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§ 62.1-6. Clearing watercourses between counties of obstructions.

The circuit court of any county which is divided by a watercourse from another county or through any part of which a watercourse passes may, by itself or in conjunction with the circuit court or circuit courts of any other county or counties, contract with any person or order laborers to be hired to clear such watercourse of obstructions in such manner and to such extent as may seem to it proper, and there shall be charged on any county whatever sum the court thereof may agree to pay for such purpose.

(Code 1950, § 62-4; 1968, c. 659.)

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§ 62.1-11. Waters declared natural resource; state regulation and conservation; limitations upon right to use.

- A. Such waters are a natural resource which should be regulated by the Commonwealth.
- B. The regulation, control, development and use of waters for all purposes beneficial to the public are within the jurisdiction of the Commonwealth which in the exercise of its police powers may establish measures to effectuate the proper and comprehensive utilization and protection of such waters.
- C. The changing wants and needs of the people of the Commonwealth may require the water resources of the Commonwealth to be put to uses beneficial to the public to the extent of which they are reasonably capable; the waste or unreasonable use or unreasonable method of use of water should be prevented; and the conservation of such water is to be exercised with a view to the welfare of the people of the Commonwealth and their interest in the reasonable and beneficial use thereof.
- D. The public welfare and interest of the people of the Commonwealth require the proper development, wise use, conservation and protection of water resources together with protection of land resources, as affected thereby.
- E. The right to the use of water or to the flow of water in or from any natural stream, lake or other watercourse in this Commonwealth is and shall be limited to such water as may reasonably be required for the beneficial use of the public to be served; such right shall not extend to the waste or unreasonable use or unreasonable method of use of such water.
- F. The quality of state waters is affected by the quantity of water and it is the intent of the Commonwealth, to the extent practicable, to maintain flow conditions to protect instream beneficial uses and public water supplies for human consumption.

(Code 1950, § 62-9.2; 1954, c. 330; 1968, c. 659; 1989, c. 410.)

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§ 62.1-13. Construction with reference to rights, etc., of counties, cities and towns.

Nothing in this chapter contained shall be construed as a declaration of policy of the Commonwealth to divest any county, city or town of its title or right to any water or of its powers conferred by law with respect to the disposition thereof; nor shall anything in this chapter be construed to authorize the impairment of any contract to which such county, city or town is a party, or to obligate any county, city or town to appropriate or expend any funds. The purpose of this chapter is to recognize the public use to which such water is devoted.

(Code 1950, § 62-9.4; 1954, c. 330; 1968, c. 659.)

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§ 62.1-164. Erection and abatement of private wharves, piers and landings.

Any person owning land upon a watercourse may erect a private wharf on the same, or private pier or landing, in such watercourse opposite his land; provided, such wharf, pier or land is for noncommercial purposes and navigation be not obstructed, nor the private rights of any person be otherwise injured thereby. The circuit court of the county in which such wharf, pier or landing is, after causing ten days' notice to be given to the owner thereof, of its intention to consider the subject, if it be satisfied that such wharf, pier or landing obstructs the navigation of the watercourse, or so encroaches on any private landing as to prevent the free use thereof, may abate the same.

(Code 1950, § 62-139; 1968, c. 659; 1972, c. 415.)

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§ 62.1-165. Erection of wharves at county landings.

Any person desiring the privilege of erecting a wharf at or on any county landing may, after giving notice of his intention by advertising such notice at some public place near the landing, and also at the front door of the courthouse of such county, on the first day of a term of the circuit court of the county, present to the court at its next term a petition for such privilege. The court may determine the same, and may, in its discretion, grant such privilege and fix such rates and charges upon such conditions and limitations as to it may seem fit. The court, at any subsequent term, may, if it think proper, revoke such privilege, or alter such conditions or limitations, or regulate the rates and charges. This section shall not be construed to authorize a circuit court of the county to grant the privilege of erecting a wharf within a city.

(Code 1950, § 62-140; 1968, c. 659.)

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Appendix C Gloucester County Code

CODE
County of
GLOUCESTER, VIRGINIA

Codified through
Ordinance of October 2, 2007.
(Supplement No. 42)
<http://www.municode.com/>

Chapter 21 WATERCRAFT AND WATER SAFETY*

***Editor's note:** An ordinance adopted June 7, 1983, repealed Ch. 21, entitled "Wharves, Harbors and Channels," which consisted of Art. I, §§ 21-1--21-5 and 21-30, concerning general matters and Art. II, §§ 21-31--21-35, concerning Aberdeen Creek. The repealed provisions derived from ordinances adopted March 22, 1962; Aug. 28, 1964; Dec. 28, 1972; Oct. 25, 1973; and Sept. 16, 1980. Additionally an ordinance amending Ch. 21, which had not yet been codified, concerning watercraft speed on Sarah's Creek, was enacted Nov. 16, 1982. The ordinance of June 7, 1983, enacted a new Ch. 21, to read as herein set out.

Cross references: Smoking near wharves, piers, etc., § 8-5(b).

State law references: Waters, ports and harbors, Code of Va., title 62.1; motorboats and water safety, Code of Va., § 52.1-166 et seq.

§ 21-1. Definitions.

§ 21-2. Speed.

§ 21-3. Wake.

§ 21-4. Recklessness.

§ 21-5. Alcohol and drugs.

§ 21-6. Channels.

§ 21-7. Trash, spoils and floating objects.

§ 21-8. Wharves.

§ 21-9. Signs.

§ 21-10. Enforcement.

§ 21-11. Penalties.

§ 21-12. Disposition of fines.

Sec. 21-1. Definitions.

For the purpose of this chapter, the following words shall have the meanings ascribed to them, respectively, by this section.

Channel shall mean the path of deeper water in a waterway that is normally followed by larger and deeper draft vessels. Channels may be dredged or determined by generally accepted practice.

Operate shall mean to navigate, cause to be propelled or otherwise use a vessel.

Person shall not mean or be interpreted to include any law-enforcement officer while acting in the lawful discharge of his duties to the extent that his actions might or would otherwise constitute a violation of section 21-2 or section 21-3 hereinafter.

Vessel shall mean every description of watercraft, other than seaplanes, used or capable of being used as a means of transportation on water.

Wake shall mean the swells, wave wash or displacement waves created by moving vessels.

Waterways shall mean all bodies of water within the territorial limits of Gloucester County upon which a vessel may operate.

Wharf shall mean an artificial structure into a body of water from the shore, to be used for the reception of boats and watercraft.

(Ord. of 6-7-83)

Sec. 21-2. Speed.

No person shall operate a boat or any vessel on the waterways of Gloucester County at a speed in excess of ten (10) miles per hour within one hundred (100) yards of marked swimming or underwater diving areas. Observing this speed limit does not relieve the operator of the requirement to create no wake as noted in section 21-3 below.

(Ord. of 6-7-83; Ord. of 8-16-88; Ord. of 9-5-95; Ord. of 11-8-95)

Sec. 21-3. Wake.

No person shall operate a vessel on the waterways of Gloucester County in any manner that creates a wake of such magnitude as to cause damage to other vessels or wharfs or to cause soil to be moved or to cause other damage to the adjacent shoreline.

(Ord. of 6-7-83)

Sec. 21-4. Recklessness.

No person shall operate a vessel on the waterways of Gloucester County in such manner as to endanger the life or limb of any person or to endanger, damage or destroy the property, whether real or personal, of any person.

(Ord. of 6-7-83)

State law references: Similar state law, Code of Va., § 62.1-176(a).

Sec. 21-5. Alcohol and drugs.

No person shall operate a vessel on the waterways of Gloucester County while under the influence of alcohol or under the influence of any other self-administered intoxicant or drug, of whatsoever nature.

(Ord. of 6-7-83)

State law references: Similar state law, Code of Va., § 62.1-176(b).

Sec. 21-6. Channels.

(a) No person shall moor, anchor, tie up, or stop any vessel in any channel of the waterways of Gloucester County in such a manner as to prevent or obstruct the approach, passage or berthing of any other vessel.

(b) No person shall voluntarily or carelessly sink, or permit or cause to be sunk, any vessel in channels of the waterways of Gloucester County. Whenever any vessel is wrecked or sunk in a channel it shall be the duty of the owner thereof to immediately mark such vessel with a buoy, and a lighted lantern at night, and maintain such markers until the vessel is removed, which removal shall be accomplished by the owner, promptly and diligently.

(Ord. of 6-7-83)

Sec. 21-7. Trash, spoils and floating objects.

(a) No person shall deposit or cause to be deposited, in any channel or along the shores of the waterways of Gloucester County or in any of the streams or ditches emptying therein, or on any of the land adjacent to such waterways, any refuse, offal, waste matter or other substance, whether earth, oil, animal, fish or vegetable matter, or any other matter that may injuriously affect the sanitary, clean, safe condition of said waterways, or diminish the depth thereof.

(b) No person shall voluntarily or negligently permit lumber, logs or other objects, which may endanger the operation of vessels, to float on the waterways of Gloucester County.

(Ord. of 6-7-83)

State law references: Throwing trash into or obstructing river, creek, etc., Code of Va., § 62.1-194.2.

