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## **SHELLFISH CONSERVATION ORDINANCE**

Washington County Territories  
Amended October 8, 2014

1. **Authority:**

This ordinance is enacted in accordance with 12 M.R.S.A. Section 6671.

2. **Purpose:**

To establish a shellfish conservation program for the Washington County Territories which will ensure the protection, management and optimum utilization of shellfish resources within its limits. These goals will be achieved by means, which may include:

- A. Licensing
- B. Limiting the number of shellfish harvesters
- C. Restricting the time and area where digging is permitted
- D. Limiting the minimum size of clams taken
- E. Limiting the amount of clams taken daily by the harvester
- F. Issuing Aquaculture permits
- G. Promote reseeding activities
- H. Conduct surveys to determine size distribution and density
- I. Establishing conservation areas for flat rotation

3. **Shellfish Conservation Committee:**

The Shellfish Conservation Committee for the Washington County Unorganized Territories (UT) will consist of six members (all being full time residents of the Washington County Territories) to be elected annually at the first shellfish conservation committee meeting for a term of one year.

The purpose of this committee is to serve in an advisory role in regards to shellfish conservation in the UT. This committee's mission is to provide the UT administration with recommendations based on being knowledgeable experts in these matters. These recommendations will be used to develop the best plan that best serves the UT as the administration sees fit.

4. **U.T. Administration:**

The Shellfish Conservation Program for the Washington County Territories will be administered by the UT Supervisor.

The UT Supervisor responsibilities include:

- A. Establishing annually, in conjunction with the Department of Marine Resources, the number of licenses to be issued;
- B. Submitting to the Washington County Commissioners, proposals for the expenditure of funds for the purpose of shellfish conservation;
- C. Keeping this ordinance under review and making recommendations for its amendments;
- D. Securing and maintaining records of shellfish harvest from the townships' managed shellfish areas and closed areas that are conditionally opened by the Maine Department of Marine Resources (DMR);
- E. Implementing conservation closures and openings and/or recommending conservation closures and openings to the Washington County Commissioners in conjunction with the Area Biologists from the DMR;
- F. Reviewing annually the status of the resource using results of clam flat harvester or dealer surveys and other sources of information and preparing in conjunction with and subject to the approval of the department a plan for implementing conservation measures.
- G. Submitting an annual report to the Washington County Commissioners and the DMR covering the above topics and all other committee activities.
- H. Establishing an objective process for sales of Shellfish Licenses.
- I. Scheduling and facilitating Shellfish committee meetings periodically. Develop an agenda for the meeting, using input from the Shellfish Conservation Committee. Taking minutes from the meetings.
- J. Administering the Aquaculture permitting process outlined in the Washington County Territories Aquaculture permit policy.
- K. Ensuring that the recommendations put forward from the Committee are considered when developing, resourcing, and executing plans that affect this local resource.

5. **Definitions:**

A. Resident: The term "resident" refers to a person who has been domiciled (domicile: a person's permanent residence) in the township for at least three months (90 days) prior to the time his/her claim of such residence is made.

B. Non-Resident: The term "non-resident" means anyone not qualified as a resident under this ordinance.

C. Shellfish, Clams and Intertidal Shellfish Resources: When used in the context of this ordinance, the words "shellfish," "clams," and "intertidal shellfish resources" mean soft-shell clams (Mya arenaria).

D. Townships: Refers to the Unorganized Townships, County of Washington, State of Maine.

6. **Licensing:**

Unorganized Territory Shellfish Harvester's License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of the Washington County Territories without having a current license issued by the Office of the U.T. Supervisor, or the designated agent, as provided by this ordinance.

A Commercial Harvester must obtain a State license after the issuance of the UT commercial license.

Pursuant to Title 12 M.R.S.A., Section 6671, subsection 3A-F, "... the combined number of commercial licenses for nonresidents provided by those municipalities shall be a number not less than 10% of the combined total number of commercial licenses issued for residents.

A. Designation, Scope and Qualifications:

- 1) Resident Commercial Shellfish License: The license is available to residents of the Washington County Territories and entitles the holder to harvest and take any amount of shellfish from the shores and flats of these territories and reciprocating municipalities.
- 2) Non-residents Commercial Shellfish License: The license is available to non-residents of the Washington County Territories and entitles the holder to harvest and take any amount of shellfish from the shores and flats of these territories.
- 3) Resident Recreational Shellfish License: The license is available to residents and real estate taxpayers of these territories and entitles the holder to harvest and take no more than one peck of shellfish in any one-day for the use of the license holder and the holder's family.
- 4) Non-resident Recreational Shellfish License: The license is available to any person not a resident to these territories and entitles the holder to harvest and take not more than one peck of shellfish in any one day for the use of the license holder and the holder's family.
- 5) Veteran Status Licenses: The license is available to any person that has proof of Veteran status from the U.S. military and entitles them to purchase an appropriate license and fee per the license fee schedule.
- 6) Junior/Senior Recreational Shellfish License: The license is available to residents, age 62 years or older and 16 years and younger, of the Washington County Territories and entitles the holder to harvest and take no more than one peck of shellfish in any one day for the use of the license holder and the holder's family.

B. Application Procedure:

Any person may apply to the agent designated by the Washington County Commissioners, for the license required by this ordinance on forms provided by the Office of the U.T.

