Secretary of State’s Office (Corporations Division and U.C.C. Division) and the county registry to determine what personal property of the taxpayer is mortgaged. The tax collector who might want to avoid any complications associated with distraining mortgaged property could then choose to distraint only the un-mortgaged personal property belonging to the taxpayer.

Once the property has been seized, it must be kept for **at least four but not more than seven days**. In computing this time period, the day of seizure is excluded, the day of sale is included, and the days are consecutive and include Sunday, unless the day of sale falls on Sunday, in which case the sale must be held on the following day. *Cressey v. Parks*, 75 Me. 387 (1883). Presumably, the rules regarding Sunday apply equally to Saturdays and legal holidays. See 1 M.R.S. § 71(12) (incorporating M.R. Civ. P. Rule 6(a) where the nature of an action or

proceeding is civil). If the property is kept beyond this time, the tax collector becomes legally liable to the owner, and the owner may sue to recover possession of the property. *Brackett v. Vining*, 49 Me. 356 (1860).

The property is kept at the owner's expense. 36 M.R.S. § 991. This expense would normally include all reasonable costs of moving, storage, insurance, and so forth. For guidance on what can be included as reasonable costs for this purpose see 11 M.R.S. § 2-603, which is the part of the Uniform Commercial Code that deals with the buyer's duty of safekeeping where goods are rejected.

If the tax is not paid within the four-to-seven-day window, the property must be openly sold at a public auction conducted by the tax collector or their agent. The auction must be held on or before the seventh day. 36 M.R.S. § 991. The tax collector apparently has no choice but to sell the property by this time; he or she may not refuse to sell because the bidding is too low, although the tax collector has a duty to obtain the best price possible. *Williamson v. Dow*, 32 Me. 559 (1851) (but see 72 Am. Jur.2d., *supra*). Neither, however, may the tax collector sell more property than sufficient to pay the tax and expenses of sale; if that happens, then the tax collector becomes legally liable to the owner. *Seekins v. Goodale*, 61 Me. 400 (1873); *Williamson*, 32 Me. at 559.

The sale does **not** need to be held in the place where the tax was assessed or where the property was seized. 36 M.R.S. § 991. There may even be an affirmative duty to hold the sale elsewhere if the tax collector has reason to believe that there will be few, if any, bidders in either of these places. *Carville v. Additon*, 62 Me. 459, 462 (1873), *Williamson*, 32 Me. at 559.

Notice of the sale, however, must be posted in some public place where the tax was assessed, as well as in the place where the sale is to be held, at least 48 hours in advance. 36 M.R.S. § 991. In view of the strict statutory timetable, this means that notice of the sale must be posted on or before the 5th day following the day of seizure.

Upon the sale of sufficient property to pay the tax and expense of sale (presumably, "expense of sale" would include the cost of notice and the reasonable auctioneer's commission, as well as the expense of keeping the property), any remaining balance of proceeds must be restored to the taxpayer together with a written account of the sale and charges. 36 M.R.S. § 992. If the tax collector fails to return the surplus or to account in writing, they become legally liable to the owner. *Williamson*, 32 Me. at 559; *Blanchard v. Dow*, 32 Me. 557 (1851). Presumably, if the proceeds are insufficient to pay the tax and expense of sale, the taxpayer remains liable for the balance, and any additional property may be distrained, or a civil action may be commenced to collect it. 36 M.R.S. §§ 1031 and 1032. Otherwise, the balance could be abated. Title 36 M.R.S. § 841(3) authorizes the abatement of any portion of a tax after 2 years

from assessment if it cannot be collected due to the taxpayer's death, absence, poverty, insolvency, bankruptcy, or other inability of the person assessed to pay. Also, 36 M.R.S. § 760-A authorizes the municipal officers to discharge tax collectors from the obligation to collect unpaid personal property taxes that are determined too small or too burdensome to collect economically.

Distrain and Constitutional Issues

Even though Maine law expressly authorizes distraint, there is a question about whether it is unconstitutional in light of the U.S. Supreme Court's landmark decision in *Fuentes v. Shevin*, 407 U.S. 67 (1972). In *Fuentes*, the Court held that state governments cannot seize private property without a prior hearing because doing so violates the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution. As its name suggests, this clause requires states to provide a person with "due process," such as notice, an opportunity for a hearing, and a right to appeal in order to lawfully deprive a person of their property. Yet one could argue that Maine's statutory process of distraint for taxes amounts to a seizure of property without a hearing in order to secure collection of a debt.

