

**TOWN OF FREEPORT**  
**ORDINANCE CHAPTER 59 – MUNICIPAL SHELLFISH AQUACULTURE**

**Section 1 – General**

**Authority.** This section is enacted pursuant to M.R.S. Title 30-A: §3001, et seq., and Freeport Town Charter Section 2.13.

**Purpose.** The purpose of this ordinance is to ensure that intertidal shellfish aquaculture activities conducted within the Town of Freeport protect and optimize Freeport’s shellfish resources through introduction and support of sustainable aquaculture practices.

This ordinance is intended to set forth the process for granting municipal approval for aquaculture operations, as required by 12 M.R.S.A. Chapter 6072, Section 3, and to ensure that any approvals granted are consistent with Freeport Ordinance Chapter 32 “Shellfish Conservation”, specifically section 32-201, subsections (F), (I), and (J),

**Section 2 - Municipal Approval Criteria for State Aquaculture Leases within the Town of Freeport Intertidal Zone**

The criteria and considerations described in this section apply to applications to the State of Maine for aquaculture leases within the intertidal zone in Freeport. Applicants are encouraged to read and become familiar with Parts A (The Lease Application Process: What to Expect) & B (Requirements & Restrictions) of these applications. Pursuant to 12 M.R.S Chapter 6072, Section 3, applicants must receive municipal approval to be granted a State lease.

Applicants seeking municipal approval must:

- (1) provide a completed Part C (Cover Sheet) of the State lease application.
- (2) provide completed documentation for Part D (Application Information Requirements) — sections D1 through and including section D6 for Experimental Leases and sections D1 through and including section D7 for Standard Leases.
- (3) provide written permission from landowners and copy of any agreements with landowners of intertidal land in, on or over, which shellfish aquaculture activity will occur, as well as written permission and agreements with owners of private property required for access to the lease site.
- (4) confirm that the applicant holds a valid Freeport Commercial Shellfish Harvesting license issued pursuant to Freeport Ordinance Chapter 32 Section 601 – “Licensing”. No less than 90% of leases approved under this ordinance shall be held by Freeport residents who possess an active Freeport resident commercial shellfish harvesting license, with no more than 10% of leases approved under this ordinance being held by non-residents who possess an active Freeport non-resident commercial shellfish harvesting license. To accommodate the potential timing of lease applications, the Shellfish Conservation

Commission may waive the non-resident lease percentage restriction, so long as the underlying intent of no more than one non-resident lease for every ten leases issued is preserved.

- (5) confirm that the applicant does not already hold an active intertidal aquaculture lease in Freeport.
- (6) confirm that the intertidal land subject to the lease application does not exceed four (4) acres.
- (7) verify that the proposed lease is consistent with the intent of the Town of Freeport shellfish conservation program as set forth in Ordinance Chapter 32, "Shellfish Conservation Ordinance".
- (8) verify that approval of the lease will not cause the total area under municipal shellfish leases or permits to exceed twenty-five percent of the Town's total intertidal zone open to the taking of shellfish.
- (9) submit to municipal authorities by December 31 of each year during the lease period (or at such other time as municipal authorities may require), a written report on the status of the lease, including (a) a description of the efforts made to cultivate shellfish in the leased area, including total acreage under cultivation; (b) the type of shellfish harvested from the leased area; (c) the amount of each type of shellfish harvested from the leased area (i.e. landings by type); and (d) such other information as municipal authorities may require.
- (10) satisfy additional reasonable conditions established by municipal authorities as deemed necessary.
- (11) satisfy municipal authorities that the proposed lease is in the best interests of the Town of Freeport.

### **Section 3 - Process for New Lease Applications**

The following process applies to those seeking municipal approval in conjunction with State aquaculture lease applications for which the proposed lease site is entirely or partially located within the Town of Freeport intertidal zone.

1. The application for a State issued shellfish aquaculture lease shall be submitted in writing to the Town Clerk. The application shall include all relevant items described in Section 2, above. It may also include such other materials that the applicant wishes to be considered by the Shellfish Conservation Commission.
2. An incomplete application will not be considered by the Shellfish Conservation Commission until it is complete.
3. The Town Clerk shall promptly transmit the application and related documents to the Shellfish Conservation Commission for the Commission's consideration and send notice of applications to Freeport's Planning Board, Coastal Waters Commission, Conservation Committee, and Town Council.
4. The Town Clerk shall promptly publish a summary of the application in a newspaper of general circulation in the area that would be affected by the lease

and on the Town's webpage. Such publication will take place at least 30 days before consideration of the application by the Shellfish Conservation Commission.

5. Any person may provide written comments to the Town on the proposed lease may submit them to the Town Clerk's office within 30 days of publication of the summary in the newspaper or on the Town's webpage, whichever is later. The Town Clerk shall promptly transmit any such comments to the Shellfish Conservation Commission.
6. The Shellfish Conservation Commission, at its discretion, may hold a public hearing regarding the lease application. Public Hearings shall conform to any procedures or requirements established by order of the Freeport Town Council.
7. Upon receipt of the application by the Shellfish Conservation Commission, the Commission shall consider the application in light of the factors set forth in Section 2.
8. The Shellfish Conservation Commission shall issue its decision whether to recommend that the Town Council grant approval to applications for State aquaculture leases in writing. It shall make findings with respect to each of the factors identified in Section 2, above in writing and make those findings available to the public.
9. The Town Council shall review the findings and recommendation of the Shellfish Conservation Commission and shall decide, by order, whether to approve or deny the application.
10. All applications for State aquaculture leases acted upon by the Town Council shall be forwarded by the Town Clerk to the Commissioner of the Maine Department of Marine Resources, along with an attested copy of the Council's order approving or denying the application.

#### **Section 4 - Lease Renewals**

A State shellfish aquaculture lease is renewable upon application by the lessee in accordance with Maine Department of Marine Resources - Procedural Rules; Chapter 2 - Aquaculture Lease Regulations - Section 2.45. In addition, lessee must submit a copy of the application for renewal to the Freeport Town Clerk at least 90 days prior to the lapse of the lease. The Town Clerk will promptly transmit the application to the Shellfish Conservation Commission and notify the Planning Board, Coastal Waters Commission, Conservation Commission, and Town Council. As deemed appropriate, the Shellfish Conservation Commission may provide documentation, comments, testimony, and recommendations to the State authorities overseeing the lease adjudicatory proceedings.

#### **Section 5 - Lease Revocations**

If the Shellfish Conservation Commission is presented evidence that aquaculture has been conducted in a manner substantially injurious to marine organisms, or that no substantial aquaculture or research has been conducted over the course of the lease, or that any section of this Ordinance has been violated, the Commission may request in writing to the Commissioner of the Department of Marine Resources that the Department initiate revocation procedures in accordance with 12 M.R.S.A. 6072(11) (Monitoring and Revocation of Leases). The Town Council shall be provided a copy of any such requests made to the Commissioner of the Department of Marine Resources by the Shellfish Conservation Commission.