- 1) Contents of the Application: The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, signature and whatever information the U.T. may require.
- 2) Misrepresentation: Any person who gives false information on a license application will cause said license to become invalid and void.

C. Fees:

The licenses are as stated below. The designated agent, shall pass all fees received to the County Treasurer. The fees will be deposited into the "shellfish conservation reserve" account. Fees received for shellfish licensing shall be used by the U.T. for shellfish management, conservation and enforcement.

Resident Commercial:.....	\$	_____
Non-resident Commercial:.....	\$	_____
Resident Veteran Commercial:.....	\$	_____
Resident Recreational:.....	\$	_____
Non-resident Recreational:.....	\$	_____
Resident/Non-Resident Veteran Rec:.....		No Fee
Junior/Senior Resident Recreational:.....		No Fee

- Fees will be determined annually prior to license sales.

D. Limitation of Diggers:

Open license sales: When the UT Administration determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year:

- 1) Notice of the dates, places, times and the procedures for the license sales shall be published in a newspaper or combination of newspapers with general circulation, which the U.T. administration consider effective in reaching persons affected, not less than 10 days prior to the initial sale date. A copy of the notice shall be provided to the Commissioner of the Department of Marine Resources.
- 2) Conservation Credits Program: As a prerequisite to purchasing a commercial shellfish digging license, each digger will be required to earn one conservation credit. The UT will advertise dates that conservation activities will be scheduled annually.

The conservation credit is a two part process annually. The second part always being a clam flat survey.

A conservation credit consists of the following:

- a. Digging undersized clams (1"), for reseeding purposes for the duration of one tide (5hrs).
  - b. Brushing beaches for the duration of one tide (5 Hrs).
  - c. Performing a clam flat survey for the duration of one tide (5 Hrs).
  - d. Perform reseeding activities with seed clams on beaches for duration of one tide (5 hrs).
  - e. Performing predator (moon snails, green crabs etc.) removal from beaches for duration of one tide (5 hrs).
- Each of these activities are worth ½ conservation credit. Upon which license purchase is authorized. The second ½ credit will be awarded for a late season clam flat survey on the area that the previous conservation effort was done. If the second ½ conservation credit is not accomplished by a harvester, that harvester will not be qualified to purchase a commercial license the next season. The ½ credit can also be achieved by participating in one of the scheduled shellfish committee meetings.

- 3) For each commercial license category, the designated agent, shall issue one license to non-residents when six licenses are issued to residents and one more to non-residents when four more are issued to residents; thereafter, one non-resident license will be issued for every ten additional resident licenses issued. For each recreational license category, the designated agent, shall issue one license to a resident and one to a non-resident; thereafter, one non-resident license will be issued for every ten additional resident licenses issued.
- 4) The designated agent, shall issue licenses to residents as allocated, from the 2<sup>nd</sup> Saturday in May. (License will carry a date of June 1 of the same year). Non-resident commercial licenses will be distributed by lottery. Any non-resident may submit an application to the Washington County Territories, from May 1 to May 31 each year. The lottery drawing will be held at the Office of the U.T. Supervisor on the first Thursday of June, and the successful applicants will be notified. (Applications are available from the Office of the U.T. Supervisor.) Notified applicants will have 10 days to purchase this license.
- 5) There will be no commercial digging a half hour before sunrise or a half hour after sunset.

*E. License Expiration Date:*

Each license issued under authority of this ordinance expires at midnight on the thirty-first day of May, next following the date on the license.

F. Reciprocal Harvesting Privileges:

Licenses from any other municipality cooperating with these territories on a joint shellfish management program may harvest shellfish according to the terms of this ordinance.

G. Suspension:

Any shellfish licensee having three convictions for a violation of this ordinance shall have his shellfish license automatically suspended for a period of thirty (30) days.

- 1) A licensee whose shellfish license has been suspended pursuant to this ordinance may re-apply for a license only after the suspension period has expired.
- 2) The suspension shall be effective from the date of mailing of a Notice of Suspension by the designated agent, to the Licensee.
- 3) Any licensee, whose shellfish license has automatically been suspended pursuant to this section, shall be entitled to a hearing before the Washington County Commissioners upon the filing of a written Request for Hearing with the designated agent, within thirty (30) days following the effective date of suspension.

7. Opening and Closing of Flats:

The Washington County Commissioners, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendations of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources area biologist that the status of the shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the County Commissioners may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Washington County Commissioners made after the hearing shall be based on findings of fact.

All areas reopened by the State shall remain closed to shellfish harvesting until the County Commissioners have approved and notified the public of its opening.

8. **Minimum Legal Size of Soft Shell Clams:**

It is unlawful for any person to possess soft-shell clams within the Washington County Territories, that are less than two (2) inches in the longest anterior-posterior dimension, except as provided by Subsection B of this section.

A. **Definitions:**

- 1) **Lot:** The word "lot" as used in this ordinance means the total number of soft-shell clams in any bulk pile. Where soft shell-clams are in a box, barrel, or other container. The contents of each box, barrel, or other container constitutes a separate lot.
- 2) **Possess:** For the purposes of this section "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam shellstock.