Sec. 21-8. Wharves.

(a) Public wharves in Gloucester County are for the use of the general public and shall be open to all vessels both recreational and commercial.

(b) The board of supervisors may, from time to time, designate certain portions of any wharf or pier owned or controlled by the County of Gloucester for commercial use only, for recreational use only, for loading or unloading, for overnight mooring, or for any other purpose deemed appropriate by the board.

(c) Any cargo, vessel, or equipment, of whatsoever kind, placed upon or moored to the wharf or pier shall remain there solely at the risk of the owner, and the wharf shall be available for the use of the general public on equal terms with the owner of such property while such property remains on the wharf.

(Ord. of 6-7-83; Ord. of 12-19-89)

Sec. 21-9. Signs.

The county administrator is hereby authorized to post or cause to be posted such signs or buoys as he shall deem appropriate to assist in the administration of this chapter, providing the placement thereof is approved by the board of game and inland fisheries pursuant to section 29.1-744(D) of the Code of Virginia. The posting of such signs or buoys shall be considered as informative only, and whether posted or not, may in no way be considered as limiting the applicability of this chapter.

(Ord. of 6-7-83; Ord. of 9-5-95)

Sec. 21-9.1. Unsafe swimming or wading areas.

(a) The county administrator or his designee is authorized to prohibit swimming, wading or entering of the water at such times and in such area or places as may be determined to be unsafe. Such areas shall be designated with appropriate signs or markers and no person shall swim, wade or enter the water in any area so designated and marked except in connection with the legitimate launching or landing of watercraft.

(b) Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one hundred dollars (\$100.00).

(Ord. of 7-18-89; Ord. of 9-5-95)

Sec. 21-10. Enforcement.

Except as may be elsewhere provided, every game warden, marine resources commission inspector and every other law enforcement officer of this state and its subdivisions and of the United States Government shall have the authority to enforce the provisions of this chapter and in exercise thereof shall have the authority to stop any vessel subject to this chapter and, after identifying himself in his official capacity, shall have the authority to issue summons to appear in district court of this county or to make an arrest.
(Ord. of 6-7-83)

Sec. 21-11. Penalties.

Any person who violates any provision of this chapter, unless otherwise specified, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than two hundred fifty dollars (\$250.00).
(Ord. of 6-7-83; Ord. of 9-5-95)

Sec. 21-12. Disposition of fines.

The proceeds accruing to the county from all fines collected shall be deposited in the general revenue fund of Gloucester County.
(Ord. of 6-7-83)

Chapter 13.5 PUBLIC PARKS AND RECREATION FACILITIES*

ARTICLE II. REGULATIONS GOVERNING PUBLIC PARKS AND RECREATION FACILITIES

Sec. 13.5-2. Alcoholic beverages and controlled substances prohibited.

(a) No person shall consume or possess an open or previously opened container containing any alcoholic beverage, or be under the influence of an alcoholic beverage while in public parks and recreational facilities.

(b) No person shall consume, possess or be under the influence of any controlled substance, as defined by the Code of Virginia, while in public parks and recreational facilities.

(Ord. of 3-5-2002)

Sec. 13.5-3. Operating or parking vehicles in recreational facilities generally.

No person shall operate or park any vehicle in public parks and recreational facilities except on the roadways and parking areas provided and/or designated for this purpose. Nor shall any vehicles be parked in a manner as to impede or obstruct the normal, safe flow of traffic.

(Ord. of 3-5-2002)

Sec. 13.5-4. Games of chance prohibited.

No person shall engage in games of chance in public parks and recreational facilities.

(Ord. of 3-5-2002)

Sec. 13.5-5. Concealed weapons prohibited.

Unauthorized persons shall not carry concealed weapons, nor shall they have on or about their person dangerous or deadly weapons other than firearms, in public park and recreational facilities.

(Ord. of 3-5-2002)

Sec. 13.5-6. Discharge of firearms or shooting of bows.

It shall be unlawful to discharge any firearm to include any weapon which propels a projectile by pneumatic means, or shoot any bow in any public park or recreational facility. Provided however, that the director may grant permission to discharge firearms or shoot arrows as part of an approved event or program.

(Ord. of 3-5-2002)

Sec. 13.5-7. Open fires.

No person shall make a fire in public park and recreational facilities other than in grills, fireplaces or other areas as designated and approved for such use by the director. All fires shall be closely monitored and completely extinguished by persons starting and using them before those persons leave the immediate vicinity.

(Ord. of 3-5-2002)

Sec. 13.5-8. Use of public park and recreational facilities by children.

No parent or guardian shall permit a child under the age of thirteen (13) years, or such other age as is specifically posted by the director, to make use of public park and recreational facilities without providing for direct supervision of the child. Provided, however, that no person under the age of sixteen (16) years shall be permitted on the property know as Cedar Bush Creek Public Landing unless such person is accompanied by and under the continuous direct supervision of an adult.

(Ord. of 3-5-2002)

Sec. 13.5-9. Skateboards, skates and rollerblades.

No person shall ride or use a skateboard, skates or rollerblades in public parks and recreational facilities except in areas so designated for such use.

(Ord. of 3-5-2002)

Sec. 13.5-10. Toilets; cleanliness and use.

No person shall fail to cooperate in maintaining restrooms in a neat and sanitary condition. No person over the age of six (6) years shall enter restrooms designated for the opposite sex. There shall be no loitering in the restrooms.

(Ord. of 3-5-2002)

Sec. 13.5-11. Preservation of natural resources and public buildings and property.

The possession, destruction, injury, defacement, removal or disturbance in any manner of any building, sign, equipment, monument, statue, marker, or other structure, or of any animal or plant matter and direct or indirect products thereof, including, but not limited to, wood, bulb, or annual flowers, egg, nest or nesting site, or of any soil, rock, fossil, mineral formation, phenomenon of crystallization, artifact, relic, historic or prehistoric feature, or of any other public property of any kind, is prohibited, except as otherwise provided in this section or by special permit. A person shall not dig in or otherwise disturb grassy areas, or in any other way injure or impair the natural beauty or usefulness of any area.

Unless specifically permitted by special regulations, the collection of plants, rocks, minerals, animal life or other natural objects is permitted only in accordance with written permits obtained in advance from a park ranger. No permits will be issued to individuals or associations to collect specimens for personal use, but only to persons officially representing reputable scientific or educational institutions in procuring specimens for research, group study or museum display.
(Ord. of 3-5-2002)

Sec. 13.5-12. Control of litter.

No person shall throw, deposit or leave any litter, refuse or rubbish of any kind in public parks and recreational facilities except in public receptacles and in such manner that the litter, refuse or rubbish will be prevented from being carried by the elements. Where public receptacles are not provided all such litter, refuse or rubbish shall be carried away from the area by the person responsible for its presence and properly disposed of elsewhere.
(Ord. of 3-5-2002)

Sec. 13.5-13. Control of animals.

No person shall permit his animal to run at large. In the case of a dog, the owner or his agent shall secure the animal by a collar with a chain, cord or leash not exceeding eight feet in length, and have the animal under complete and immediate control.
(Ord. of 3-5-2002)

Sec. 13.5-14. Instruction.

No person other than those authorized by the director shall offer instruction in public park and recreational facilities.
(Ord. of 3-5-2002)

Sec. 13.5-15. Hours of operation.

The director shall establish hours of operation for public parks and recreational facilities; the hours may prohibit use of certain facilities at certain times. Hours for public parks and recreational facilities will be posted. Provided, however, that Cedar Bush Creek Public Landing shall be closed to the public beginning at 10:00 p.m. each day, and shall remain closed to the public until 5:00 a.m. on the following day, except that persons over the age of sixteen (16) years engaged in boat launching and boat retrieval may use the facilities for those purposes only. Provided further, that the hours of operation for Abingdon Park shall be sunrise to sunset when Abingdon Elementary School is not in session or when expressly permitted by the Gloucester County School Board.
(Ord. of 3-5-2002)

Sec. 13.5-16. Permits for use of public park and recreational facilities.

Permits for the use of public park and recreational facilities may be required by the director. Where permits are required, no person shall engage in or make use of any park and recreational facility without first paying for same and adhering to the rules and regulations governing use of said facility.
(Ord. of 3-5-2002)

Sec. 13.5-17. Leasing of park facilities; charges for use of such facilities and admission to recreation activities.

When authorized by the board of supervisors and upon such terms and conditions as it may provide, the public parks and recreation facilities may be leased. The director shall fix and collect charges for the use of the facilities and services, fix and collect charges for admission to concerts, entertainments and other recreational activities sponsored by it.
(Ord. of 3-5-2002)

Sec. 13.5-18. Posting advertisements; sale of goods generally.

(a) No person shall post, distribute, circulate or display any notice, banner, advertisement or printed material in any park or recreational facility without written permission of the director.

(b) No person shall offer for sale or rent any goods, articles, privileges, commodities or services whatsoever or solicit for any purpose in any recreational facility without obtaining written permission from the director, and for such time and at such places as the director may determine. This section shall not be construed to apply to the sale of food, soft drinks and other like goods pursuant to section 13.5-19.

