

**TOWN OF WALDOBORO
ORDINANCE ESTABLISHING A MORATORIUM ON
COASTAL WATERS AQUACULTURE DEVELOPMENT**

Section 1. Title; Authority.

This moratorium ordinance, duly enacted by the legislative body of the Town of Waldoboro, Maine, (the "Town") and entitled the "Town of Waldoboro Ordinance Establishing a Moratorium on Coastal Waters Aquaculture Development," is referenced herein as the "Moratorium." This Moratorium is adopted pursuant to the Town's home rule authority under Article VIII, Part Second, of the Maine Constitution and 30-A M.R.S. § 3001; 30-A M.R.S. § 4356; and any other enabling statutes.

Section 2. Necessity.

The Town makes the following findings:

- A. Developers have expressed interest in and are pursuing the development of Coastal Waters Aquaculture Development projects within the tidal river estuary of the Medomak River (historically known as the Muscongus River) located in the Town's coastal waters.
- B. Developers have also expressed increased interest in and have pursued the development of Coastal Waters Aquaculture Development projects within other portions of Maine's coastal waters, which are on a scale larger than previously achieved in North America.
- C. The aquaculture leasing statutes and rules administered by the Maine Department of Marine Resources, which were established by the Maine Legislature in 1977 pursuant to Public Law P.L. 1977 c. 661, § 5, at a time when the current level of interest in and scale of aquaculture operations were not contemplated, do not adequately address the risks to municipalities presented by the siting, construction, and operation of Coastal Waters Aquaculture Development.
- D. The Town's comprehensive plan, ordinances, and regulations are inadequate to prevent serious public harm that could result from the siting, installation, and operation of Coastal Waters Aquaculture Development within the Town.
- E. In particular, without appropriate local regulation, the siting, construction, and operation of Coastal Waters Aquaculture Development within the Town, and in particular within the tidal river estuary of the Medomak River, could result in substantial adverse impacts on the Town, including, but not limited to:
 - (1) A shortage or overburdening of public facilities such as roads, waste management systems, and water access sites;
 - (2) Adverse environmental and scenic effects;
 - (3) The lack of regulatory or financial assurances that such development will be properly sited, constructed, operated, and decommissioned;
 - (4) Incompatibility with existing and permitted functionally water-based uses;
 - (5) Loss of public and private access to Maine's coastal waters, including to the intertidal zone;

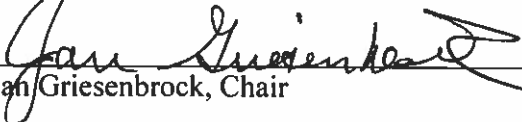
- (6) The displacement of traditional public and commercial uses from Maine's coastal waters, including lobstering, elvering, clamming, and other heritage fisheries, water-based recreation, and other public trust uses;
 - (7) Adverse effects on the Town's wild clam stock and the intertidal and subtidal mudflat ecosystem upon which it depends; and
 - (8) The risk of loss or displacement of the Town's heritage clamming industry, which supports a clam harvest that generates on average \$2.1 million annually for over 150 commercial harvesters within the Town and provides more employment for the Town than any other industry.
- F. As a result, the siting, construction, and operation of Coastal Waters Aquaculture Development within the Town has the potential to pose a serious threat to the health, safety, and welfare of the Town and its residents and visitors.
- G. The Town needs time to evaluate the need for and to prepare reasonable ordinances and regulations governing the siting, construction, operation, and decommissioning of Coastal Waters Aquaculture Development within the Town and to secure voter approval for such ordinances and regulations.
- H. The Town, with assistance from its Shellfish Conservation Committee, municipal reviewing authorities, and other departments, intends to study its plans, ordinances, and regulations to determine the regulatory implications of siting, constructing, operating, and decommissioning Coastal Waters Aquaculture Development within the Town, and to consider what additional or different ordinance provisions and regulations, if any, might be appropriate for such development.
- I. It is anticipated that such a study, review, and preparation of plans, ordinances, and regulations will take not more than 180 days from the Date of Applicability of this Moratorium.
- J. In the judgment of the legislative body of the Town, the foregoing findings constitute a necessity within the meaning of 30-A M.R.S. § 4356(1) requiring immediate legislative action.