B. **Tolerance:**

Any person may possess soft-shell clams that are less than two (2) inches, if they comprise less than 10% of any lot. The tolerance shall be determined by numerical count of not less than one peck nor more than four peck taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.

C. **Penalty:**

Whoever violates any provision of this section shall be punished as provided by 12 M.R.S.A., Section 6681.

9. **Cobscook Bay State Park:**

- A. No person is required to have a license to harvest one peck of soft-shell clams or less per day from the shores or flats within Cobscook Bay State Park.
- B. No person shall take more than one peck of soft-shell clams per day from the shores or flats within Cobscook Bay State Park. (This area includes Broad Cove).
- C. From the mouth of Broad Cove southerly including Burnt Cove is open to commercial shellfish harvesting. All commercial harvesting in this area will be by boat access only. These flats are adjacent to Cobscook Bay State Park.

10. **Aquaculture Lease:**

An Aquaculture permit is a subset of the overall Washington County U.T. Shellfish management program. It is an integral conservation tool used in our local best management practices.

This ordinance provides opportunities for citizens of the U.T. to obtain a Municipal shellfish aquaculture permit. In annex A of this ordinance the following three documents appear:

- A. The Washington County Aquaculture Permit Policy
- B. Application for Aquaculture Permit
- C. Aquaculture Permit Renewal Application

11. **Penalty:**

A person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 (10).

12. **Effective Date:**

This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the townships, provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.

13. **Separability:**

If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.

14. **Repeal:**

Any ordinance regulating the harvesting or conservation of shellfish in the townships and any provisions of any other township ordinance which is inconsistent with this ordinance is hereby repealed.

.....  
Ordinance approved by Department of Marine Resources

8 OCT 2014  
(Date)

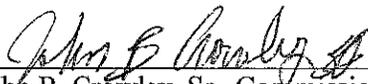
Ordinance adopted by the Washington County Commissioners

8 OCT 2014  
(Date)  
.....

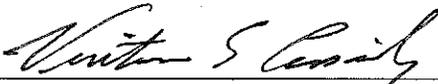
**WASHINGTON COUNTY COMMISSIONERS**

\_\_\_\_\_  
Christopher M. Gardner, Chairman

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
John B. Crowley, Sr., Commissioner

10/8/14  
Date

  
\_\_\_\_\_  
Vinton Cassidy, Commissioner

10/8/14  
Date

**Witness for Washington County Commissioners:**

  
\_\_\_\_\_  
Dean A. Preston  
U.T. Supervisor

8 OCT 2014  
Date

THREE (3) ORIGINAL ORDINANCES EXECUTED; ONE KEPT IN EACH OF THE FOLLOWING OFFICES:

1. State of Maine District Court, Machias, Maine.
2. Washington County Commissioners', Machias, Maine.
3. Department of Marine Resources, Hallowell, Maine.

# ANNEX A

**Washington County Territory**

**AQUACULTURE PERMIT POLICY**

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**1.00 Definitions**

1. The definitions set forth in 12 M.R.S.A. §6072 shall apply to the terms used in this chapter.

A. UT

“UT” means the Office of the Washington County Territory Supervisor.

B. Commission

“Commission” means the Washington County Board of Commissioners. This board are the administrators of the Washington County Unorganized Territory.

C. Aquaculture

"Aquaculture" means the culture or husbandry of marine organisms by any person. Storage or any other form of impounding or holding wild marine organisms, without more, shall not qualify as aquaculture. In order to qualify as aquaculture, a project must involve affirmative action by the lessee to improve the growth rate or quality of the marine organism.

D. Culture or Husbandry

"Culture or husbandry" means the production, development or improvement of a marine organism.

E. Riparian Owner

"Riparian Owner" means a shorefront property owner whose property boundaries are within 1000 feet of the proposed permit boundaries.

F. Existing or Potential Uses

“Existing or Potential Uses” means all water-related activities and resources including, but not limited to, commercial and recreation fisheries, marine transportation, aquaculture, and boating.

G. Adverse Effects

"Adverse Effects" means impediments to water-related activities or unreasonable interference with natural processes supporting those activities. This includes, but is not limited to, floating or submerged obstruction, habitat destruction, natural flora and fauna displacement, current flow alteration, and lowered water quality.

H. Scientific research

“Scientific research” is a study or investigation intended to lead to new discoveries or advances within its field or to impact on the progress in that field, as determined by the U.T.. In making its decision, the U.T. shall consider the nature, funding and objective of the planned research. The results of any scientific research shall be part of the public record.

I. Commercial research and development

“Commercial research and development” means a study by any person or company designed to try new species, new growing or harvesting techniques, new sites or to determine the commercial viability of an operation. The results of such research will not be part of the public record.

J. Fallow

“Fallow” means a permit site without cultured organisms.

K. Mean Low-Water

“Mean low-water” means the average low tide. An approximation of mean low-water is made by observing the low-water mark when the tide height is at 0.0 feet as indicated on a tide table.

