

TOWN OF GOULDSBORO

AQUACULTURE LICENSING ORDINANCE

ARTICLE I. GENERAL

1. Title

This Ordinance shall be known and may be cited as the “Town of Gouldsboro 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 implement the provisions of the Town’s Comprehensive Plan;
- B. To promote the health, safety, and general welfare of the residents of the community;
- C. To establish an aquaculture licensing program for the Town of Gouldsboro which will ensure the protection and optimum utilization of aquaculture resources cultivated or processed within its boundaries;
- D. To minimize the conflict among fisheries and functionally water dependent uses and transportation;
- E. To promote water-borne and land-based traffic safety;
- F. To provide safety from fire and other elements;
- G. To conserve natural resources;
- H. To ensure impacts from aquaculture activities are adequately identified, evaluated, and addressed; and
- I. To 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 aquaculture and those activities commonly associated with or supportive of aquaculture activities. No person shall engage in 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 12 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 aquaculture activities involving aquatic animals that:
 - (i) Result in processing more than ____ pounds of Catch per year within the Town of Gouldsboro; OR
 - (ii) Result in Landings of more than ____ pounds per year within the Town of Gouldsboro; OR
 - (iii) Feed more than ____ pounds of food during the calendar month of maximum feeding within the Town of Gouldsboro; OR
 - (iv) Result in more than ____ pounds of Aquaculture Waste per year within the Town of Gouldsboro.
- D. This Ordinance applies to aquaculture activities involving aquatic plants that:
 - (i) Harvest more than ____ pounds of aquatic plants per year within the Town of Gouldsboro.
- E. Aquaculture activities that fall below the thresholds listed above are not required to obtain a license under this Ordinance, but may be required to comply with other applicable Ordinances.
- F. Aquaculture activities involving aquatic animals that exceed any of the following thresholds are prohibited in the Town of Gouldsboro:
 - (i) Aquaculture activities that require processing more than ____ pounds of Catch per year within the Town of Gouldsboro; OR
 - (ii) Aquaculture activities that result in Landings of more than ____ pounds per year within the Town of Gouldsboro; OR

- (iii) Aquaculture activities that feed more than ____ pounds of food during the calendar month of maximum feeding within the Town of Gouldsboro; OR
 - (iv) Aquaculture activities that result in more than ____ pounds of Aquaculture Waste per year within the Town of Gouldsboro.
- G. Aquaculture activities involving aquatic plants that exceed any of the following thresholds are prohibited in the Town of Gouldsboro:
- (i) Aquaculture activities that harvest more than ____ pounds of aquatic plants per year within the Town of Gouldsboro.

5. Definitions

“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.

“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.

“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.

6. 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.

7. 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.

8. Effective Date of the Ordinance and Ordinance Amendments

The effective date of this Ordinance shall be the date of adoption by the legislative body on _____.

9. 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.

10. 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.

11. Annual Administrative Review

The Code Enforcement Officer (CEO), Planning Board and Board of Appeals each shall report annually, in the month of January, to the Select Board on their respective experience with the administration of this Ordinance during the previous year. Their reports shall include any

recommended amendments that would:

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

The failure of any person or board to comply with this provision shall not affect the validity or enforceability of this Ordinance in any way.

12. License Conditions

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

Licenses issued under this Ordinance are not transferrable.

ARTICLE II. APPLICATION PROCEDURE

Applicants must submit a Development Plan 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 prepared last, after all of the other sections have been completed. It 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 of 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. Include the location(s) of the existing, pending, or anticipated infrastructure.

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. Include types of positions (managerial, technical, administrative, etc.) where possible.

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 not already required by and prepared for a State or federal permit, an applicant shall prepare an environmental impact statement consistent with the requirements in the National Environmental Policy Act of 1969 (NEPA) to assess the potential impact of the proposed development. If an EIS was required by and prepared for a State or federal permit, a copy of the EIS shall be included with the application.

