

TOWN OF MACHIASPORT

COMMERCIAL AQUACULTURE LICENSING ORDINANCE

ARTICLE I. GENERAL

1. Title

This Ordinance shall be known and may be cited as the “Town of Machiasport” Commercial Aquaculture Licensing Ordinance.”

2. Authority

This Ordinance has been prepared and adopted pursuant to the enabling provisions of Article VIII, Part 2, of the Maine Constitution, the provisions of Title 30-A M.R.S. § 3001 (Home Rule), the Comprehensive Planning and Land Use Regulation Act, Title 30-A M.R.S. § 4301, *et seq.*, and Title 38-A §§ 1-13 (Harbor Masters).

3. Purposes

The purposes of this Ordinance are:

- A. To protect the Town of Machiasport’s fishing and clamming industries;
- B. To promote the health, safety, and general welfare of the residents of the community and to conserve natural resources;
- C. To support the Town of Machiasport’s Comprehensive Plan; and,
- D. To establish an aquaculture licensing program for the Town of Machiasport which will ensure the protection and optimum utilization of aquaculture resources cultivated or processed within its boundaries; ensure impacts from aquaculture activities are adequately identified, evaluated, and addressed; minimize the conflict among fisheries and functionally water dependent uses and transportation; minimize the environmental, ecological, and economic impact of aquaculture activities.

4. Applicability

- A. The provisions of this Ordinance shall govern all activities directly related to commercial aquaculture and those activities commonly associated with or supportive of commercial aquaculture activities. No person shall engage in commercial aquaculture without first applying for and obtaining a license, as required under this Ordinance.
- B. Uses existing or for which approval has been requested and substantially complete at the time these regulations came into effect and that are otherwise lawful are not affected. If such uses are discontinued for more than 6 consecutive months or are substantially destroyed or expanded, they may not be reestablished except in accordance with the provisions of this Ordinance.
- C. This Ordinance applies to all commercial aquaculture activities involving aquatic animals and aquatic plants.
- D. Any Aquaculture activity within the Town or Machiasport or its waters, is required to obtain

a license under this Ordinance.

5. PROHIBITED ACTIVITIES.

The following activities are prohibited by this Ordinance:

- The construction and/or expansion of a Coastal Waters Aquaculture Facility (including the placement of any structure associated with such facility below the normal high-water line or over or within Coastal Waters) that is not in compliance with the requirements of this Ordinance.

6. ISSUANCE OF PERMITS

- A. There will be only one (1) active and approved commercial aquaculture permit operating within the Town of Machiasport at any given time.
- B. Aquaculture permits issued by the Town of Machiasport are non-transferrable.
- C. Any aquaculture permit issued under this ordinance will be an industrial/commercial permit.
- D. Any aquaculture permit issued under this ordinance will be valid for five years from the date of issuance. Any aquaculture entity existing in Machiasport at the time of town approval will be issued a permit as of the date of town approval.
- E. Any aquaculture permit issued under this ordinance may be revoked by the Planning Board, if any permittee fails to meet the water quality standards required under the permittee's state Maine Pollution Discharge Elimination System (MEPDES) permit.
- F. All aquaculture permit applications must include an approved Army Corps of Engineer (ACOE) Section 10 Permit. The Permittee's Section 10 Permit must include a fully completed Public Interest Review (Attachment).¹
- G. Any Permit Holder must submit quarterly reports to the Town of Machiasport which provides documentation that the Permittee is in compliance with Section 3-2-F.
- H. The renewal process must be started at least 6 months prior to permit expiration to ensure there is no lapse in permit.

7. Definitions

For this ordinance the following definitions will apply.

"Aquaculture" is the land-based or marine-based controlled cultivation of aquatic animals and plants including breeding, raising, and harvesting in all types of water environments and controlled conditions.

"Aquaculture waste" means the weight of material created by the aquaculture activity including, but not limited to, uneaten feed, fecal droppings, and aquatic animals that die.

"Aquatic animals" means all life stages of fish, mollusks, and crustaceans.

¹ See <http://www.lrl.usace.army.mil/Portals/64/docs/regulatory/Permitting/PermittingProcessInformation.pdf> (accessed April 5, 2018)

“Aquatic plants” means plants that grow in water, whether rooted or floating without an anchorage.

“Bottom culture” means a system in which organisms are placed directly on the sea floor.