(Ord. of 3-5-2002)

Sec. 13.5-19. Sale of food and soft drinks; canteen concessions.

The sale of foods, soft drinks or other like goods is prohibited in any park or recreational facility, except from canteens or concessions operated by concessionaires authorized by the director.
(Ord. of 3-5-2002)

Sec. 13.5-20. Washing, repairing or servicing vehicles.

No person shall use any park or recreational facility for washing, repairing or servicing, other than replacing a flat tire, of any vehicle designed for self-propulsion. Abandonment of such vehicles is prohibited. If mechanical disablement occurs, immediate steps must be taken for removal.

(Ord. of 3-5-2002)

Sec. 13.5-21. Use of nature trails, pedestrian paths, etc.

No persons other than those authorized by the director shall operate a motorized vehicle upon nature trails, pedestrian paths, and bikeways specifically designated and established for such use.
(Ord. of 3-5-2002)

Sec. 13.5-22. Operation of nonlicensed motorized vehicles.

No person shall operate a nonlicensed motorized vehicle in any park or recreational facility unless in an area specifically designated for such use by the director.
(Ord. of 3-5-2002)

Sec. 13.5-23. Use of electronic metal-detecting devices.

No person shall utilize any type of electronic metal-detecting device prohibited in any recreational facility.
(Ord. of 3-5-2002)

Sec. 13.5-24. Bathing and swimming.

Swimming or wading of any type, kind, or description is prohibited in Beaverdam Reservoir and Park.

At Gloucester Point Beach no person shall swim, bathe, or wade in any waters or waterways in or adjacent to any public area, except in such places as are designated therefore and in compliance with such regulations as are herein set forth or hereafter adopted.

No person shall go in or on any waters or place customarily designated for the purpose of swimming or bathing, or congregate there, when such activity is prohibited by the appropriate county employee.

No person shall erect, maintain, use or occupy on or in any beach or bathing area any tent, shelter or structure of any kind.

(Ord. of 3-5-2002)

Sec. 13.5-25. Boating.

No person shall bring into or operate any watercraft upon any waters designated as a public swimming or bathing area, unless during a sailing regatta or other activity sponsored or authorized in writing by the director.

No person shall tie or secure any watercraft to a marker or piling used to designate a protected swimming or bathing areas.

Water-skiing or using personal watercraft, as such term is defined in Section 29.1-700, Code of Virginia, 1950, as amended, within fifty (50) feet of boat launching areas, piers, cofferdams, docks, mooring areas, or within one hundred (100) feet of designated swimming areas is prohibited.

Operation at Beaverdam Reservoir and Park of any internal combustion engine of any description whatever, especially of a gasoline-powered engine for propulsion of any boat, regardless of size is prohibited. Operation of any wind-propelled vessel, including, but not limited to, a sailboat or windsurfer is prohibited. Operation of any electric motor vessel that has not been licensed by the Commonwealth of Virginia, or, operation of any vessel without a U.S. Coast Guard approved flotation device for each and every person on board is prohibited.

(Ord. of 3-5-2002)

Sec. 13.5-26. Hunting, trapping and fishing.

No hunting or trapping of any type, kind or description is allowed.

It shall be unlawful to fish within twenty-five (25) feet of boat landing areas or designated swimming areas.

(Ord. of 3-5-2002)

Sec. 13.5-27. Sledding and ice skating.

No ice skating or sledding shall be permitted unless authorized in writing by the director.

(Ord. of 3-5-2002)

Sec. 13.5-28. Rules and regulations.

The director shall have the right to promulgate rules and regulations for the operation of public parks and recreation facilities and the activities therein. Such rules and regulations shall be

posted at such park and recreation facility and available for review in the office of the county administrator.
(Ord. of 3-5-2002)

Sec. 13.5-29. Penalties for violations of chapter.

Any person violating any provision of this chapter or any rule or regulation duly adopted hereunder shall be guilty of a Class 2 misdemeanor, unless otherwise specifically provided. In addition, such person may be ejected from the park, building or other facility wherein the violation occurred, or permanently banned from county parks and recreational facilities.
(Ord. of 3-5-2002)

Appendix D Committee Assessment Matrix

DRAFT- Management Concepts- DRAFT

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Residential Property Owners -v- Commercial Pier Use	Homeowner concerns of sight, smell, noise, time of use etc	Commercial pier supports an important part of the economy	<p>**Incorporate areas for commercial piers and working waterfront in long range Comp Plan as both a land use and as preservation of the rural character of the area, economic generator and part of the cultural fabric of the community that needs to be preserved.</p> <p>**appropriate zoning for commercial piers and other water based activities so that the land uses can be separated and buffered. By creating a zone which identifies specific permitted uses, including commercial piers and aquaculture activities the public and adjoining land owners are aware of the potential uses permitted on the site.</p> <p>****Regulate pier use with ordinances; regulate it in terms of the hours of operations, excessive noise levels, pollutants, trash and waste product disposal/accumulation, etc</p> <p>If the pier was in existence prior to</p>	10	2	3

1 DRAFT

DRAFT

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DRAFT

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Residential Property Owners -v- Commercial Pier Use continued	Homeowner concerns of sight, smell, noise, time of use etc	Commercial pier supports an important part of the economy-	<p>zoning and the homeowner purchased the home with the pier already there, then they knew what they were getting into. There is not likely to be a proliferation of commercial pier operations since the seafood industry is in decline, so the system for permitting as it exists is adequate</p> <p>**partnering with state agencies to provide a public commercial pier appropriately located relative to other uses</p> <p>**Lobby state and federal agencies to support commercial piers as a cultural and economic benefit</p> <p>**Similar marketing/ education strategies discussed above to create better understanding and acceptance (tolerance) between uses and users</p> <p>Local government should be focusing on obtaining county owned sites for the commercial waterman to land and tie up their boats</p> <p>We need to maintain what piers we have. Receive recommendations from the homeowners and find some</p>			

2 DRAFT

DRAFT

DRAFT

DRAFT

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
3 DRAFT			compromise that each can live with.			
DRAFT				DRAFT		

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Floating Homes -v Residential Property Owner	I bought this floating house and I can motor it any place I can float it.	Homeowner concerns of wake/erosion, noise, sight, time of use, view shed encroachment, property value loss	<p>Local government should be working to draft an ordinance to prohibit this from being allowed within the county's jurisdiction</p> <p>**Establish no discharge zones to discourage discharge from these and other boats.</p> <p>**Address and evaluate this issue in the Comprehensive Plan relative to the impacts associated with such uses (environmental, traffic, services needed) and determine how and where this use should be permitted if at all and what are the requirements for such uses by local and other agencies.</p> <p>****Enact and enforce zoning that could regulate this use if it is a residential use that will result in impacts to the County that are not addressed by regulating the residence as a "boat".</p> <p>**Lobby the state and federal agencies to also address this issue from their regulatory framework (navigation, clean water act, etc.)</p> <p>Create water zoning to protect</p>	9	4	1

4 DRAFT

DRAFT

DRAFT

DRAFT

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Private pier lights -v- Adjoining Residential Property Owner	It's my pier and I can have a light on the end and it can be a bright as I want	The light from my neighbors pier is lighting up the inside of my house all night long	<p>*****Local government should regulate bright pier lights at night and/or establish dark sky ordinances</p> <p>**Incorporate these issues in the Comprehensive Plan</p> <p>**Lobby the state and federal agencies to support the County in limiting lighting due to the regional and global impacts of excessive lighting on the natural environment.</p> <p>**Local government should stay out of this topic!</p> <p>The county should be involved but must balance the issue of security and vandalism against lighting concerns. Not sure how to do this, but a blanket regulation is not the answer.</p>	6	2	3
6 DRAFT	DRAFT	DRAFT	DRAFT	DRAFT	DRAFT	DRAFT

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Working Waterfront Infrastructure -v- Residential development	We need more places to land our commercial boats and catch	I want that stinky fish house closed down or someone should build condos there.	<p>*****Local government should be proactive in establishing sites and maintaining (and protecting) working waterfronts to preserve the historical/traditional character of the region.</p> <p>Incorporate areas for commercial piers and working waterfront in long range Comp Plan</p> <p>Provide appropriate zoning for existing and future commercial piers and other water based activities</p> <p>Consider partnering with state agencies to provide a public commercial pier appropriately located relative to other uses</p> <p>Lobby state and federal agencies to support commercial piers as a cultural and economic benefit</p> <p>Determine the economic viability of commercial seafood business based their location. If viable, partner with other agencies to provide incentives (like conservation easement or land use taxation, PDR, TDR)</p>	5	3	0

7 DRAFT

DRAFT

DRAFT

DRAFT

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
8 DRAFT			Decide what's going to benefit the county more.			
			A reality in some counties but county budgets are pretty strapped to be buying waterfront property			
DRAFT				DRAFT		
DRAFT				DRAFT		