**1.01 Pre-Application Requirements for Standard Permits**

1. Pre-application meeting. Prior to filing an application for a standard permit with the U.T., an applicant shall attend a pre-application meeting with U.T. administration and the shellfish committee to discuss the proposed application. The purpose of the meeting will be for the applicant to introduce the proposal to the U.T. administration and for the applicant to gain local knowledge from the shellfish committee. In addition the pre-application meeting will specifically define the environmental baseline or characterization requirements and other informational needs, including approximate location of the permit site. The purpose of a pre-application meeting shall be to:
  - A. Familiarize the general public with the proposal;
  - B. Allow the public an opportunity to provide the applicant with additional local information prior to development of an application;
  - C. Allow the public an opportunity to ask questions of the applicant and the U.T. administration; and
  - D. Provide the U.T. with information that can be used during the U.T. site review.

2. Notice. The U.T. shall provide notice of the pre-application meeting to riparian landowners within 1,000 feet of the proposed permit, and interested governmental agencies. All other interested individuals or parties may request to be placed on the U.T.'s service list for notification of the pre-application meetings or other proceedings relating to the processing of aquaculture permit applications. The U.T. shall publish a notice in a newspaper of general circulation in the area of the proposed permit at least ten days prior to the pre-application meeting.
3. Application submission. During the 60 days following the pre-application meeting, or until a completed application is received by the UT, whichever is earlier, the U.T. cannot accept an application for a permit in the same location(s) as any proposed permit discussed at the public pre-application meeting.

### 1.02 Application Requirements for Standard Permits

1. Form. Aquaculture permit applications shall be submitted on forms prescribed by the U.T. administration and shall contain all information required by the U.T. administration for the consideration of the aquaculture project.
2. Fee. An application shall not be considered complete unless a non-refundable application fee has been paid by check. The application fees will be deposited in the "Shellfish Conservation Reserve". The application fees are as follows:

APPLICATION FEES: No Discharge permits

Effective January 1, 2008: \$ 200.00

3. Required Elements. The following at a minimum is required for an application to be considered complete:
  - A. A description of the location of the proposed permit by corner coordinates or boundaries with coordinates for one starting point, a map of the permit area and its adjoining waters and shorelands, with the names of the known riparian owners indicated on the map as listed in the municipal or State property tax records and a certified list of the names and addresses of riparian owners as they are listed in the municipal or State property tax records.
  - B. A list of the species to be cultivated and a description of the proposed source(s) of organisms to be grown at the site.
  - C. Environmental Characterization and Baseline
    - (1) No discharge applications. Applications for permits with no discharge require the submission of an environmental characterization that shall include, but not be limited to, bottom characteristics, resident flora and fauna, tide levels and shellfish survey (initial).

This environmental characterization shall be used to provide a description of the physical and ecological impact of the project on

existing and potential uses of the site as a result of the operation. Applicants may do more than one site characterization, but one characterization must be completed between April 1 and November 15, dates inclusive.

- D. A description of the commercial and recreational navigation uses of the proposed permit site, including type, volume, time, duration, location and direction of traffic.
- E. A description of the degree of exclusive use required by the project. This shall include a description of the use intended for the site by the applicant.
- F. A description of current commercial and recreational fishing occurring in the proposed permit tract and the immediate vicinity of the proposed permit site. The description should include type, duration and amount of activity.
- G. The written permission of every riparian owner whose land will be used to access the project and the landowner of the project land itself.
- H. A description of riparian owner's current use of permit site for purposes of access to riparian owned land.
- I. Financial Capacity. The applicant shall provide information showing, to the satisfaction of the U.T., that it has obtained all of the necessary financial resources to operate and maintain all aspects of the proposed aquaculture activities. Each applicant shall submit accurate and complete cost estimates of the planned aquaculture activities. The following submissions are examples of acceptable documentation indicating adequate financial capacity:
  - (1) A letter from a financial institution or funding agency showing intent or willingness to commit a specified amount of funds, or
  - (2) The most recent corporate annual report and supporting documents indicating sufficient funds to finance the aquaculture activities, or
  - (3) Copies of bank statements or other evidence indicating availability of the unencumbered funds or proof that equipment and seed stock are available to the applicant.
- J. Technical Capability. The applicant shall submit a resume' or other documentation as evidence of technical expertise and capability to accomplish the proposed project.
- K. Equipment. The applicant shall submit detailed specifications on all gear, including nets, pens, etc. to be used on the site. Vessels that service a site are not subject to this provision. This information shall include documentation that the equipment is the best available technology for the proposed activity.

The application shall also include information on the anticipated typical number and type of vessels that will service the proposed site, including the frequency and duration of vessel traffic.

4. Completion

- A. Upon receipt of a written application, the applicant shall receive notice by the U.T. that the application was received. Within 30 working days of receipt of a written application, the U.T. shall:
- (1) Determine whether the application is complete, containing sufficient information in which a decision regarding the granting of the application may be taken, and notify the applicant of his determination. If the application is incomplete, it shall be returned to the applicant with a written explanation of the additional information required in order to be complete.
  - (2) When the application is complete, the U.T. administration will make a determination whether the application could be granted and whether the applicant has the financial and technical capability to carry out the proposed activity. If the U.T. administration makes both determinations in the affirmative, the U.T. shall schedule a hearing on the application. If the U.T. administration determines either that the application could not be granted or the applicant lacks the necessary financial or technical capacity the applicant shall be notified in writing of that determination and no further U.T. action on the application is required.

5. Proposed Site Marking

At least 30 days prior to the proposed hearing date, the applicant shall place visible markers which delineate the area proposed to be permitted.