“Catch” is the total weight of fish killed by the act of aquaculture operations. Catch includes all fish killed by the act of aquaculture operations, not just those processed.

“Commercial Aquaculture” is any aquaculture business with more than 2 employees.

“Expansion” means the expansion of the capacity of an existing facility associated with a capital improvement to serve new development. The term does not include the repair, maintenance or modernization of a capital improvement or facility. It does include the enlargement or addition of land based structures, an increase in the number of moorings required by the business and/or an increase in the number or size of water based pens.

“Functionally water dependent uses” means those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters.

“Harvest” means the total pounds of aquatic plants collected for processing over a period of time.

“Landings” means the weight of fish offloaded at a dock. Landings are reported at the locations where fish are brought to shore.

“Substantially destroyed or expanded” means property where either the land or other facilities sustain physical damage amounting to more than 50 percent of the value of either the land or the facilities before the damage was sustained.

“Suspended method” means a system in which organisms are grown on beaches or suspended in water on ropes, plastic trays, or in pens.

8. Conflicts with Other Ordinances

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

9. Validity and Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

10. Effective Date of the Ordinance and Ordinance Amendments

The effective date of this Ordinance is the date of adoption by a vote at the Town Meeting.

11. Amendments

- A. Amendments of this ordinance may be initiated by the Planning Board, or as specified in Title 30-A M.R.S. § 2522.
- B. No proposed amendments to this Ordinance shall be referred to the Town Meeting until the Planning Board has held a public hearing on the proposal, notice of which

shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the municipality at least two (2) times with the date of first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing.

- C. The proposed amendments shall be adopted by a simple majority vote of the Town Meeting.

12. Availability

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of this availability shall be posted.

13. Annual Administrative Review

The Code Enforcement Officer (CEO) shall report annually, in the month of January, to the Select Board on his or her respective experience with the administration of this Ordinance during the previous year. The report shall include any recommended amendments that would:

- A. Enhance the CEO's ability to more effectively meet the respective administrative responsibilities under this Ordinance; and
- B. Enhance the implementation of the purposes of this Ordinance contained in Article I, Section 3.

14. License Conditions

- A. Licenses issued under this Ordinance are valid for a five-year period. The license may be renewed for subsequent five-year periods subject to a renewal fee of TBD, and upon demonstration that the applicant, as determined by the Planning Board and CEO, is not in violation of any license condition, or in violation of any other Town Ordinance or State or Federal permit.
- B. Licenses issued under this Ordinance are not transferrable.

ARTICLE II. APPLICATION PROCEDURE

Applicants must submit a Development Plan to the Town of Machiasport Planning Board at 8 Unity Square, Machiasport, ME 04655 (207-255-4516) to obtain an aquaculture license. The completed Development Plan must provide, at a minimum, information that will demonstrate if and how the proposed development will address the factors to be considered in whether to grant an aquaculture license.

REQUIRED DEVELOPMENT PLAN CONTENT

1. The Optimum Use of Marine Resources

Provide a summary of the project and its proposed location. In addition, using all the information collected, describe how this development is an optimum use of marine resources.

This section should be a cohesive look at the overall picture of the development, its overall effects, impacts, and benefits. The optimum use of marine resources is the over-riding theme of all the other factors to be considered in decisions on marine aquaculture operations.

2. The Contribution of The Proposed Operation to Community Economic Development

A. Production plan

For each species to be reared describe the following:

- If using suspended method (include spat or seed collection, if applicable):
 - Species;
 - Gear unit type (socks, lanterns, trays, etc.), including dimensions of individual gear units, and if using socks, whether they will be single or continuous;
 - Maximum number of gear units;
 - Maximum number and lengths of lines;
 - For shellfish: maximum shellfish introduced (number or mass) and maximum shellfish on site (number or mass);
 - For plants: maximum biomass on site (mass);
 - Seed source; and
 - Expected time to achieve maximum production.
- If bottom culture with gear:
 - Species;
 - Gear unit type (bags, trays or cages), including dimensions of individual gear units;
 - Maximum number of gear units;
 - Type and dimensions of frames used (including length, width, depth and height off sea bed) (if applicable); and
 - Maximum number of frames (if applicable);
 - Maximum shellfish introduced (number or mass) and maximum shellfish on site (number or mass);
 - Seed source; and
 - Expected time to achieve maximum production.
- If bottom culture without gear:
 - Species;
 - Maximum shellfish to be cultivated on site (number or mass);
 - Seed source; and
 - Expected time to achieve maximum production.