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Need for more public access -v- Waterfront property owners	I don't have access to the water.	I am all for access, but not on my street. Put it someplace else. I don't want added safety problems	<p>***Hearings should be held and environmental impact studies(and/or impact on surrounding residents should be conducted).</p> <p>The wetlands board should also be involved.</p> <p>**The locality should plan (Comp Plan, CIP, recreational planning, transportation planning) for public access</p> <p>***The locality should support public access to the water and provide public access for a variety of uses appropriate to the location</p> <p>Local Government can take active role in assuring homeowners of the positive side of more access</p> <p>Apply proper zoning for water access and residential areas</p> <p>Establish a fund to purchase adjoining property as buffer between private and public uses</p>	4	2	1

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Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Commercial Waterman -v- Residential Property Owner	Commercial waterman: commercial fishing is part of the economy, we were here before the homeowner, and we have the right to fish and make a living	Homeowner concerns of navigation, safety, time of use, sight, noise, smell, increased commercial fishing activity and property values	<p>**Local government should get involved in "near shoreline" issues where riparian rights are not clearly defined or are in dispute... County government needs to study this further and establish an ongoing committee to monitor and assess</p> <p>wetlands boards need to be involved</p> <p>**** "social" marketing program to educate both sides</p> <p>***use of zoning to create established buffers and separation of uses</p> <p>local govt could allow a home occupation with certain guidelines for new operations</p> <p>**Local government should stay out of this topic!</p> <p>this is a vmrc issue</p>	4	3	3

10 DRAFT

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Issue Area		Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Recreational Fisherman and waterfowler -v- Residential development		The development is going to ruin my speckle trout fishing area or my duck hunting location	I can build homes anyplace I can get a permit to build one	**The wetlands board and the county should conduct environmental impact studies to determine if such issues exist before they authorize permits	3	2	1
				Fully evaluate permit and impact on recreation before allowing homes to be built			
				****The locality needs to plan for development so that it is properly located and the impacts to water quality are minimized and continue to enforce the performance standards already in place to protect water quality; (have zoning for building permits)			
				Local government should zone areas to allow for "green space" – undeveloped lands			
				***The county can look to use certain tools to limit new development without taking away all property rights (con easements, PDRs, TDRs, etc)			
				** Establish a fund to purchase sensitive areas			

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11 DRAFT

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Public Trust Uses and Resources -v- Residential property owner	Public has right to enjoy public resource in all public water areas	Private property: I paid a lot of money for my property and view. I want to control who and when people use public water areas.	<p>**Local government should regulate all activities on shore and anything connected to the land such as boat ramps and public piers. There should be reasonable hours of operation and prohibitions against excessive noise, disorderly conduct, loitering, etc.</p> <p>Neither view is correct. There is no general action that can be taken. Instead, the balance must be struck based on the specific conflict.</p> <p>**Local government should stay out of this topic!</p> <p>Educate the public that they bought waterfront property, but they didn't buy the water. Waterfront Homeowners Guide and/or a Waterfront Users Guide.</p> <p>Create water zoning to protect residential waterfront property owners and public interests. Realize that aquaculture limits public access to public water areas as well</p> <p>Insure all public water areas are clean and they should be monitored for any misuse, neglect, loitering, etc.</p>	2	2	1

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Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Motorized and non motorized boater (jet ski, water skiing Canoeer/ Kayaker) -v- Residential property owner	I have a right to take my watercraft on public waters anytime and anyplace I chose	Homeowner concerns of wake/erosion, safety,	<p>**Motorized watercraft present a far greater hazard than kayaks and canoes and should be regulated by the county or the wetlands board where there is an erosion issue. Accidents should be dealt with in local courts. Documented and ongoing safety issues should be dealt with by local government with restrictions on areas in which they can operate.</p> <p>***Establish no wake (or other, ie no jetski) zones</p> <p>**Educate all users about conflicts and "rules of the road" for watercrafts</p> <p>***Safety on the water is a coast guard/marine police issue. Erosion is a VMRC/local wetlands board issue.</p> <p>Local government should stay out of this and let state and federal laws govern</p>	2	5	1

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Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Public Fishing Pier -v- Adjoining residential property owner	I don't have waterfront access. This pier is all I have	Homeowner concerns of safety, time of use, sight, noise, smell, increased loitering	<p>****Local government should regulate it in terms of hours of operation and enforcement of county laws pertaining to disorderly conduct, public drunkenness, loitering, excessive noise and cleanliness.</p> <p>The locality should identify current and future locations for public piers in its comprehensive plan to allow purchasers of property to know exactly what they are buying. The County should establish a fund for the purchase of adjacent property to serve as a buffer between the public and private uses. The fishing pier at Gloucester Point is a good example</p> <p>**Local government should be supporting public fishing piers when and where appropriate</p> <p>education of adjoining property owners and the users these rules will go a long way in avoiding conflict.</p> <p>**Local government should control this with zoning</p> <p>**Should be a joint VMRC/local permitting issu</p>	2	2	1

16 DRAFT

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Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Commercial Fishing Equipment -v- Recreational use	I have just as much right to crab or fish here as you have to boat here	I can't safely boat or swimmers around crabpots, cages and nets etc	<p>**This is probably the domain of the VMRC but the local courts should get involved if there is destruction of property, vandalism or threats/assaults.</p> <p>*****Local government should stay out of this topic (and/or let VMRC handle/take lead)</p> <p>Education again is an important component for protecting the safety of those boating or swimming near commercial fishing equipment.</p> <p>**Create water zoning to protect recreational uses.</p>	2	2	1

17 DRAFT

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Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Waterfowling -v- Residential property owner	I have a right to waterfowl and build blinds where I can legally build one	Homeowner concerns of sight of duck blinds, guns, dogs, time of gunning	<p>*****Local government should not be involved (and/or other agency/regulation handling)</p> <p>I am not sure this is a problem</p> <p>educate the public about this use and the rights of the public to use the water for hunting</p> <p>Ensure safety of homeowner. Create ordinances that limit the size and duration of duck blinds in public water</p> <p>The county has the rights to regulate arms used to hunt. As long as they are not trespassing it should be a game warden issue.</p>	1	2	3
18 DRAFT	DRAFT	DRAFT	DRAFT	DRAFT	DRAFT	DRAFT

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Commercial Fishing Equipment -v- Recreational use	Commercial waterman's concerns of damage to cages or nets. Who is going to pay me for my lost or damaged equipment	Get that stuff out of here. I boat and swim here.	<p>***Local courts will settle such disputes if damages to equipment are involved.</p> <p>**Not traditionally a problem (but now too many crabpots)</p> <p>**The locality should work with the state to identify areas of the Bay where aquaculture can be located, preferably areas that are good for aquaculture with minimal impacts to property owners and navigation.</p> <p>Local land use planning could then be used to protect those areas (the zoning proposal on the Eastern Shore is a good example).</p> <p>**If necessary, locality should seek to zone waters within its jurisdiction to identify and enforce these aquaculture zones. (w/VMRC)</p> <p>**Local government can work with VMRC to manage/enforce</p> <p>The state and localities need to prepare for the possibility that aquaculture "takes off"</p>	1	4	0

19 DRAFT

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Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
20 DRAFT			Local government should stay out of this topic!			
20 DRAFT	DRAFT		DRAFT	DRAFT		

Issue Area	Perspective 1	Perspective 2	What should local government do?	High Priority	Med Priority	Low Priority
Duck Blinds -v- Commercial fishing	DGIF gave me a permit to build this duck blind and I am building it here	I use that area for aquaculture, you cant duck hunt here	<p>Not a problem</p> <p>*****Local government should stay out of this topic/this is domain of different entities (DGIF, VMRC, individuals, etc)</p>	0	0	4

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Appendix E Maine and Maryland Conflict Management

Moosabec:

*the Downeast fishing community
of Beals and Jonesport*



*A Working Waterfront
for over 200 years –
facing the changes
of the next century...*

This is not a promotional brochure.

Skyrocketing real estate prices tell us what we already know: this idyllic part of the coast has been found and change is upon us.

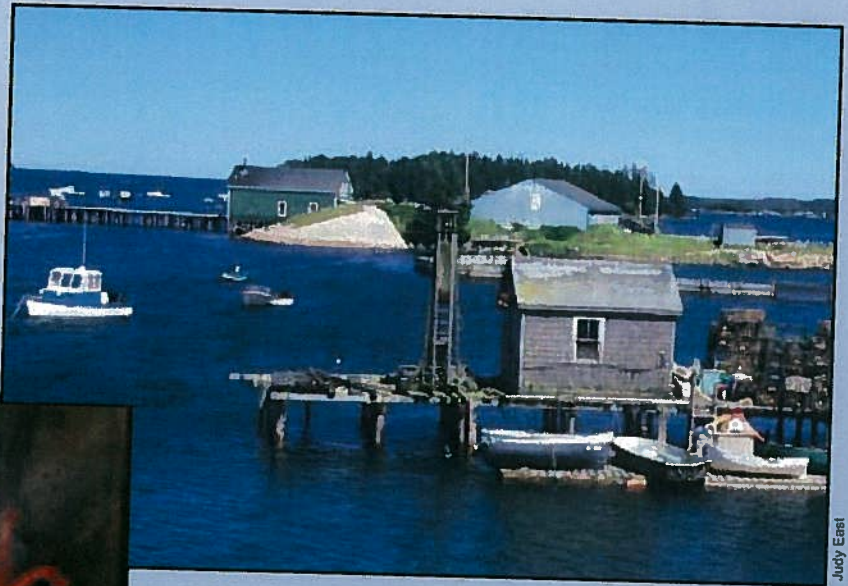
While we have limited ability to influence some changes — federal fishing regulations, escalating property taxes, state tax laws or the pressure of a retiring population drawn to our scenic corner of the world — recent community surveys reveal that the authentic Moosabec fishing community is something valued by long time residents and newcomers alike. Many agree that “preserving the area’s beauty and traditional way of life is top priority.”