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

A. Status of fisheries activities

Provide a description of the fishing activities (commercial, recreational, food and social) identified in the region of the proposed development. Include a list of species fished, identify their relevant commercial or recreational fishing areas or zones (if applicable) and indicate the relative fishing efforts identified per species (summarized by number of fishers, harvesters, or boats, where appropriate and available). Include the sources of the information.

For shellfish applications that include bottom culture with gear and/or bottom culture without gear, provide an assessment of the existing wild population of shellfish that is the same species

as that to be cultured.

B. Impacts on fisheries activities

Describe what impacts the development may have on the fishery activities in the public waters surrounding the proposed aquaculture operation. This should include the fisheries activities described in Article II, Section 3(A). 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.

- Annual maximum wind speed (mph)
- Maximum wave height (f)
- Direction of maximum wave
- Annual minimum tide (f)
- Annual maximum tide (f)
- Current speed range and averages (f/sec)
- Annual minimum salinity (ppt)
- Annual maximum salinity (ppt)
- Annual minimum temperature (°F)
- Annual maximum temperature (°F)
- Depth of water at each corner of the site (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 wildlife that use the proposed development area. Include migratory birds, marine mammals, and other animals that inhabit or migrate through the area.

C. Impacts to other users including wildlife

Describe what aspects of this development may affect other users of the public waters surrounding the proposed development; how they may affect other users; and how you will minimize these effects during both the establishment and the operation of the proposed development.

Describe how the development may complement the other users, where applicable.

D. Impacts by other users including wildlife

If applicable, describe how other users may impact the proposed development. Include how you will minimize interactions with and mitigate possible negative impacts by other users.

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);

- 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);
- 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. Proof of Concept

A. Identification of the Means and Methods

Identify and describe the instruments, equipment, techniques and procedures used to ensure the aquaculture development can successfully operate as planned. Describe whether the proposed development has ever been successfully operated at the size, scale, pace of operations, and/or similar location to the proposed site.

B. Untested Developments

- (i) If no development has ever been successfully operated at the size, scale, pace of operations, and/or similar location to the proposed site and proposed development, describe what means and methods will be employed to ensure the aquaculture development can successfully operate as planned.
- (ii) If the proposed development has never been unsuccessfully operated at the size, scale, pace of operations, and/or similar location to the proposed site, include the outcomes and consequences of that project.
- (iii) Where there is no comparative successfully operated development, the Planning Board may require additional safeguards including, but not limited to, a probationary phase of development on a smaller scale than originally proposed. The Planning Board may establish a scheduled expansion of the operation upon a showing of no adverse consequences and no violations of the license or this or any other federal, State, or local rules or regulations.

8. 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 in the area. 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.

9. Scoping Session

Before submission of the final application, the Applicant shall hold a scoping session to explain the tentative proposal to members of the public and gather feedback.

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 in order to satisfy the criteria of approval and purpose set forth in this Ordinance and the Town of Gouldsboro Comprehensive Plan.

1. General Standards

A. The Planning Board may not approve an application, unless:

- (i) 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, and those standards and regulations adopted with respect thereto, including without limitation the Town of Gouldsboro 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;
- (ii) 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;
- (iii) Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order 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 making a determination 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.

- (iv) 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;
- (v) The applicant has received, and is compliance with, all necessary State and Federal permits and licenses.
- (vi) The applicant must demonstrate evidence of sufficient right, title or interest in all of the property that is proposed for development or use.
- (vii) 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.

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.

B. Independent Monitor

The Planning Board may appoint or hire an independent monitor, to be paid directly by the licensee, to ensure compliance with the terms of the license and this Ordinance. The licensee shall give the monitor access to the development site as deemed necessary by the monitor.

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 are 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 Gouldsboro'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.

