

TOWN OF _____
MORATORIUM ORDINANCE REGARDING
INDUSTRIAL-SCALE AQUACULTURE DEVELOPMENT

Section 1. Title; Authority.

This ordinance, duly enacted by the legislative body of the Town of _____ (the “Town”) and entitled the “Moratorium Ordinance Regarding Industrial-Scale 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 an Industrial-Scale Aquaculture Development project within Maine’s coastal waters, which is on a scale larger than previously achieved in North America.
- B. 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 large-scale aquaculture operations were not contemplated, do not adequately address the risks to municipalities presented by the siting, construction, and operation of Industrial-Scale Aquaculture Development.
- C. 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 Industrial-Scale Aquaculture Development within the Town.
- D. In particular, without appropriate local regulation, the siting, construction, and operation of Industrial-Scale Aquaculture Development within the Town 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; and
 - (6) The displacement of traditional public and commercial uses from Maine’s coastal waters, including lobstering and other heritage fisheries, water-based recreation, and other public trust uses.

- E. As a result, the siting, construction, and operation of Industrial-Scale 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.
- F. The Town needs time to evaluate the need for and to prepare reasonable ordinances and regulations governing the siting, construction, operation, and decommissioning of Industrial-Scale Aquaculture Development within the Town and to secure voter approval for such ordinances and regulations.
- G. The Town, with assistance from its 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 Industrial-Scale Aquaculture Development within the Town, and to consider what additional or different ordinance provisions and regulations, if any, might be appropriate for such development.
- H. 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.
- I. In the judgment of the legislative body of the Town, the foregoing findings constitute an emergency within the meaning of 30-A M.R.S. § 4356 requiring immediate legislative action.

Section 3. Moratorium.

The Town does hereby declare a moratorium on (a) the siting, installation, construction, operation and expansion of Industrial-Scale Aquaculture Development; (b) the acceptance or processing of any application, proposal, or request pending on or after the Date of Applicability for Industrial-Scale 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 Industrial-Scale Aquaculture Development; provided, however, that this moratorium shall not apply to Industrial-Scale Aquaculture Development in existence as of the Date of Applicability unless or until such Development requires a new or renewed lease pursuant to 12 M.R.S. § 6072.

Section 4. Definition.

For purposes of this Moratorium, “Industrial-Scale Aquaculture Development” means the construction or operation of a commercial facility on, in, or over Maine’s coastal waters (including submerged lands and intertidal lands) for the culture of finfish in nets, pens, or other enclosures or for the suspended culture of any other marine organism, that (i) is located in whole or in part on, in, or over the territorial coastal waters of the Town and (ii) exclusively occupies an aggregate surface area of coastal waters greater than five (5) acres. “Industrial-Scale Aquaculture Development” includes any onshore development and water access ways associated therewith or related thereto.

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 Industrial-Scale 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 Industrial-Scale Aquaculture Development that were or are pending before any municipal reviewing authority on or any time after January 18, 2022 (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 Industrial-Scale 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.

EMERGENCY DECLARATION

The Town declares the existence of an emergency because the Town’s comprehensive plan, ordinances, and other regulations are insufficient to prevent serious public harm that could be caused by the siting, construction, or operation of Industrial-Scale Aquaculture Development, as defined in this Moratorium, and because the Town needs time to review the potential adverse impacts that may be caused by Industrial-Scale Aquaculture Development and consider amendments to one or more of its ordinances or regulations to mitigate any such impacts on the Town and its residents and visitors. This Moratorium shall be effective immediately upon enactment and shall remain in effect for 180 days from the Date of Applicability, unless it is extended, repealed, or modified in accordance with applicable law.

Given under our hands this ___ day of _____, 2022.

A Majority of the Municipal Officers of the Town of _____, Maine.

Attest: A true copy of an ordinance entitled, “Moratorium Ordinance Regarding Industrial-Scale Aquaculture Development,” as certified to me by the municipal officers of the Town of _____, Maine, on the ___ day of _____, 2022.

Town Clerk
Town of _____