As change envelops us, we wish to preserve the things we cherish about our community and need for our livelihoods: access to our shores and a viable working waterfront. This brochure seeks to develop constructive relationships to work out our differences in a direct and respectful way.



What is an authentic
fishing village?

The tourism and real estate
brochures tell one story: the
sight of sparkling water
and the imagined taste of
fresh lobster on the plate.



Judy East



*What does it really mean to live year
round in a working fishing community?*

*A true appreciation calls not just on
sight and taste but on all five senses...*

Sounds

Like songbirds, diesel engines all have their own unique sounds. Can you tell the difference between the high whine of a Detroit or the low rumble of a Caterpillar? Both are used on fishing boats. The International engine of the local school bus will rumble through the neighborhood at about 7 a.m. But your local fishermen will be headed for breakfast in a cold pickup and a cloud of blue smoke, with a *hoa hoa chicka chicka chong* rumble clatter at 4 a.m. And that might start the neighbor's dog barking...and then your dog to respond...

After the rest of us get up, there are the gulls that pull apart your compost pile, steal chicken off the outdoor grill, and generally shriek their disapproval while depositing their "business" on your deck furniture.

What do you like and what would you preserve about this place?



Natalie Springuel

I would preserve ... *"The heritage and rustic beauty of a functional seaport and active (even at 4 a.m.) fishing village."*

Sights

A working waterfront has people in it. The tools of their trade are evident everywhere you look. It is not a place of manicured lawns and carefully landscaped gardens. While many take pride in their homes, there is still a lot of stuff around: traps, drags, boats, engines, blocks, winches, and assorted fishing equipment. Also, in front of costly shorefront property, the clam and worm diggers will be working the flats when the tide is out. Beyond this buzz of activity will be the island-studded coast and a fleet of boats working the water.



Nancy Beal

I like that *"It's an authentic fishing village for people whose living comes from the sea."*

Smells

In addition to the salty summer breezes and the aroma of spruce and fir, there are other odors at the more pungent end of the spectrum. While it may wrinkle your nose, to fishermen the smell of bait is the smell of money. Fish waste, clam shells and salmon pens contribute to the bouquet. And the fumes of diesel exhaust provide a constant reminder that this community is at work getting a product to market and food onto the table.

Touch

At times the night sky is so thick with stars you think you can reach out and touch them. At other times, the air is so thick with fog you can cut it with a knife. This "Downeast air conditioning" arrives pretty regularly in the afternoon or early evening. Sometimes it lasts all day - or all week. Like the typical car commercial, the travel photos are all shot from newly paved roads. After a few wheel alignments, cracked windshields from driving over gravel roads, and ever-higher tax bills to pay for road repairs, you will be well acquainted with the tough decisions of a rural balance sheet: pavement or gravel? full-time or part-time police protection? garbage pick-up or pay-as-you-throw?

Tastes

The tang of the salt air reaches your lips while you comb the beach for shells, but if you do not conserve fresh water, salt water will be pouring from your tap as well. Beals especially, but coastal Jonesport as well, has a very shallow aquifer of freshwater from which we all drink. It will sustain a community's necessities but it will not sustain suburban lawns, daily car washes or other luxury practices. Learn to conserve water (www.waterconserve.info/) and enjoy fresh water into the future.



I like that ... "the economy revolves around fishing."

And that sixth sense -

Intuition...Character...Relationships.

The roads of a small community get us from Point A to Point B, but the rules of the road are different. Parking signs are often ignored. Cars and trucks are often stopped (yes, in the middle of the road) for a quick chat, to discuss the catch, to plan the next morning's departure, and then to move along home. Very large boats may be in transit down the middle of the road. Don't blow your horn. Just slow down, weave around the community obstacle course and give your neighbors a wave.

How do you see this community in the future?



Nancy Beal

I hope that ... "it stays the working village - and not become 'another' coastal village for the 'rich'."



Nancy Beal

I want to preserve ... "the freedom to get to the shoreline and be able to walk it."

Private property rights are important, but getting along with the community in which you live is just as critical. The private landowner can always exert final authority and POST, but think about the neighborly alternatives first.



Sarah Glodu

In towns where families have lived for generations, people looked out for one another. If a boat broke from its mooring, the first reaction was to help secure it and find its owner. Too often now, however, community care has been replaced by liability insurance. Those who might have helped in the past are reluctant to get involved because they might get "blamed" and, increasingly, are posting their wharves.

This kind of tear in the fabric of a community often comes with change. It is associated with lack of trust on both sides.

Building trust takes time and energy, the energy of reaching out and communicating. Newcomers are welcomed to the community, but cautiously. Those who live and work here want to protect what is special about it and what sustains them. Those who have joined the community most successfully are those who learn about it, appreciate it, and participate in it. In the face of change, liability, and litigation we still need informal relationships to perpetuate sharing of community resources and to build bridges and understanding among ourselves.



How do you see this community in the future?

I see ... "A thriving marine-based economy consisting of fishing, fishing-support businesses, aquaculture, and a small tourist population."

All quotes in this brochure
are taken from the
community surveys in
the Comprehensive Plans
of Beals (2002) and
Jonesport (2003).

Written by:
Judy East, Washington County
Council of Governments, and the
Beals-Jonesport Working Waterfront
Brochure Committee

Design and layout by:
Cheryl Daigle, Maine Sea Grant

*Photos by Cheryl Daigle except where
otherwise indicated.*



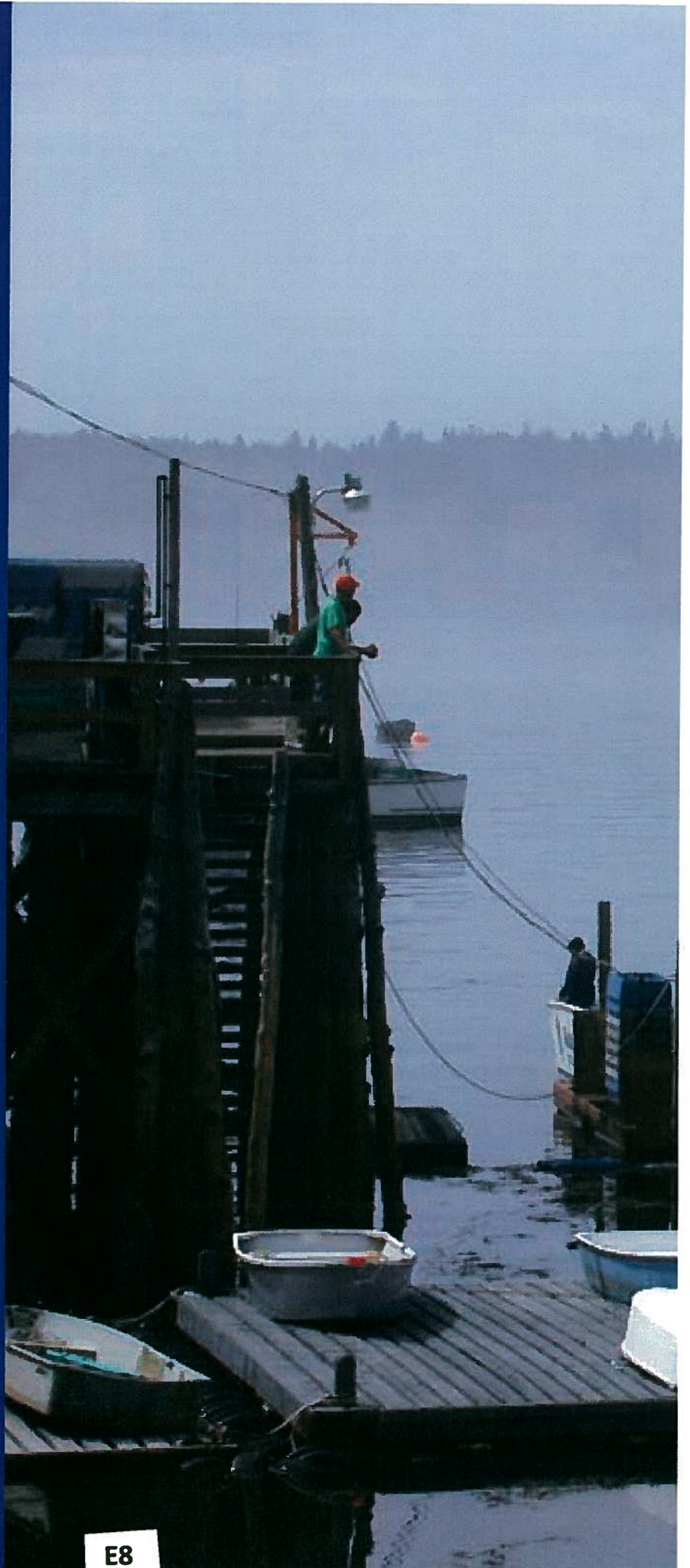
Washington County
Council of Governments