Section 3. Moratorium.

The Town does hereby declare a moratorium on (a) the siting, installation, construction, operation, and expansion of Coastal Waters Aquaculture Development; (b) the acceptance or processing of any application, proposal, or request pending on or after the Date of Applicability for Coastal Waters Aquaculture Development; and (c) the issuance of any development permit or other form of regulatory approval or any other action or decision by a board, officer, official, employee, agent, or department of the Town related to Coastal Waters Aquaculture Development; provided, however, that this moratorium shall not apply to Coastal Waters Aquaculture Development in existence as of the Date of Applicability unless or until such Development requires a new or renewed a submerged lands lease (issued by the Maine Bureau of Parks and Lands pursuant to 12 M.R.S. § 1862) or aquaculture lease (issued by the Maine Department of Marine Resources pursuant to 12 M.R.S. §§ 6072, 6072-A, or 6072-B).

Approved June 13, 23 by Town Meeting.

Certification of Municipal Officers




Jan Griesenbrock, Chair

Joanne C. Minzy, Vice Chair



Robert L. Butler

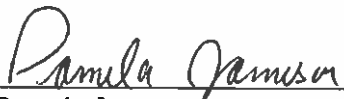


Abden S. Simmons



William F. Pratt

A True Attest Copy



Pamela Jameson
Town Clerk

Section 4. Definition.

For purposes of this Moratorium, “Coastal Waters Aquaculture Development” means a commercial facility for the culture of finfish in nets, pens, or other enclosures or for the suspended culture of any other marine organism, where the culturing of the organism occurs principally on, in, or over the territorial coastal waters of the Town, including without limitation the tidal river estuary of the Medomak River. “Coastal Waters Aquaculture Development” may include structures and elements necessary or incidental to the operation of the facility that are located on land within the Town, but does not include (i) upwellers used solely for the spread of seed clams, or (ii) any structures or elements of an aquaculture facility where the culturing of marine organism occurs principally on land (whether or not such facilities include structures or elements located over or within the Town’s territorial coastal waters) so long as the facility is subject to review pursuant to the Site Location of Development Act and Natural Resource Protection Act and does not seek exemption therefrom pursuant to 38 M.R.S. §§ 480-Q(10), 488(13).

Section 5. Effective Date.

This Moratorium shall become effective immediately upon its adoption by the legislative body of the Town (the “Effective Date”) and shall remain in full force and effect for a period of up to but no longer than 180 days from the Date of Applicability, unless extended, repealed, or modified pursuant to applicable law or until a new ordinance regulating Coastal Waters Aquaculture Development or amendments to one or more existing Town ordinances or regulations addressing such development are adopted by the Town, whichever shall first occur.

Section 6. Date of Applicability.

Notwithstanding 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Moratorium shall govern and apply to all proceedings and applications for Coastal Waters Aquaculture Development that were or are pending before any municipal reviewing authority on or any time after February 14, 2023 (the “Date of Applicability”) and, to the extent allowed by 30-A M.R.S. § 3007(6), shall nullify the issuance of any final approval of a municipal reviewing authority made on or at any time after the Date of Applicability.

Section 7. Conflicts; Savings Clause.

Any provisions of the Town’s ordinances that are inconsistent with or conflict with the provisions of this Moratorium are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Moratorium is declared by a court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 8. Violations.

If any Coastal Waters Aquaculture Development is sited, constructed, or operating in violation of this Moratorium, each day of any continuing violation shall constitute a separate violation of this Moratorium and the Town shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorneys’ fees and costs in prosecuting any such violations.