The Maine Supreme Judicial Court has never addressed this issue. A careful reading of *Fuentes*, however, indicates that in certain extraordinary situations like distraint, there is such an important governmental interest at stake (e.g., collecting taxes) that the outright seizure of property without prior hearing may nonetheless be permissible under the Fourteenth Amendment. This view was confirmed by the California State Supreme Court in *T.M. Cobb Co. v. County of Los Angeles*, 128 Cal. Rptr. 655 (1976), a decision directly addressing the question of whether the summary seizure and sale of property for taxes, as authorized by state law, deprived the taxpayer of due process. Nevertheless, because these issues have not been addressed by Maine's courts, it is prudent to assume that under Maine law, the taxpayer should be given an opportunity for an administrative hearing after seizure but *before* sale of the property. A potentially unconstitutional deprivation of property could be avoided by such a hearing.

Distrain and Civil Rights Liability

As discussed in Chapter 2, federal law entitles any person who has been deprived of a right protected by the U.S. Constitution or other federal law to sue for damages and injunctive relief. If the person prevails, he or she also is entitled to recover reasonable attorney fees. 42 U.S.C. § 1988. It is not clear at this time whether Maine's distraint statute would survive a constitutional challenge based on due process grounds. See the discussion of the *Fuentes* and *Cobb* decisions discussed above. Therefore, to protect against any liability, the tax collector or sheriff should serve a notice of hearing at the same time that the warrant of distress is executed. In the case of leased or mortgaged property, a notice of hearing also should be served on the owner or mortgage holder after the property is seized. The hearing must be held

before the time set for the sale of the property, which cannot be more than seven days after service. The tax collector should conduct the hearing. The hearing need not be formal, but it must be fair. The person from whom the property was seized or its true owner, in the case of leased property, must be allowed to attend the hearing, with or without counsel. They should be given an opportunity to (1) prove that the tax is illegal or invalid, (2) seek an abatement if they are still legally entitled to do so (see 36 M.R.S. § 841), (3) prove that the tax has been paid, or (4) make alternative arrangements that are satisfactory to the tax collector for payment in lieu of the distress sale. See Appendix 6 for a sample Notice of Hearing Prior to Sale of Distraigned Property.

If the tax collector makes alternative arrangements for payment, the collector should require the taxpayer to pay the cost of service, seizure, and storage; otherwise, the tax collector will have to pay those costs. These costs can be deducted from the proceeds if a sale takes place. 36 M.R.S. § 992. If the taxpayer pays the taxes before the sale, the taxpayer can be charged the cost of holding the property but not the cost of serving the summons and warrant.

To minimize the damages that could be assessed if a Maine court declared the distraint process unconstitutional, the tax collector should try to time the seizure so that it will not result in a lot of lost income or try to seize property that is not income-producing. For example, the spring would be the best time to seize a skidder rather than the summer or fall. However, if the same taxpayer owned a pleasure boat or a recreational vehicle, it would be better to seize that property than the skidder.

The tax collector and the municipality also should have sufficient liability insurance as discussed earlier (see Chapter 2), and the distraint process should only be undertaken with the assistance of the municipality's attorney.

Conclusion

Distraint can be an effective procedure for collecting personal property taxes, provided that (1) the statutory procedure is complied with strictly, and (2) the taxpayer is given a reasonable opportunity for an administrative hearing before sale. The process is particularly effective in preventing a tax loss due to the removal of property. It also can be used to give a clear warning to other delinquent taxpayers.

Arrest

Although Maine law still contains statutory provisions allowing a tax collector to have a person arrested for non-payment of taxes, the legality of those provisions is highly questionable. See 36 M.R.S. §§ 993 and 997. **THE COLLECTOR SHOULD NOT CAUSE A PERSON TO BE ARRESTED WITHOUT THE EXPRESS ADVICE OF AN ATTORNEY.**

Options Applicable to All Delinquent Taxes

In addition to the remedies listed above for the enforcement of real estate or personal property taxes, there remain three other methods that can be used to enforce any unpaid tax. These are: (1) a civil action brought in the name of the tax collector; (2) a small claims action; and (3) a civil action brought in the name of the municipality.