**1.03 Multiple Ownership**

1. Corporate Applicants. Corporate applicants for aquaculture permit(s) shall include the following information in their application:
  - A. The date and state in which incorporated and a copy of the Articles of Incorporation;
  - B. The names, addresses, and titles of all officers;
  - C. The names and addresses of all directors;
  - D. Whether the corporation, or any stockholder, director or officer has applied for an aquaculture permit for Maine lands in the past, and the outcome or current status of that application or permit;

- E. The names and addresses of all stockholders who own or control at least 5% of the outstanding stock and the percentage of outstanding stock currently owned or controlled by each such stockholder;
  - F. The names and addresses of stockholders, directors or officers owning an interest, either directly or beneficially, in any other Maine aquaculture permits, as well as the quantity of acreage from existing aquaculture permits attributed to each such person under paragraph 3 below; and
  - G. Whether the corporation or any officer, director, or shareholder listed pursuant to Chapter 1.03 (1)(E) has ever been arrested, indicted or convicted of or adjudicated to be responsible for any violation of any marine resources or environmental protection law, whether state or federal.
2. Partnership Applicant. Partnership applicants for aquaculture permit(s) shall include the following information in their application:
- A. The date and state in which the partnership was formed and a copy of either the Certificate of Limited Partnership or documentation of the formation of a General Partnership;
  - B. The names, addresses, and ownership shares of all partners;
  - C. Whether the partnership or any partner has applied for an aquaculture permit for Maine lands in the past and the outcome or current status of that application or permit;
  - D. Whether the partnership or any partner owns an interest, either directly or beneficially, in any other Maine aquaculture permits as well as the quantity of acreage from existing aquaculture permits attributed to the partnership or partner under paragraph 3 below;
  - E. Whether the partnership or any partner has been arrested, indicted or convicted of or adjudicated to be responsible for any violation of marine resources or environmental protection law, whether state or federal.

3. Aquaculture Permit Acreage

No permit may be granted that results in a person being a tenant of any kind in permits covering an aggregate of more than 20 acres. For the purposes of calculating ownership of aquaculture permit acreage, the amount of acreage permitted by a corporation or partnership will be attributed to the partnership or corporation and collaterally to shareholders in the corporation or partnership as individuals at a rate equal to the shareholders' ownership in the corporation or partnership.

**1.04 Notice of Permit Application and Hearing**

- 1. Notice of Completed Application

At the time that an application is determined to be complete in accordance with Chapter 1.02(4), the U.T. shall forward a copy of the completed application to the known riparian owners within 1,000 feet of the proposed permit as listed on the application.

2. Personal Notice of Public Hearing

At least 30 days prior to the date of the public hearing, the U.T. shall mail a copy of the notice of hearing, permit application and chart describing the permit area to the following persons:

- A. Riparian owners as listed in the application;
- B. The applicant; and
- D. Any public agency the U.T. determines should be notified.

3. Public Notice of Public Hearing

The U.T. shall publish a notice of the public hearing at least twice in a newspaper of general circulation in the area affected unless otherwise prescribed by the Maine Administrative Procedure Act. Such notice shall be published once at least 30 days prior to the hearing and a second time at least 10 days prior to the hearing.

Public notice shall include the following information:

- A. a statement of the legal authority under which the proceedings are being conducted, including reference to the Administrative Procedure Act, 5 M.R.S.A. §9051 *et seq.* and the aquaculture permit provisions of 12 M.R.S.A. §6072;
- B. a short, plain statement of the nature and purpose of the proceeding and the nature of the aquaculture permit application;
- C. a statement of the time and place of the hearing;
- D. a statement of the manner and time within which applications for Intervention may be filed; and
- E. a statement of the manner and time within which evidence and argument may be submitted to the U.T. for consideration.

The U.T. shall also distribute press releases regarding the public hearing to print media outlets serving the area of the proposed permit application at least two weeks prior to the public hearing.

## 1.05 Intervention

### 1. Forms

The U.T. shall on request supply application forms for intervenor status and require the submission of the following information:

- A. The identity of intervenor applicant;
- B. A description of the manner in which the intervenor applicant may be substantially and directly affected by the granting of an Application. This description shall include information describing the intervenor applicant's existing use of the proposed permit area; and
- C. A description of intervenor applicant's objections, if any, to the proposed aquaculture permit.

### 2. Filing of Applications

Any application for intervenor status must be filed in writing and received by the U.T. at least 10 days prior to the hearing.

### 3. Participation Limited or Denied

At least 5 days prior to the hearing, the U.T. shall decide whether to allow or refuse intervenor applications. The U.T. shall provide written or oral notice of his decision to the intervenor applicant and all other parties to the proceeding. When participation of any intervenor is limited or denied, the U.T. shall include in the hearing record an entry noting his decision and the reasons therefore.

- A. Full Participation. The U.T. shall approve intervenor status for any person who is substantially and directly affected by the granting of an aquaculture permit application, and for any other agency of federal, state, or local government.
- B. Limited Participation. The U.T. may grant limited intervenor status to an intervenor applicant where the U.T. determines that the applicant has a lesser interest than that necessary for full intervenor status but whose participation as a limited intervenor is warranted or would be helpful to the U.T. in his decision making. The U.T. may also grant limited intervenor status when the applicant has an interest in the proceeding and where the U.T. determines that the applicant's interest or evidence to be offered would be repetitive or cumulative when viewed in the context of the interest represented or evidence to be offered by other intervenors. The U.T. shall describe the manner in which a limited intervenor is permitted to participate in the adjudicatory process in his written notification of the granting of such status.