A member of The University of Maine System

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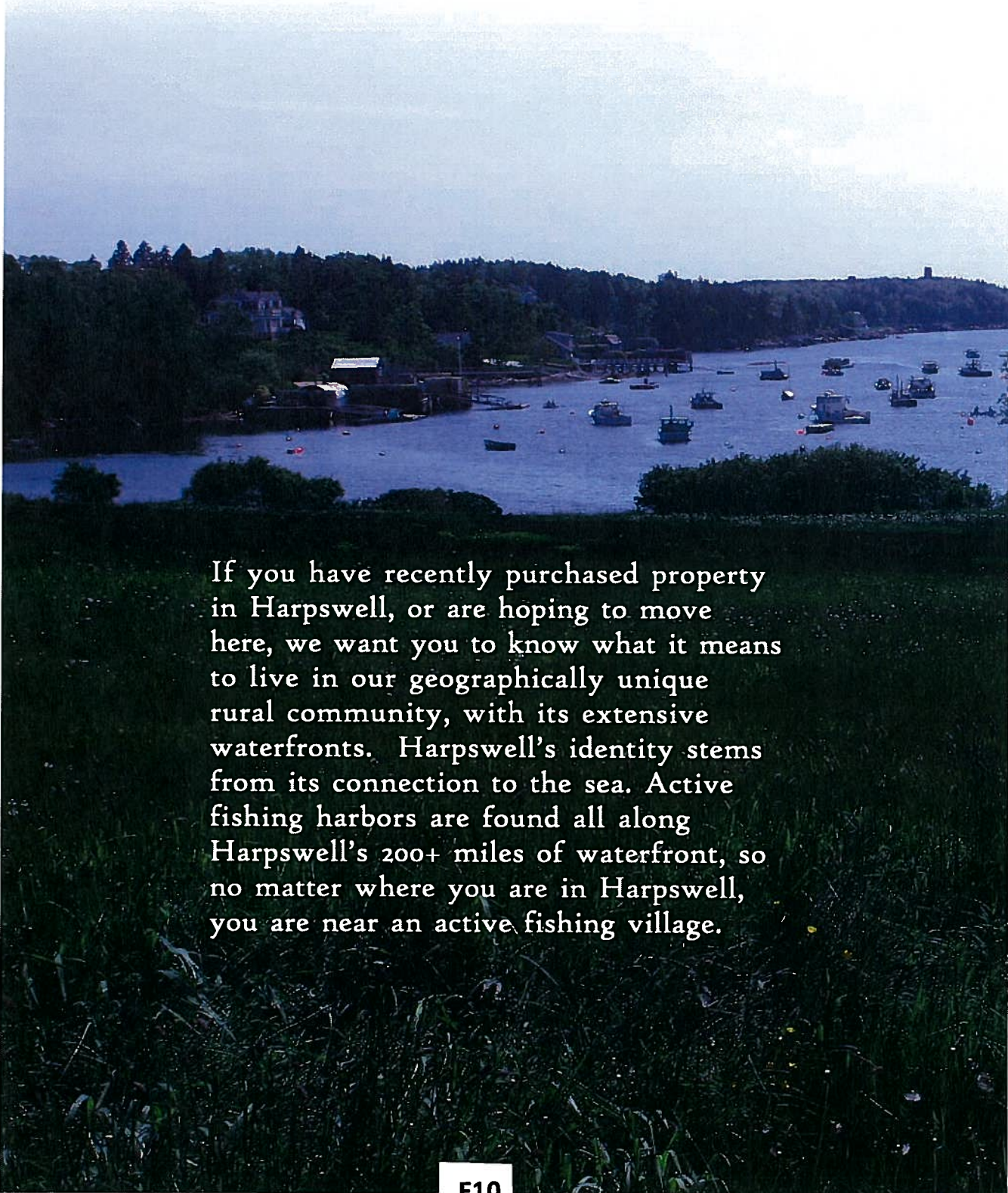
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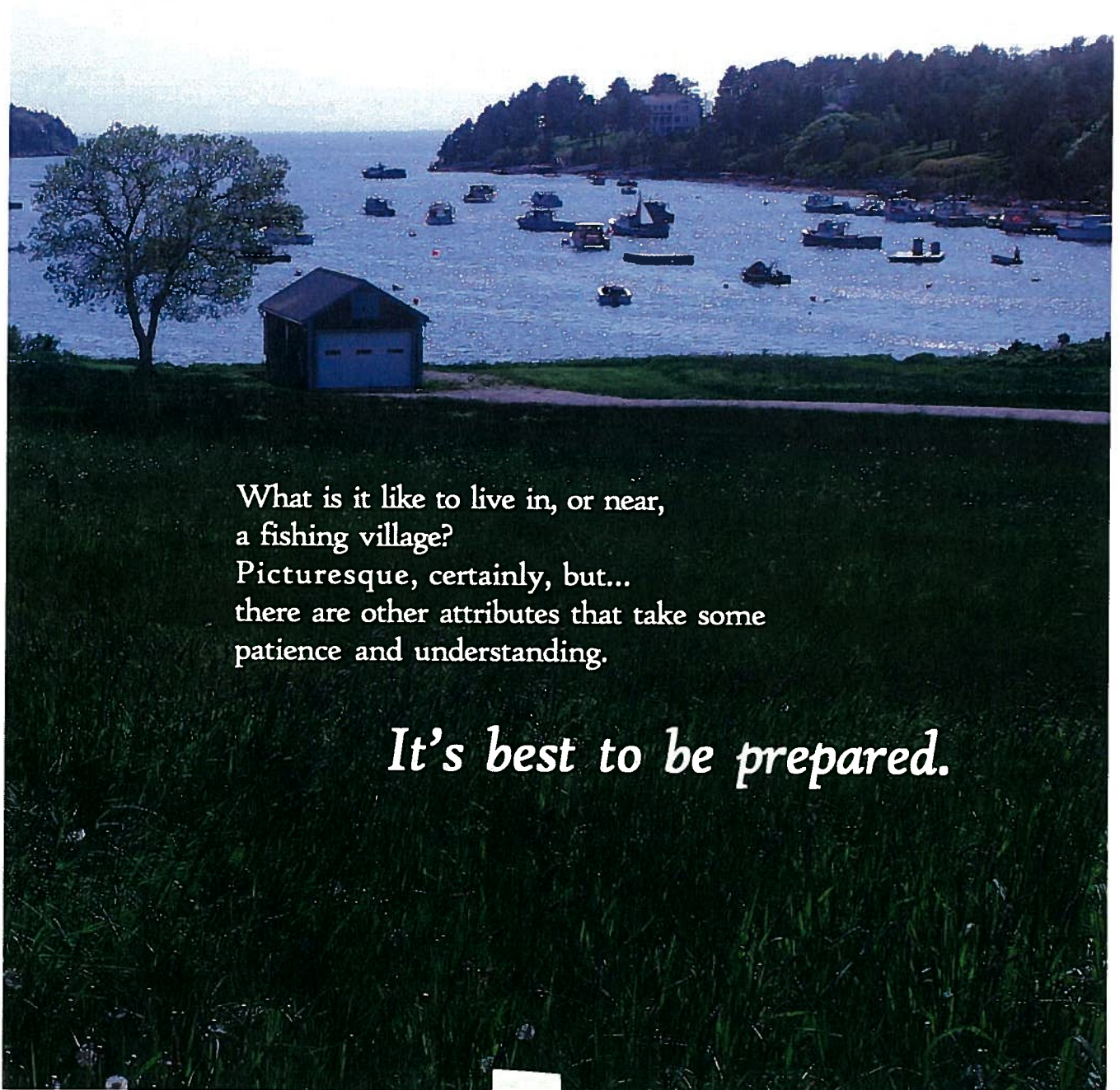
Harpswell's working waterfronts

A realistic look at Harpswell ...



If you have recently purchased property in Harpswell, or are hoping to move here, we want you to know what it means to live in our geographically unique rural community, with its extensive waterfronts. Harpswell's identity stems from its connection to the sea. Active fishing harbors are found all along Harpswell's 200+ miles of waterfront, so no matter where you are in Harpswell, you are near an active fishing village.

a working community
with a fishing flavor.



What is it like to live in, or near,
a fishing village?
Picturesque, certainly, but...
there are other attributes that take some
patience and understanding.

It's best to be prepared.

Sights

In the 1800s, the shores of Harpswell developed with small homes close together in villages. Constant reminders of our past and present maritime orientation are seen throughout town where boats and fishing gear – traps, nets, engines, blocks and tackle – are stored in yards. Often at night, lights are required on boats while generators are running to keep equipment operational for early morning departures. Stored fishing gear and overnight lights are among the aesthetic elements of authentic working waterfronts.