Civil Action in Name of Tax Collector

The tax collector (or the tax collector's personal representative, if the tax collector has died) may sue in the collector's own name for any tax by filing a civil action in court, after making a demand for payment. 36 M.R.S. § 1031. The demand required is a personal demand; a written request mailed to the person taxed is normally not enough. In the case of a non-resident of Maine, however, demand may be made by registered or certified mail, return receipt requested, because requiring a personal demand upon such a person would in effect nullify the statute authorizing the taxing of personal property to non-resident owners. *Curtis v. Potter*, 96 A.786, 788 (1916). No defendant is liable for any costs of such a lawsuit unless it appears by declaration and by proof that payment of the tax at issue had been duly demanded before suit.

This civil action differs from that discussed previously, the *civil action with special attachment*, in that if property of the taxpayer is attached under this action the resulting encumbrance on the title to the property does not take priority over other, prior encumbrances.

This action may be taken in cases where the tax collector has failed to act in time to preserve the statutory lien for real estate taxes, as well as in cases where the tax collector prefers a lawsuit to distraint. Additionally, the tax collector may choose this action in order to trustee a bank account, attach an automobile, or attach real estate. Alternatively, the tax collector may wish to obtain judgment against a taxpayer in order to bring the taxpayer to court for a disclosure hearing in order to find out what assets that taxpayer possesses.

One of the advantages of this type of civil action is that the tax collector is not bound to the strict statutory requirements of the tax lien mortgage or the distraint process. The Maine Supreme Judicial Court has said that "Where forfeitures are not involved, proceedings for the collection of taxes should be construed practically and liberally." *Cressey v. Parks*, 76 Me. 532, 534 (1884); *see also Athens v. Whittier*, 122 Me. 86, 90, 118 A.897, 898-99 (1922).

The principal disadvantage associated with this type of civil action is that it requires the services of an attorney whom the tax collector is often in no position to pay for those services. Moreover, the whole proceeding is futile if the taxpayer has insufficient assets to satisfy a

judgment in the tax collector's favor. It often is frustrating to attempt to collect on an obligation in court when the taxpayer is so financially strapped as to be "judgment proof."

Small Claims Action

In many situations the most logical course of action will be to collect a tax by bringing a small claims lawsuit in District Court pursuant to 14 M.R.S. §§ 7481 to 7487. This process is particularly useful in the collection of personal property taxes.

A small claims action is simple, speedy, and informal. It may be used where the outstanding debt does not exceed \$6,000 (exclusive of interest) and the matter does not involve title to real estate. Since each tax is a separate debt, the collector can bring several actions against a delinquent taxpayer even though the sum of all outstanding taxes may exceed \$6,000. If the sum of all outstanding taxes is less than \$6,000, the collector should be able to include the separate claims in one complaint, but each claim must be stated individually.

A small claims proceeding may be initiated by obtaining an application from the District Court clerk's office. The clerk will assist in filling out the application, provide for service of process upon the taxpayer, and schedule the hearing date. The fee for filing a small claims action is \$40, with an additional \$10 fee for service upon each taxpayer named as a defendant. The fee may be recoverable from the taxpayer if the tax collector wins the case. As noted earlier, a separate action should be filed for each year's delinquent property taxes if the *aggregate* amount exceeds the \$6,000 limit.

On the day of the hearing, the tax collector should bring evidence of his or her status as tax collector (certificate of appointment or certificate of election), the tax commitment, a copy of any tax bill that was sent to the taxpayer, any records that would assist the court in identifying the property and the owner (such as a copy of the deed, the description of the property or the property assessment card, or bill of sale), and a copy of any demand or collection letters served upon the taxpayer. The judge first will ask the tax collector to set forth his or her case and then will allow the taxpayer to respond. Either party may be represented by an attorney, although an attorney is not required.

If the judge finds in favor of the tax collector, the judge will order the method of payment in the judgment. The judge may order payment by installments or may set a date for a disclosure hearing. If installment payments have not been ordered and a judgment has not been satisfied by the disclosure date, a disclosure hearing will be held to determine the taxpayer's assets and income and an appropriate payment schedule. If payment is not made in accordance with the schedule ordered by the court, the tax collector may petition the court to have the taxpayer held in contempt.

A six-year statute of limitations applies to ordinary civil claims, including small claims actions. 14 M.R.S. § 752.