## 1.06 Agency File

1. Upon receipt of an aquaculture permit application, the U.T. shall open a file, which shall include all written correspondence from parties and non-parties concerning the application and memoranda of oral communications between the U.T. and parties and non-parties concerning the permit application.

2. Public Inspection

The file shall be open for public inspection by prior appointment during normal business hours.

**1.07 Aquaculture Permit Hearing Procedures**

1. Presiding Officer

A. The presiding officer at any aquaculture permit hearing shall be the U.T. Supervisor or representative designated by the County Commissioners.

B. The presiding officer shall have the authority to:

(1) rule upon issues of evidence and procedure;

(2) regulate the course of the hearing;

(3) administer oaths; and

(4) take such other action as may be necessary for the efficient and orderly conduct of the hearing, consistent with these regulations and applicable statutes.

2. General Conduct

A. Opening Statement. The presiding officer shall open the hearing by describing in general terms the purpose of the hearing and the general procedure governing its conduct.

B. Record of Testimony. All testimony at aquaculture permit hearings shall be recorded and, if necessary for judicial review, transcribed.

C. Witnesses. All witnesses must be sworn and will be required to state his/her name, residence, and whom, he/she represents, if anyone, for the purpose of the hearing.

D. Testimony in Written Form. At any time prior to or during the course of the hearing, the presiding officer may require that all or part of the testimony to be offered at the hearing be filed with the U.T. in written form at a prescribed time prior to the hearing. All such pre-filed written testimony must be sworn and all

persons offering sworn testimony in written form must be present at the hearing and subject to cross-examination.

3. Continuance

All hearings conducted pursuant to these regulations may be continued by the presiding officer for reasonable cause and reconvened from time to time and place to place by the presiding officer. The presiding officer shall provide reasonable notice to the parties and the public of the time and place of such reconvened hearing.

4. Cameras and Microphones

The placement and use of television cameras, still cameras, motion picture cameras, microphones and other recording devices may be regulated by the presiding officer to ensure the orderly conduct of the hearings.

**1.08 Evidence**

1. Evidence which is relevant and material to the subject matter of the hearing, and is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible.

2. The presiding officer may take official notice of any facts of which judicial notice could be taken, and in addition may take official notice of general, technical, or scientific matters within the U.T. specialized knowledge as well as statutes, regulations and non-confidential agency records. When facts are noticed officially, the presiding officer shall state the same during the hearing or otherwise notify all parties and they shall be able to contest the substance or materiality of the facts noticed. Facts officially noticed shall be included and indicated as such in the hearing record.

3. Documentary and Real Evidence

A. All documents, materials and objects offered and accepted as evidence shall be numbered or otherwise identified and included in the record. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. The presiding officer may require any person offering documents or photographs as exhibits to submit a specified number of copies unless the document or photograph is determined to be unsuitable for reproduction.

B. All written testimony and documents, materials and objects submitted into evidence shall be made available during the course of the hearing for public examination. All hearing evidence shall also be available for public examination upon prior appointment at the U.T. office in Machias during normal business hours.

C. The agency file containing the application and agency correspondence shall be submitted as documentary evidence in the hearing record.

4. Objections

All objections to rulings of the presiding officer concerning evidence or procedure and the grounds therefore shall be timely stated during the course of the hearing. During the course of the hearing or after the close of the hearing, the U.T. may determine that the ruling of the presiding officer was in error and order the hearing reopened or take any other action he deems appropriate to correct the error.

5. Offer of Proof

An offer may be made in connection with an objection to a ruling of the presiding officer excluding any testimony or question on cross-examination. Such offer of proof shall consist of a statement of the substance of the proffered evidence.

6. Public Participation

Any person may participate in a hearing by making oral or written statements explaining his position on the issues, and may submit written or oral questions to the parties through the presiding officer, within such limits and upon such terms and conditions as may be fixed by the presiding officer.

7. Testimony at Hearings

A. Order of Presentation. Unless varied by the presiding officer, hearing testimony shall be offered in the following order:

- (1) Direct evidence by applicant and applicant's witnesses in support of the application.
- (2) Testimony by U.T. staff and shellfish committee.
- (3) Testimony by members of federal, state and local agencies.
- (4) Direct evidence by intervenors supporting the application.
- (5) Direct evidence by intervenors opposing the application.
- (6) Testimony by members of the public.

B. Questions. At the conclusion of his/her testimony each witness may be questioned in the order described below. The presiding officer may require that questioning of witnesses be conducted only after the conclusion of testimony by an entire category of witnesses for the purposes of efficiency or clarity of record.

- (1) The presiding officer, legal counsel and U.T. staff may question witnesses at any time.
- (2) The applicant.
- (3) Federal, state and local agency representatives.

- (4) Intervenors.
- (5) At the discretion of the hearing officer, all other members of the public may have the opportunity to question witnesses directly or by oral or written questions through the presiding officer.