This production plan information is understood to be based upon the information available at the time of the application. In future years, the actual amount of gear used, seed stocked, and other production values may be higher or lower than the projections and will be determined by operational performance outcomes experienced at the site, including, but not limited to, environmental monitoring, shellfish health, and farm operations.

B. Infrastructure

Describe the infrastructure required to support operations (e.g., buildings, wharves, transportation, onsite equipment, etc.) and whether it is existing or it will be built or acquired. This should include the following:

- The location(s) of the existing, pending, or anticipated infrastructure;
- Plan view drawings (top down) complete with all relevant dimensions;
- Profile view drawings (side view) complete with all relevant dimensions;
- Project description (detailing the project);
- Construction methodology (outlining how the work will be undertaken);

C. Services and suppliers

Describe the services and suppliers that will be required to build and support the operation, the scale of the requirements on an annual basis, and where they will be sourced (i.e., from what region). Include seed, processing, general supplies, and other relevant requirements that may contribute to local or State economic activity.

D. Employment

Describe the expected number of direct employees on a yearly basis over the next five years – both local and State. Break down the allocation according to full time, part time, and seasonal employment.

E. Other economic contributions to the local community and State

Describe other economic spin offs and benefits, how this business can complement other economic developments in the community and in the State, and other possible economic benefits of the operation to the community and the State.

F. Adverse economic impacts

If applicable, describe possible adverse impacts on the economic development of the community and the region and how these will be mitigated.

G. Environmental Impact Statement (EIS)

If created and maintained for any state or federal agencies, a copy must be submitted to the Town of Machiasport.

3. Fisheries Activities in The Public Waters Surrounding the Proposed Aquacultural Operation

A. Impacts on fisheries activities

Describe what impacts the development may have on the fishery activities in the public waters surrounding the proposed aquaculture operation. Provide a description of what measures will be taken in both the establishment and the operation of the proposed development that: reduce impacts, mitigate risks, and complement or benefit the fisheries activities listed above. All fisheries concerns raised during the scoping process (if applicable) should be addressed here.

4. Oceanographic and Biophysical Characteristics of the Public Waters

A. Oceanographic environment

Describe the biophysical characteristics of the site environment by providing the information listed below, at a minimum. Provide the sources of the information.

- Maximum wave height (f)
- Direction of predominant current
- Annual minimum tide (f)
- Annual maximum tide (f)
- Current speed range and averages (f/sec)
- Annual minimum temperature (°F)
- Annual maximum temperature (°F)
- Depth of site at mean low water (f)
- Primary production information (if available)
- Biotoxin information (if available)

B. Site design

Describe how the oceanographic and biophysical characteristics of the waters of the location have been accounted for in the choice of the site location, the site design, the production plan, harvest method, and other relevant aspects of the development. Refer to maps, diagrams, or other pertinent information described in other sections as required.

5. The Other Users of the Public Waters Surrounding the Proposed Aquacultural Operation

A. Description of Other Users

Provide a description of the other users identified in the region of the proposed development.

This should include those in the area who may be affected by the proposed development. Include a list of uses and the relative level of use per user group. You may use a map to indicate the location of these users relative to the proposed site.

Other users may include:

- Adjacent property owners;
- Pleasure craft and commercial boat traffic;
- Anchorages and moorings;
- Processing plants (within 10 m);
- Campgrounds;
- Communities (including cottage communities);
- Municipal, industrial, and agricultural users which may be sources of effluent;
- Tourism or recreational operations;
- Private and government wharves;
- Any known or suspected pre-contact or historic archaeological resources;
- Important habitats and conservation areas;
- Other known potential projects (confirmed or proposed) and activities;
- Other users who are relevant to the proposed development area, if applicable.

B. Significance of proposed area to wildlife

Provide a description of predominant wildlife that use the proposed development area.

6. Navigation Safety

The assurance of safe public right of navigation is an important consideration. Include the following within this section:

- Location map (indicating the exact location of the work);
- Legal site description and work position (in latitude and longitude);
- Anticipated start and end dates;
- Discussion of operations after construction, including vessel movements, vessel type, timing of operations; and
- Describe all hazardous materials on board vessels and how those hazards are mitigated.