B. Vehicular Circulation, Access and Parking

- (i) General Circulation. Provision shall be made for vehicular access to and within the project premises in such a manner as to avoid traffic congestion and safeguard against hazards to traffic and pedestrians along existing roadways and within the project area. Development shall be located and designed so that the roadways and intersections in the vicinity of the development will be able to safely and efficiently handle the traffic attributable to the development in its fully operational stage.
- (ii) Access Management. Access onto any roadway shall comply with all applicable Maine Department of Transportation safety standards.
 - 1) The number and width of entrances and exits onto any roadway shall be limited to that necessary for safe entering and exiting.
 - 2) Access shall be designed such that vehicles may exit the premises without backing onto any public roadway or shoulder.
 - 3) Shared road access shall be implemented wherever practicable.
 - 4) Access between the roadway and the property shall intersect the roadway at an angle as near to 90 degrees as site conditions allow, but in no case less than 60 degrees.

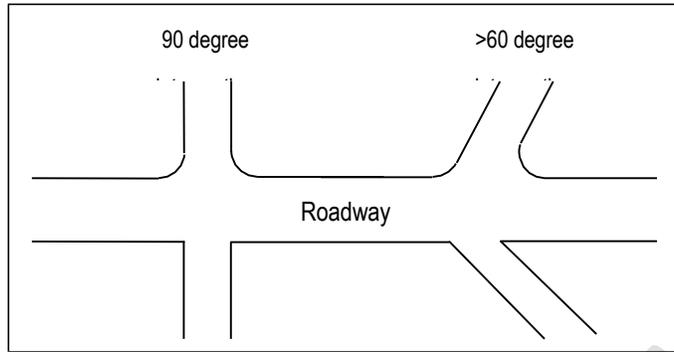


Figure ____

- 5) The Planning Board may require a traffic impact study of roadways and intersections in the vicinity of the proposed project site if the proposed development has the potential of generating significant amounts of traffic or if traffic safety or capacity deficiencies exist in the vicinity of the project site.

(iii) Parking Layout and Design.

- 1) Sufficient parking shall be provided to meet the parking needs of the development. The minimum number of parking spaces required shall be based on parking generation rates determined in accordance with standard engineering practices. In cases where it is demonstrated that a particular structure can be occupied or use carried out with fewer spaces than required, the Planning Board may reduce number of required spaces upon finding that the proposed number of spaces will meet the parking needs of the structure or use and will not cause congestion or safety problems.
- 2) Parking areas and access roads shall be designed such that runoff water is discharged to a vegetated buffer as sheet flow or alternatively collected and allowed to discharge to a concentrated flow channel, wetland or water body at a rate similar to pre-construction conditions. If runoff water is discharged to a concentrated flow channel, wetland or water body, a sediment basin shall be constructed to collect sediment before the runoff water is discharged.
- 3) Where practicable, off-street parking shall be located to the side or rear of the principal structure.
- 4) Off-street parking shall not be directly accessible from any public roadway. Ingress and egress to parking areas shall be limited to driveway entrances.
- 5) Off-street parking areas with more than two parking spaces shall be arranged so that each space can be used without moving another vehicle.
- 6) Parking spaces shall not be placed in the required roadway vegetative

buffer. However, a “sight triangle” shall be maintained 25 feet in length on each side of the intersection of the driveway and the roadway right-of-way, with the third side connecting the other two sides. Within each sight triangle, no landscape plants, other than low growing shrubs, shall be planted. These shrubs must be maintained to be no more than 30 inches in height above the driveway elevation.