8. Conclusion of Hearing

- A. At the conclusion of the hearing the record shall be closed and no other evidence or testimony will be allowed into the record, except by stipulation of the parties or as specified by the presiding officer.
- B. The U.T. may re-open the hearing record after it has been closed to take additional evidence on specific issues where the U.T. is not satisfied that he has all of the information before him necessary to make a decision.

9. Record

A full and complete record shall be kept for each aquaculture permit application proceeding. The record shall include, but shall not be limited to, the application, supporting documents, all exhibits, proposed findings of facts and conclusions of the presiding officer, if any, staff documents, the U.T.'s findings of facts and conclusions, and a recording or transcript of the hearing.

**1.09 Decision**

- 1. After review of the record, the U.T. shall issue a written decision, complete with findings of fact and conclusions of law.

The U.T. may grant an aquaculture permit if he is satisfied that the proposed project meets the conditions outlined by this Washington County Policy.

- A. Standards: In making his decision the U.T. shall consider the following with regard to each of the statutory criteria:
  - (1) Riparian Owners Ingress and Egress. The U.T. shall examine whether the riparian owners can safely navigate to their shore. The U.T. shall consider the type of shore involved and the type of vessel that can reasonably land on that shore. He/she shall consider the type of structures proposed for the permit and their potential impact on the vessels which would need to maneuver around those structures.
  - (2) Navigation. The U.T. shall examine whether any permit activities requiring surface and or subsurface structures would interfere with commercial or recreational navigation around the permit area. The U.T. shall consider the current uses and different degrees of use of the navigational channels in the area in determining the impact of the permit operation.

- (3) Fishing. The U.T. shall examine whether the permit activities would unreasonably interfere with commercial or recreational fishing or other water-related uses of the area.
- (4) Other Aquaculture Uses. The U.T. shall consider any evidence submitted concerning other aquaculture uses of the area. The intensity and frequency of such uses as well as the degree of exclusivity required for each use shall be factors in the U.T.'s determination of whether any interference is unreasonable.
- (5) Existing System Support. The U.T. shall consider the degree to which the use of the permit site will interfere with significant wildlife habitat and marine habitat or with the ability of the permit site and marine and upland areas to support ecologically significant flora and fauna.
- (6) Source of Organisms to be Cultured. The U.T. shall include but not be limited to, consideration of the source's biosecurity, sanitation, and applicable fish health practices.
- (7) Interference with Public Facilities. The Commissioner shall consider the degree to which the permit interferes with public use or enjoyment within 1,000 feet of a beach, park, docking facility or certain conserved lands owned by the Federal Government, the State Government or a municipal government.

(8) Visual Impact

Color. Equipment and structures shall be painted, or be of, a color that does not contrast with the surrounding area. Acceptable hues are grays, blacks, browns, blues, and greens that have a sufficiently low value, or darkness, so as to blend in with the surrounding area. Colors shall be flat, not reflective, in appearance.

The color of equipment, such as buoys, shall not compromise safe navigation or conflict with US Coast Guard Aids to Private Navigation standards.

B. Conditions

The U.T. may establish conditions that govern the use of the permitted area and limitations on the aquaculture activities. These conditions shall encourage the greatest multiple, compatible uses of the permitted area, but shall also address the ability of the permit site and surrounding area to support ecologically significant flora and fauna and preserve exclusive rights of the lessee to the extent necessary to carry out the permit purpose.

The U.T. may grant the permit on a conditional basis until the permittee has acquired all the necessary federal, state and local permits/licenses. The U.T.

may require environmental monitoring of a permit site, including but not limited to restrictions on:

- (1) Specific stocking limits, husbandry techniques and harvesting methods;
  - (2) The size and shape of gear, nets, or enclosures;
  - (3) The deployment and placement of gear; and
  - (4) The timing of various project operations.
2. The U.T.'s denial or approval of a permit application shall be considered final agency action for purposes of judicial review.
  3. Within 60 days after the hearing on an application, the U.T. shall render a final decision.

#### 1.10 Permit Issuance

1. Prior to issuing a permit, the U.T. shall send a draft permit for review to the applicant.
2. Applicant Responsibilities. Within 10 days of the U.T.'s decision and prior to issuance of the permit, the applicant must complete the following requirements:
  - A. Establish an escrow account or secure a performance bond in the amount required by the U.T. in the draft permit. The amount is as follows:  
  
Category of Aquaculture Permit:  
  
No structure, no discharge    \$ 500.00
  - B. Pay the rental fee due for the first year of the permit term.
3. Immediately following, but not before signing of the permit by the U.T. and the applicant, the permittee must complete the following requirements:
  - A. File the permit or a memorandum of permit in the U.T. Office of Washington County.
  - B. Publish notice of the permit issuance in the newspapers in which the aquaculture permit hearing notices originally appeared, following U.T. approval of the notice.
4. Compliance

Failure to maintain an escrow account or performance bond, to pay rental fees in a timely manner, or failure to comply with the terms of the permit, these regulations or any applicable laws shall be grounds for permit revocation under Chapter 1.12.

5. Permit Term and Validity

The term of the permit shall run from the date of the U.T.'s decision but no aquaculture rights shall accrue in the permit area until the permit is signed.