7. The Number and Productivity of Other Aquaculture Sites in the Public Waters Surrounding the Proposed Aquacultural Location

A. Identification of other aquaculture sites

Identify all other existing or known proposed aquaculture sites within Machiasport boundaries. Include the species cultured and the culture method used. Include the distance of the proposed development from each of the identified aquaculture sites.

Where possible and when of significance, include modelling results of currents, tides, vessel traffic, and other factors that help to define how these sites may interact with each other.

B. Interactions with other aquaculture operations

Provide the measures taken in the establishment or operation of the proposed development that mitigate risk or support any benefit to the aquaculture activities identified above.

8. Public Meeting

Before submission of the final application, the Applicant shall hold a public meeting to explain the tentative proposal to members of the public, Machiasport fishermen and businesses, and gather feedback. An advance notice of 14 days is required of any public meeting.

ARTICLE III. APPROVAL STANDARDS AND CRITERIA

In approving license applications submitted to it, the Planning Board may impose such reasonable terms and conditions as the Planning Board may consider appropriate to satisfy the criteria of approval and purpose set forth in this Ordinance and the Town of Machiasport Comprehensive Plan.

1. General Standards

The Planning Board may not approve an application, unless:

- A. Adequate technical and financial provision has been made for complying with the requirements of all Local, State and Federal air and water pollution control and other environmental laws. Those standards and regulations adopted with respect thereto, including without limitation the Town of Machiasport Site Plan Review, Land Use, and Shoreland Zoning Ordinances. Adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies;
- B. Adequate provision has been made for loading, parking, and circulation of land, air and water traffic in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods;

- C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment to ensure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal.

In deciding under this paragraph regarding development to facilitate withdrawal of groundwater, the Planning Board shall consider the effects of the proposed withdrawal on waters of the Town; water-related natural resources; and existing uses, including, but not limited to, public or private wells within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the Planning Board shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals;

- A. The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site;
- B. The applicant has received, and is compliance with, all necessary State and Federal permits and licenses;
- C. The applicant must demonstrate evidence of sufficient right, title or interest in all of the property that is proposed for development or use; and,
- D. The proposed use:
 - 1) will not unreasonably obstruct navigation channels or unreasonably preclude boating support facilities elsewhere in the harbor;
 - 2) is designed and located, to the extent feasible, so that it does not significantly interfere with the needs of the local fishing industry; and
 - 3) will not substantially reduce existing public access to coastal wetlands.
 - 4) will not require more than 20 boat moorings in Bucks Harbor and will not result in a surface water footprint of more than 20 acres.

The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public's health, safety and general welfare will be adequately protected.

2. Development Criteria

This section contains review standards for structures and uses for aquaculture activities. Except as herein provided, development not in conformance with the standards of this section is prohibited. Nothing in this section precludes the Planning Board from imposing additional reasonable terms and conditions in its permits as the Planning Board may deem appropriate in order to satisfy the criteria for approval and purposes set forth in this Ordinance and the Town of Machiasport's Comprehensive Plan.

A. Technical and Financial Capacity

The applicant shall retain qualified consultants, contractors and staff to design and construct proposed improvements, structures, and facilities in accordance with approved plans. In determining the applicant's technical ability, the Planning Board shall consider the size and scope of the proposed development, the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations or previous approvals granted to the applicant.

The applicant shall have adequate financial resources to construct the proposed improvements, structures, and facilities and meet the criteria of all state and federal laws and the standards of these rules. In determining the applicant's financial capacity, the Planning Board shall consider the cost of the proposed development, the amount and strength of commitment by the financing entity, and, when appropriate, evidence of sufficient resources available directly from the applicant to finance the development. The Planning Board may hire, at licensee's expense, a licensed CPA to provide expert advice concerning a licensee's financials. The Planning Board may elect to receive a certified true copy of applicant's latest company audit.

B. Noise and Lighting

1) Noise

- a) The maximum permissible sound pressure level of any continuous, regular or frequent source of sound, including vehicles, produced by or during the operation of the development shall be as established by the time period listed below. Sound pressure levels shall be measured at all permittee's boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.