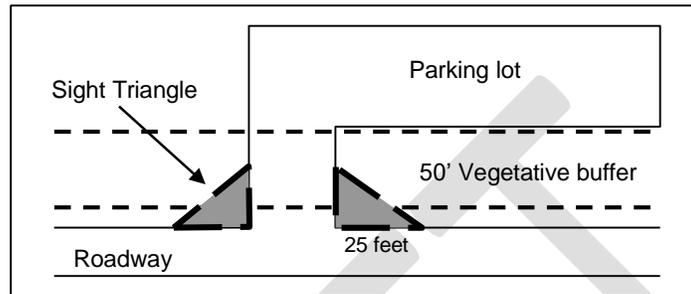


Figure ____

- 7) Except for sight triangles, parking areas shall be visually buffered from the roadway by planting and maintaining a vegetative buffer of trees and shrubs or by locating parking areas to the rear of the principal structure.
- 8) When parking areas are adjacent to residential structures or uses, landscaping and/or architectural screens shall be used to provide an effective visual buffer and separation between property lines and the edge of the parking area.
- 9) For parking areas that are greater than one acre in size, a landscaping plan shall be developed and implemented that indicates planting locations, type, and maintenance. The plan shall include the following:
 - (a) Parking areas shall have landscaped strips along the perimeter, as well as landscaped islands within the parking area.
 - (b) Expanses of parking area shall be broken up with landscaped islands that include shade trees and shrubs. Where possible, the area of ground left uncovered around the base of a tree must be at least equal to the diameter of the branch area or crown at maturity. Where not possible, adequate measures, including but not limited to soil enhancement techniques and underground irrigation, shall be used to ensure sufficient space for root growth and vegetative survival.

C. Noise and Lighting

- (i) Noise

- 1) 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 property 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.

7:00 AM to 5:00 PM

5:00 PM to 7:00 AM

_____ dB(A)

_____ dB(A)

- 2) The following activities are exempt from these limitations:
 - (a) Sounds emanating from construction-related activities conducted between 7:00 A.M. and 7:00 P.M.;
 - (b) Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities.
- (ii) Lighting standards for exterior light levels, glare reduction, and energy conservation
 - 1) 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).

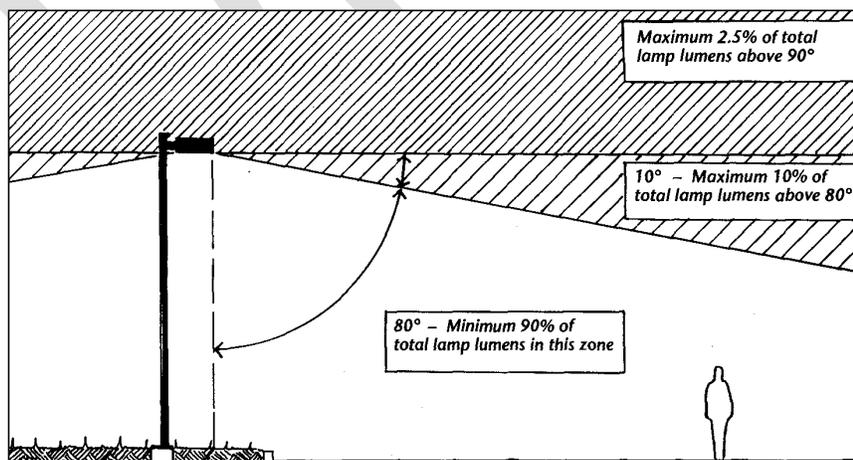


Figure _____

- 2) 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.
- 3) 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.

D. Solid Waste and Aquaculture Waste Disposal

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

E. Wastewater Disposal

- (i) 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).
- (ii) 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.

F. Water Supply

- (i) Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface waste water disposal systems and other known sources of potential contamination.
- (ii) Site design shall allow for placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal in compliance with the Maine Subsurface Waste Water Disposal Rules.

- (iii) 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.
- (iv) The development shall not pose an unreasonable risk that a discharge of pollutants to a groundwater aquifer will occur.
- (v) 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.
- (vi) 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.

G. Surface Water Quality

- (i) 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.); which impart toxicity and cause a surface water body to be unsuitable for the existing and designated uses of the water body; or which otherwise would result in a violation of state or federal water quality laws.
- (ii) 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.

ARTICLE IV. FEES AND PERFORMANCE GUARANTEES

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 Gouldsboro.