Bernice Kenney



Sounds

The fishing day begins early, really early. At 3 a.m. the trucks and then the boats rumble or roar into life. At all hours trucks loaded with lobsters head for the marketplace, wasting no time on our narrow, winding roads. Competing with the shrieks of gulls and the distinct calls of ospreys, the sounds of diesel engines, outboard motors, and heavy equipment in use on the docks may be heard throughout the day – and night. Recreational boat noise adds to the mix, while the faraway sound of a foghorn may actually be comforting.

Smells

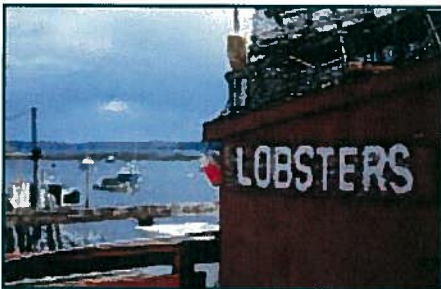
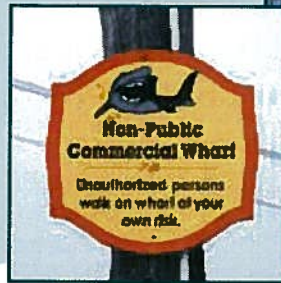
The smell of salt water and mudflats hangs in the air, sometimes overwhelmed by the pungent odor of bait. Lobster traps drying on shore emit the odor of attached decaying marine organisms. Barrels waiting to be filled with salted fish line the docks, a reminder that it takes bait — and work — to catch the lobsters and fish dinners we enjoy. Working waterfronts have their smells, there's no escaping that fact. To the fishermen, it's a sweet smell of money. In Harpswell, 50% to 60% of local jobs are fishing related.



Touch

What comes to mind about the feel of a working waterfront? The rough uneven surfaces of the old docks and wharves, the rolling waves under the floats, and the unpaved, often muddy or dusty approach to the waterfront.

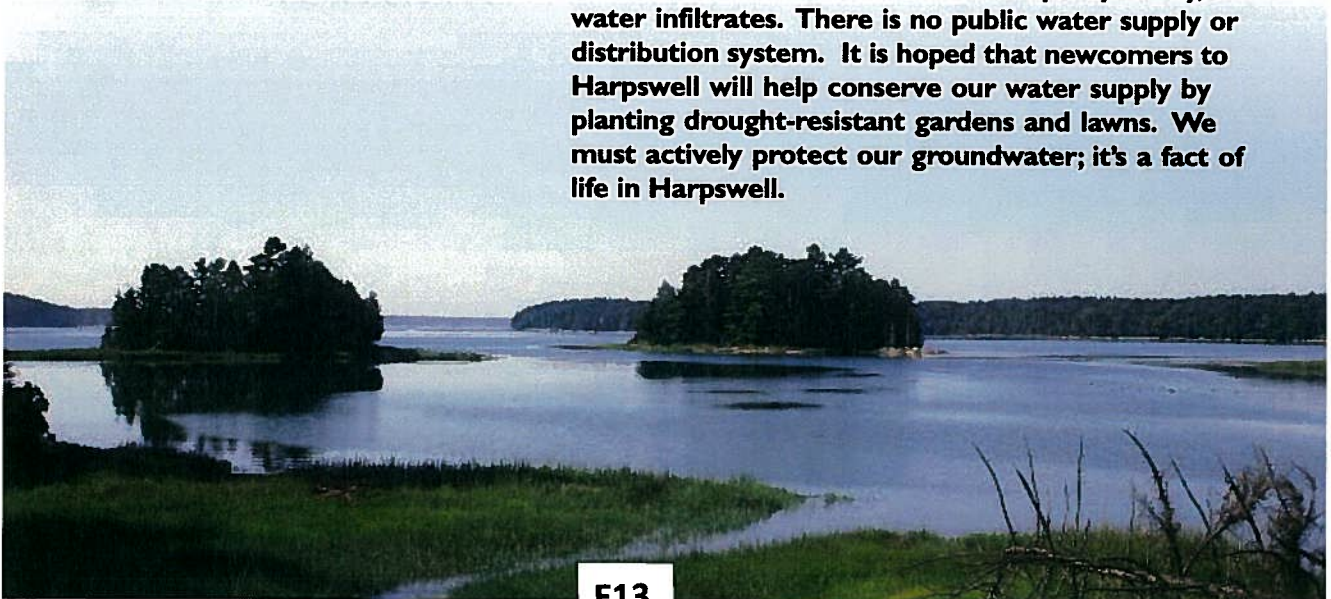
Informal parking areas, if they exist, are likely to have a haphazard arrangement. With limited land available, there is competition for the few parking spaces. Remember that most working wharves are privately owned, so permission to visit is required.



Wolfe Tone

Tastes

In addition to the joys of fresh fish, clams, and lobsters, we appreciate the critical importance of clean water – both salt water and groundwater. This is one of the most important facts to understand: our villages sit atop a fragile water supply. Harpswell's groundwater comes only from rain and snow; there is no deep aquifer or reservoir. When wells are pumped dry, salt water infiltrates. There is no public water supply or distribution system. It is hoped that newcomers to Harpswell will help conserve our water supply by planting drought-resistant gardens and lawns. We must actively protect our groundwater; it's a fact of life in Harpswell.

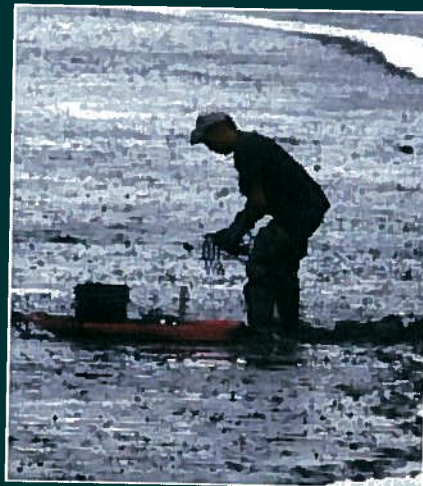




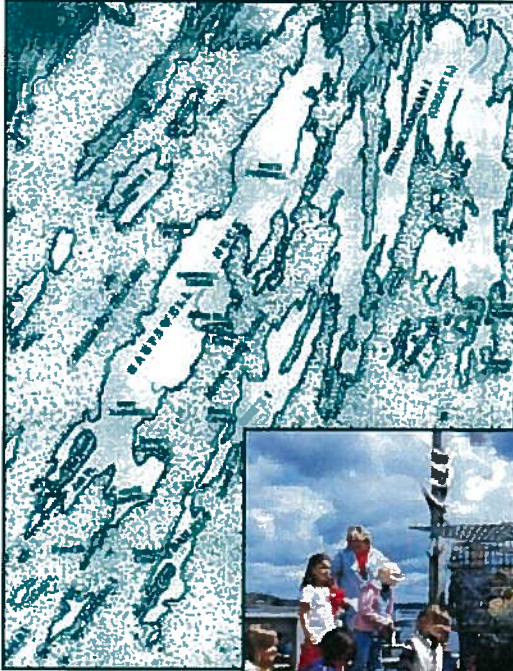
And a sixth sense: Common sense.

Harpswell's heritage and character are defined by a commitment to the fishing industry. We recognize the value of our natural resources. We know we must protect our shores. After all, everything runs downhill and into the ocean; we cannot let fertilizers or oil spills or other contaminants drain into the coastal waters. Harpswell has voted to restrict certain pesticides that are known to impact shellfish.

We also must protect the vitality of our community character. We want to maintain the character of our older waterfront neighborhoods with small-scale waterfront homes. We would like to preserve the traditional access to the waterfront over private lands. Water access is considered to be the most important factor in sustaining the fishing industry. Critical rights of access to the waterfront are often based on custom, not on legal grounds. Too often these traditional access points are closed off without any warning, thus straining the fabric of our community.



While we welcome new residents to Harpswell, ensuring that the fishing industry continues to thrive matters to us. Please take the time to understand the traditional uses of your waterfront property and what it means to the community. We encourage dialogue and exploration with your neighbors about the use of traditional access points.



Wolfe Tone

What else should we tell you? We want you to know what it means to live in our rural community. What does "rural" mean to you? clean living? healthy environment? slower pace of life? independent folks? perhaps old-fashioned ideas or standards? We hope that is why you have been drawn to our community. Rural also means that Harpswell has none of the traditional town or city services; we take care of each other — our wells, septic systems, recyclables, trash, transportation, and volunteer fire and rescue protection. We vote at town meeting on every penny to be spent, or not spent.

Living in Harpswell means taking responsibility for each other ... it often requires strength of character. The residents of Harpswell wish to keep our rural and peaceful atmosphere, preserve the natural environment, and remain home to young and old, fishing families and business leaders, old-timers — and newcomers. We hope you do, too.



This brochure has been developed at the recommendation of the 2005 Harpswell Comprehensive Plan with the assistance of Maine Sea Grant and the support of University of Maine Cooperative Extension and the Maine Coastal Program at the State Planning Office. We are grateful to Judy East for the brochure's framework around the sensory experiences of a working waterfront, and to Cheryl Daigle for the elegant layout and design.