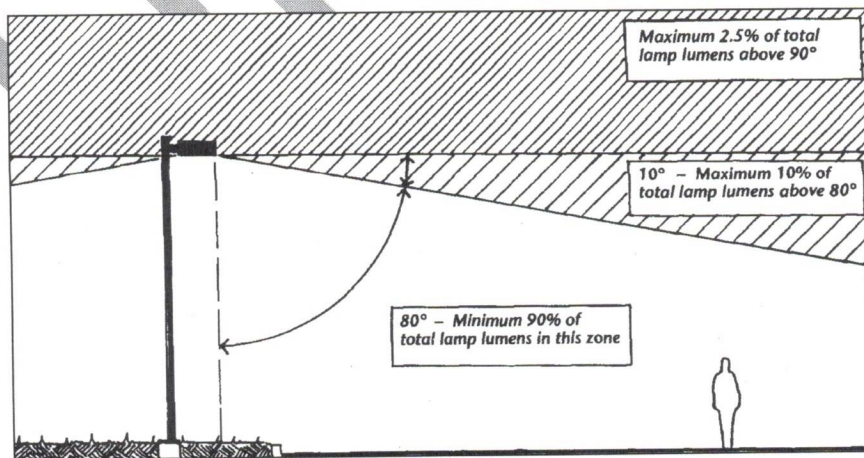
5:30 AM to 7:00 PM	7:00 PM to 5:30 AM
75 dB(A)	65 dB(A)

- b) The following activities are exempt from these limitations:

- Sounds emanating from construction-related activities conducted between 5:30 A.M. and 7:00 P.M.;
- Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities.

2) Lighting standards for exterior light levels, glare reduction, and energy conservation

- a) All exterior lighting fixtures will be full cut-off, except for incandescent lights of less than 160 watts, or any other light less than 60 watts. Full cut-off fixtures are those that project no more than 2.5% of light above the horizontal plane of the luminary's lowest part. Figure _____ illustrates a cut-off fixture as defined by the Illuminating Engineering Society of North America (IESNA).



- b) All exterior lighting shall be designed, located, installed, and directed in such a manner as to illuminate only the target area, to the extent practicable. No activity shall produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, or onto any roadway so as to impair the vision of the driver of any vehicle upon that roadway or to create nuisance conditions.
- c) All non-essential lighting shall be turned off after business hours, leaving only the minimal necessary lighting for site security. The term “non- essential” applies, without limitation, to display, aesthetic and parking lighting.

C. Solid Waste and Aquaculture Waste Disposal

- 1) Provision shall be made for the regular collection and disposal of site-generated solid wastes at a state-approved landfill or transfer station.
- 2) Provision shall be made for the legal and proper disposal of all aquaculture waste products associated with the operation of the development.

D. Wastewater Disposal

- 1) No permit will be issued for a project with subsurface wastewater disposal unless an acceptable plan to construct the absorption area is prepared. Where wastewater is to be disposed on-site by a subsurface wastewater system, the system must be designed by a licensed site evaluator or a Maine Licensed Professional Engineer, in accordance with the Subsurface Wastewater Disposal Rules, or must be licensed by the Maine Department of Environmental Protection pursuant to 38 M.R.S. § 413(1-B)(A).
- 2) Where wastewater is to be collected and treated off-site by a municipal or quasi-municipal sewage treatment facility, the applicant must demonstrate that there is adequate capacity in the collection and treatment systems to ensure satisfactory treatment, the facility is fully licensed by the Maine Department of Environmental Protection, and the facility agrees to accept these wastes.

E. Water Supply

- 1) Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other known sources of potential contamination.
- 2) Site design shall allow for placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal in compliance with the Maine Subsurface Wastewater Disposal Rules.
- 3) The applicant shall demonstrate that there is sufficient healthful water supply to serve the needs of the project and the project will cause no undue adverse impact on any groundwater aquifer.
- 4) The development shall not pose an unreasonable risk that a discharge of pollutants to a groundwater aquifer will occur.
- 5) The project shall not result in the groundwater quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S. § 601. If the pre- development groundwater

quality is inferior to the Maine State Drinking Water Regulations, the development shall not degrade the water quality any further.

- 6) When a project is to be served by a public water system, the location and protection of the source, the design, construction, and operation of the system shall conform to the standards of the "Rules Relating to Drinking Water," Maine Department of Health and Human Services, Chapter 231.