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.

3. Performance Guarantees

A. Applicants whose developments are subject to site plan or subdivision review shall provide performance guarantees sufficient to ensure the completion of the following improvements in the Town's rights-of-way, easements or property:

- (i) Monuments;
- (ii) Planting, buffering or screening;
- (iii) Street signs;
- (iv) Streets;
- (v) Sidewalks;
- (vi) Water supply facilities, including fire hydrants or ponds;
- (vii) Sewage disposal facilities;
- (viii) Stormwater drainage facilities;
- (ix) Utilities;
- (x) Restoration of mining sites.

B. Performance guarantees may also be used for improvements on private property. An applicant may request permission to provide a performance guarantee to assure that all terms, conditions, and plans approved by the Planning Board or the Board of Appeals will be constructed within a year of the lawful issuance of an occupancy permit. Said permission shall be reviewed by the permitting authority and as required in this article.

4. Contents of guarantee

A performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction. The conditions and amount of a performance guarantee shall be determined by the Planning Board with the advice of the Public Works Director, the Town Council and/or the Town Attorney. In establishing the amount of a performance guarantee, the Town may seek independent verification of the accuracy of the developer's cost estimates or may set the amount in accordance with the amount of the contract between the developer and the contractor who will be installing the required improvements. The amount of a performance guarantee shall be adequate to cover the entire construction costs of all required improvements, taking into account the proposed time span of the construction schedule and the inflation rate for construction costs.

5. Types of guarantees

A performance guarantee may take any one of the following forms:

- A. Escrow account. A cash contribution to the establishment of an escrow account may be made by either a certified check made out to the Town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer, the Town shall be named as owner and the consent of the Town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the expenditure of the interest by the Town is necessary in order to complete the required improvements.
- B. Performance bond. A performance bond, issued by a surety company approved by the Planning Board, may be made payable to the Town. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the developer, and the procedures for collection by the Town. The bond documents shall specifically reference the development for which approval is sought.
- C. Irrevocable letter of credit. An irrevocable letter of credit, issued by a financial institution approved by the Planning Board, may establish funding for the development from which the Town may draw if construction is inadequate. An irrevocable letter of credit shall indicate that funds have been set aside for the construction of the development and may not be used for any other project or loan.

6. Release of guarantee

Prior to the release of any part of a performance guarantee, the Town Manager shall determine to his/her satisfaction, in part upon the report of the Code Enforcement Officer, his/her designee, and whatever other agencies and departments may be included, that the completed improvements meet or exceed the design and construction standards for that portion of the improvements for which the release is requested.

7. Default

If, upon inspection, the Code Enforcement Officer or his/her designee finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he/she shall so report in writing to the municipal officers, the Planning Board, and the developer. The municipal officers shall take any steps necessary to preserve the Town's rights.

8. Plant maintenance guarantees

In addition to any performance guarantee required under this Article, an applicant shall furnish to the Town security equal to at least 10% of the value of all live plantings required by Article III, Section 2(B). Such security shall be binding for a minimum of three years and shall be subject to the condition that required live plantings be maintained in accordance with the terms of the approved plan and in a good and healthy condition.

9. Insurance

An applicant shall obtain an insurance policy insuring against risks associated with environmental and ecological damage, including algal blooms, fish kills, and alterations of water oxygenation and salinity, and naming the Town as the beneficiary.

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 and Inspection

It shall be the duty of the CEO or his/her agent to enforce the provisions of this Ordinance and to conduct an inspection of the premises, as necessary. 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.

4. Legal Action

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.

5. Violations and Penalties

A. Generally

Any person, entity, or corporation being the owner 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.

B. Fish kill events

If a licensee's activities result in a fish kill event, the licensee shall pay to the Town a penalty, in addition to any other penalties or fines, equivalent to the value of the fish killed.

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.

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Appendix A

Fee Schedule

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

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