As noted above, the tax collector is not required to obtain the services of an attorney to bring a small claims action in court but may wish to consult with an attorney for guidance on the process, assuming funds are available for this purpose. The Court Administrative Office has published “A Guide to the Small Claims Proceeding of the Maine District Court” which explains the process in greater detail and includes sample documents needed to file the small claims action. This booklet can be obtained on the District Court’s web site: <https://www.courts.maine.gov/help/guides/sc-guide.pdf>.

Civil Action in Name of the Municipality

In addition to other provisions for the collection of taxes, the municipal officers may direct in writing that a civil lawsuit be brought in the name of the municipality against the person(s) assessed to collect an unpaid tax. 36 M.R.S. § 1032. A taxpayer/defendant is not liable for any costs associated with the court action unless payment of the delinquent tax was lawfully demanded before the court action was initiated. 36 M.R.S. § 1032.

This is the only instance in which the municipal officers are empowered to take the enforcement of a tax out of the hands of the tax collector, and it may be done only by written order of the municipal officers. This direction or order may be given to the tax collector, as well as to any other person. If the tax collector is directed to bring suit in the municipality’s name, the expenses of the action are chargeable to the municipality and not to the tax collector.

A separate written direction to the collector should be given for each taxpayer who is to be sued, and each written direction should be signed by the municipal officers. It should specify that suit be brought in the name of the municipality. *Orono v. Emery*, 86 Me. 362 (1894). A general written direction to a tax collector, or anyone else, to bring suit against **all** delinquent taxpayers is not sufficient, since it would unlawfully delegate to the individual named the power to exercise the judgment and discretion which the statute reserves to the municipal officers. *Cape Elizabeth v. Boyd*, 86 Me. 317 (1894). However, one written direction covering taxes assessed against a single taxpayer for three different years is sufficient; a separate direction for each year’s tax is not necessary. *Rockland v. Farnsworth*, 89 A.65, 67 (1913).

This type of lawsuit has the same advantages and disadvantages as the civil action brought in the name of the tax collector. As discussed above, an advantage to this type of process is that the strict statutory requirements applicable to the tax lien mortgage or the distraint processes will not apply. For example, the Maine Supreme Court has held that a civil action may

succeed under 36 M.R.S. § 1032 even if (1) the property (real estate) was insufficiently described, (2) the defendant was not the owner of certain lots which were included in the assessment, and (3) the tax was assessed against “Walter E. Reid for Everett H. Reid and Raymond Reid.” *Georgetown v. Reid*, 132 Me. 414 (1934).

Although it is ordinarily the tax collector’s duty to collect the taxes committed to them, the Maine Supreme Court has also held that, “there may be occasions when for special reasons, as to the validity of the assessment and for other reasons, it would be equitable and proper for the city or town to allow a suit to be brought in its name, pay the expense and be liable for costs in case of defeat. As to the sufficiency of these reasons in any case, the selectmen of the town are the sole judges.” *Orono v. Emery*, 86 Me. at 365, as quoted in *Rockland v. Farnsworth*, 111 Me. at 322, 89A at 76.

The Court has also said that this statutory section is “for the benefit of the town, that the town may not be rendered liable for expenses and costs except when the selectmen authorize it.” *Orono v. Emery*, 86 Me. at 367.

Set-Off

Subject to the approval of the municipal officers, the treasurer or any disbursing officers may, (or must, if so requested by the tax collector), withhold payment of generally any money then due and payable to any taxpayer whose taxes are due and wholly or partially unpaid. The amount withheld cannot exceed the amount of unpaid taxes, together with any interest and costs. The sum withheld will be paid to the tax collector, who should give a receipt in writing to the municipal official withholding payment, and to the taxpayer. The tax collector’s rights under the provisions of this section are not affected by any assignment or trustee process. 36 M.R.S. § 905. See Chapter 2, “Set-off for Taxes,” for a fuller discussion of the set-off procedure and legal issues that arise; this process should **not** be used without the advice of an attorney.

Time of Action

A six-year statute of limitations applies to ordinary civil actions. 14 M.R.S. § 752. This limitation applies to actions brought in the name of the municipality under 36 M.R.S. § 1032 as well as to actions brought in the name of the collector under 36 M.R.S. § 1031. *Topsham v. Blondell*, 82 Me. at 152.