F. Surface Water Quality

- 1) A development, or reasonably foreseeable consequences of a development, shall not directly discharge any water pollutants to a surface water body which cause the surface water body to fail to meet its state classification (38 M.R.S. § 464 et seq.); impart toxicity and cause a surface water body to be unsuitable for the existing and designated uses of the water body; or otherwise would result in a violation of state or federal water quality laws.
- 2) Appropriate best management practices of point and nonpoint sources of water pollutants shall be utilized, unless the Planning Board determines that alternative specifications will meet the needs of the activity and will cause no undue adverse impact to the surface water quality of the affected surface water body.
- 3) To ensure continued conformance with Paragraph G.(i) of this ordinance, The Planning Board, in consultation with its Code Enforcement Officer and Maine Department of Environmental Protection, **will** require a licensee to obtain a MEPDES permit, with quarterly reporting. 50 Code of Federal Regulations (CFR) Part 131

ARTICLE IV. FEES

1. Application Fee

Every application for a license shall be accompanied by the appropriate application fee as established in the fee schedule in Appendix A, to be paid to the Town of Machiasport. All paid fees are non-refundable.

2. Technical Review Fees

The Town may obtain technical assistance and advice from public agencies, firms, and individuals to evaluate the application. Where a fee or other cash expenditure is not provided for in its approved budget, the applicant whose permit request necessitates such technical assistance shall agree in writing to pay for such services.

ARTICLE V. ADMINISTRATION, ENFORCEMENT AND PENALTIES

1. Administration and Interpretation

This ordinance shall be administered and interpreted by the Planning Board and enforced by a Code Enforcement Officer (CEO) appointed by the municipal officers.

2. Planning Board Review

The Planning Board is authorized to review and act on all license applications under this Ordinance. The Planning Board also has the authority to waive a standard. A waiver may be granted only if the Board makes a written finding that the standard is not required to meet the intent of this Ordinance.

3. Enforcement, Inspection, and Monitoring

This Ordinance shall be enforced by the municipal officers of the Town or their duly authorized designees. The Town may appoint the CEO to enforce this ordinance; if that occurs, it shall be the duty of the CEO or his/her agent to enforce the provisions of this Ordinance. The Code Enforcement Officer, may, at any time, enter and inspect any aquaculture facility in order to determine compliance with any provision of this Ordinance and to conduct an inspection of the premises, to ensure compliance with this Ordinance. If the CEO or his / her agent finds that any provision of this ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. Refusal by licensee to allow an inspection by any municipal, state, or federal officer, is grounds for license termination. Licensee will pay for costs related to the Enforcement and Inspection provisions of this Ordinance, to include but not limited, the CEO's salary, water testing, inspections, and consultant fees.

4. Legal Action

- A. The CEO is hereby authorized to institute or cause to be instituted, in the name of the municipality, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this Ordinance; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this Ordinance. In addition, the CEO may initiate a Maine Rules of Civil Procedure, Land Use Violation, Rule 80K action if he/she has been so authorized by the Select Board.
- B. If any section, part of a section, or any provision in this Ordinance is declared by a court to be unconstitutional, invalid, or unenforceable, such declaration shall not affect the validity or enforceability of the Ordinance as a whole, or any part of provision other than that specifically declared to be unconstitutional, invalid, or unenforceable. This Ordinance does not relieve a person of the obligation to comply with all other applicable state, federal, or local laws, rules, and ordinances. Whenever a provision of this Ordinance conflicts with or is inconsistent with another rule or ordinance administered by the Town, the more restrictive provision shall control.

5. Violations and Penalties

A. Generally

Any person, entity, or corporation being the owner/permittee of or having control or use of any building or premises who violates any of the provisions of this Ordinance shall be fined in accordance with 30-A M.R.S. § 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow illegal construction or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Municipal Official and there is no evidence that the owner acted in bad faith or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

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ARTICLE VI. APPEALS

Appeal of any actions taken by the Planning Board with respect to this Ordinance shall be to the Superior Court in accordance with Maine Rules of Civil Procedure, Rule 80B.

Appendix A

Fee Schedule

Initial application per site and/or operator	\$
Suspended method – per pen	\$
Suspended method – per tray or rope	\$
Bottom culture	\$

DRAFT

ATTACHMENT

1. U.S. Army Corps of Engineers Permitting Process Information