Photos by Elsa Martz unless otherwise noted.



A member of The University of Maine System

Published and distributed in furtherance of Acts of Congress of May 8 and June 30, 1914, by the University of Maine Cooperative Extension, the Land Grant and Sea Grant University of the state of Maine and the U.S. Department of Agriculture cooperating. Cooperative Extension and other agencies of the U.S.D.A. provide equal opportunities in programs and employment.

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§ 126-5. Right to operate seafood industry and real estate transfer disclosure.

A contract or an addendum to the contract of sale for any real property in Dorchester County shall contain in conspicuous type the following disclosure statement:

RIGHT TO OPERATE SEAFOOD INDUSTRY REAL ESTATE TRANSFER DISCLOSURE

Notice To Buyer

DORCHESTER COUNTY ALLOWS SEAFOOD INDUSTRY OPERATIONS (as defined in the Dorchester County Seafood Industry Right to Work, Chapter 126 of the Dorchester County Code). You may be subject to inconveniences or discomforts arising from such operations, including but not limited to boats leaving and returning at different hours of the day, odors, fumes and noises associated with the maintenance of boats and any and all other equipment, noise, smell and presence of machinery and equipment associated with commercial seafood operating at various hours, including but not limited to workers, boats, generators, refrigeration, ice making, refrigerated trucks, chum trucks, all other trucks, boilers, steam generators, boats, cooking, fork lifts, heating equipment, cooling equipment, soft crab shedding equipment and lighting. Dorchester County has determined that inconveniences or discomforts associated with such seafood industry operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted seafood industry practices. Dorchester County has established a reconciliation committee to assist in the resolution of disputes which might arise between persons in this County regarding whether seafood industry operations are causing an interference with the reasonable use and enjoyment of land or personal well-being and whether those operations are being conducted in accordance with generally accepted seafood industry practices.

Seller: _____

Date: _____

Seller: _____

Date: _____

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT:

Buyer: _____

Date: _____

Buyer: _____

Date: _____

IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

Appendix F: Shellfish Aquaculture – Conflict of Use Issues

Shellfish Aquaculture – Conflict of Use Issues

Growing oysters in metal cages that rest on the river bottom in shallow water is a relatively new industry to the Chesapeake Bay, with the exception of the pioneering work done by Chesapeake Corporation. Chesapeake Corporation during the 1930's and 1940's developed and experimented with techniques for off-bottom oysters growing. Chesapeake Corporation had 11,000 tar dipped baskets which rested on creosoted sills that stretched over three miles at the mouth of Queens Creek on the York and the Rappahannock Rivers.

Today, as with any new water use, there have been conflicts between the new aquaculture industry and other users of the shoreland or riparian zone. These conflicts were a major, if not primary, factor that motivated several persons to serve on the York River Use Conflict Committee. As a result, aquaculture was a primary focus of the Committee, and a great deal of time and energy was spent discussing it. The Committee ultimately decided to take no position on aquaculture for the reasons discussed below. However, the Committee wanted to preserve its discussions, which were useful and enlightening.

The number of oysters in the Chesapeake Bay is at historic lows. The oystering industry has been decimated. Much effort and money has been spent trying to revive the oyster population but little progress has been made. Oyster aquaculture may be a part of the solution.

The process involves taking seed oysters and placing them in open metal cages, often 4 feet wide, 8 feet long and 1-2 feet high. The cages are placed in shallow water on sandy, but firm bottoms. The cages are usually marked with buoys that float on the water surface. From time to time, the cages are lifted from the water by a hoist on a barge and cleaned. When the oysters grow to market size, they are harvested and sold. It takes about 52 weeks for a seed oyster to grow to market size, whereas an oyster in the wild takes one- three years to reach market size.

The aquaculturist leases the bottom lands from the Commonwealth. Such leases are controlled by the Virginia Marine resource Commission (VMRC) and are governed by Virginia law. The public has an opportunity to comment on proposed leases and neighboring landowners are given notice. A person can lease up to several hundred acres.

Several of the Committee members are waterfront property owners or boaters and acknowledged conflicts between the aquaculturists and other users of the waters and with landowners. While all of them support aquaculture and Bay restoration, they are concerned about the impacts on the waterfront from the oyster operations. The landowners claim that the cages can block their access to the river channel, the buoys are unsightly, the lifting and cleaning operations are noisy and annoying, and their use

of their piers and shoreline is diminished. Recreational boat owners claim that the cages and buoys present a navigational hazard, especially at night, and that the number and scope of cages in an area effectively precludes boating and fishing.

A major concern is that if the industry becomes more successful, large scale operations could be installed with literally thousands of cages. The Committee reviewed information about other aquaculture industries around the world that have expanded in size and impact to become major industrial operations taking place on or in the water. Although difficult for some to imagine based on the small scale of current aquaculture operations in the Bay, the possibility of multiple and large operations across the Bay caused deep concerns for several Committee members.

In response to this new industry, landowners and boaters have opposed permit applications before the VMRC and lobbied their state and local representatives to limit the activity. Prior to the formation of the York River Use Conflict Committee, Gloucester County and MPPDC held several public meetings to discuss and receive comments on the issue. MPPDC wrote a letter to VMRC dated November 1, 2006 requesting that VMRC place a moratorium on the issuance of all water column lease permits of greater than 12 inches until such time as the issue has been thoroughly studied and public policy has been developed to support the issuance of such permits.

The York River Use Conflict Committee includes the leading aquaculturists in Gloucester County, if not the State. Several have been in business for many years. They strongly believe that their operations are good for the environment and represent a critical part of the solution to restore the oyster population in the Bay. They view themselves as continuing the historic use and traditions of the Bay area and Gloucester County by earning a living from the water. Their business is no different from crabbers, fishermen and oystermen who came before them and still operate on the Bay.

Their perspective is that new landowners buy waterfront property unrealistically expecting an idyllic and peaceful setting free of any commerce. Such landowners are unwilling to accept or tolerate any commercial uses. As land prices rise, so do landowners' expectations. As working waterfronts and activities dwindle, they are being squeezed out of the community. They believe that they are already over-regulated, having to get various permits and authorizations to run their business.

The aquaculturists currently believe that the industry is unlikely to grow into the large operations feared by other Committee members. The work is hard. Profits can be slim depending on Mother Nature. Suitable areas on the Bay are limited.

The Committee was offered a tour of one business and a trip out by boat to view a set of other cages. The Committee was visited by Jack Travelstead, Deputy Commissioner & Chief, Fisheries Management at VMRC. He discussed the issue from the regulatory perspective and introduced the Committee to the then proposed regulations of VMRC

governing aquaculture. Committee members had an opportunity to ask questions and to provide their comments to VMRC on the proposed regulations. Final regulations were approved in 2007. *See* 4 VAC 20-1130-10 *et seq.*

All of these issues were discussed in detail. It is fair to say that the end of the discussions, the various parties came to understand the perspectives of each other. A level of trust was established whereby the parties viewed themselves less as adversaries but instead simply co-users of the water that should be able to co-exist as long as all sides are willing to compromise and act reasonably. Education about the various uses and concerns was viewed as a critical part of the process.

In the end, the Committee decided to recommend no action regarding aquaculture. Instead, the Committee recommends that the County continue to monitor and evaluate the situation. This will allow the parties time to determine the affect of VMRC's new regulations based on actual experience. Moreover, the industry is relatively new and still developing. It will surely respond to the regulations, economics, and the concerns of other water uses and government entities and agencies. In the future, the County and its residents will be in a better position to determine what, if any, actions the County should take regarding aquaculture related use conflicts.

Appendix G Use Conflict Case Studies

Attachment 5

Use Conflict Case Studies throughout the Country

1. Example of zoning to manage use conflict within the Florida keys.
<http://floridakeys.noaa.gov/regs/zoning.html>
2. Framework for using zoning and a rationale for why zoning is a tool to manage use conflict <http://www.olemiss.edu/orgs/SGLC/zoning.htm>
3. Public policy developed by a local govt to manage marine area to preserve working waterfront using a variety of local tools.
<http://www.sfrpc.org/data/mcmmmsp/MartinOrdinance.pdf>
4. Example of water surface use zoning
<http://www.dnr.state.mn.us/regulations/boatwater/surfaceusezoning.html>
5. Example of state and local govts using code to address specific use conflicts
<http://www.newrules.org/environment/noiseJetski.html>
6. Establishment of a Water Use Zoning Team by a Florida local government.
<http://www.alachuacounty.us/assets/uploads/images/PW/reports/WUZ.pdf>
7. Example of Seattle establishing a waterward development line to regulate floating home subdivision <http://www.seattle.gov/dclu/codes/dr/DR1999-16.htm>
8. Monroe County Marine Management Strategic Plan
<http://www.sfrpc.com/mcmmmsp.htm>
9. Seattle Zone code regulating floating homes subdivisions
http://www.rha-ps.com/rha_landlord_tenant_act-Seattle.aspx#SMC_7.20.020