6. Other Licenses

The permit holder is responsible for obtaining any requisite licenses and special licenses from the U.T. prior to beginning operations.

Persons who are issued an aquaculture permit for shellfish must also comply with DMR regulations Chapters 9 and/or 15-20 established in accordance with the National Shellfish Sanitation Program Model Ordinance for the sanitary control of shellfish.

**1.11 Competing Aquaculture Permit Applications**

1. To qualify as a competing application under subsections 2 and 3, an application must be accepted by the U.T. prior to the publication of the first public notice of hearing to consider a previously filed permit application for identical or overlapping permit areas.
2. In the event the U.T. receives competing aquaculture permit applications for a permit site, the U.T. shall give preference in granting a permit as follows:
  - A. first to the riparian owner of the intertidal zone within the permitted site area;
3. If the U.T. receives competing applications which are either in the same preference category as outlined in Chapter 1.14(2), or which are not in any preference category, the applications shall be considered sequentially according to the date on which the application was deemed complete by the U.T. pursuant to Chapter 1.02(4)(A)(1) of these regulations.

**1.12 Annual Permit Review and Revocation**

The U.T. shall conduct an annual review of each aquaculture permit.

1. If the U.T. determines following an annual review or at any other time that the applicant has conducted substantially no research or aquaculture depending on the purpose of the permit within the preceding year, that the aquaculture or research within the aquaculture permit area has been conducted in a manner substantially injurious to marine organisms, or that any other permit condition or the terms of these regulations or any applicable law has been violated, he may revoke the permit.
2. Unless the permit holder waives the same, the U.T. shall hold an adjudicatory hearing to consider revocation of a permit, subject to the notice and hearing procedures set forth in these regulations.

### 1.13 Permit Rental Fee

Rental shall be payable hereunder as follows:

One hundred dollars (\$50) per acre, per year, payable on or before October 1 of each year throughout the term of the permit.

### 1.14 Permit Renewal

1. A permittee must file with the U.T. an application to renew a permit at least 90 days prior to the lapse of the permit. The application shall include a nonrefundable application fee of \$200 and shall include information on the type and amount of aquaculture to be conducted during the new permit term.
2. Renewal of a permit shall be an adjudicatory proceeding with notice as provided by these regulations, except that no hearing is required unless it is requested, in writing, by five or more interested persons.
3. The U.T. shall grant a permit renewal if:
  - A. the permittee has complied with the permit agreement during the term of the permit;
  - B. the permit is not being held for speculative purposes. Consideration of speculative purposes includes whether the lessee has conducted substantially no research or aquaculture in the permit areas during the previous permit term;
  - C. the U.T. determines that it is in the best interest of the U.T. to renew the permit.
  - D. the renewal will not cause the lessee to become a tenant of any kind in permits covering an aggregate of more than 20 acres.

### 1.16 Permit Transfer

1. Application. A permittee, on a form supplied by the U.T., may apply for approval of the transfer of his aquaculture permit to another person for the remaining portion of the permit term. The application shall include a nonrefundable application fee of \$400. The U.T. may waive the application fee if the applicant demonstrates that the transfer is to the applicant's parent, spouse, sibling or child. Multiple transfers of one permit are not permitted.
2. Procedure. A permit transfer shall be an adjudicatory proceeding subject to the notice and hearing requirements, as set forth for initial permit application in these regulations, except that no hearing is required unless requested, in writing, by five or more interested persons.
3. Decision. The U.T. may grant the permit transfer if it is determined that:

- A. the change in permittee's identity does not violate any of the permit issuance criteria;
- B. the permit transfer is not intended to circumvent the preference guidelines for treatment of competing applications;
- C. the permit transfer is not for speculative purposes. Consideration of speculative purposes includes whether the current permittee has conducted substantially no research or aquaculture in the permit areas during the previous permit term; and
- D. the transfer will not cause the transferee to be a tenant of any kind in permits covering an aggregate of more than 20 acres.

#### **1.17 Minimum Permit Maintenance Standards**

- 1. Each lessee shall mark the permit in a manner prescribed by the U.T. in the permit.
- 2. Each lessee shall maintain his aquaculture permit in such a manner as to avoid the creation of a public or private nuisance and to avoid substantial injury to marine organisms.
- 3. Each lessee is obligated for the routine collection and proper disposal of all errant gear, errant equipment, or errant solid waste from the permit site.

#### **1.18 Marking Procedures for Aquaculture Permits**

- 1. When required by the U.T. in the permit, aquaculture permits shall be marked with a floating device, such as a buoy, which displays the permit identifier assigned by the U.T. and the words SEA FARM in letters of at least 2 inches in height in colors contrasting to the background color of the device. The marked floating device shall be readily distinguishable from interior buoys and aquaculture gear.
- 2. The marked floating devices shall be displayed at each corner of the permit area that is occupied or at the outermost corners. In cases where the boundary line exceeds 100 yards, additional devices shall be displayed so as to clearly show the boundary line of the permit.
- 3. When such marking requirements are unnecessary or impractical in certain permit locations, such as upwellers located within marina slips, the U.T. may set forth alternative marking requirements in an individual permit.
- 4. Permit sites must be marked in accordance with the United State's Coast Guard's Aids to Private Navigation standards and requirements.



28 Center St.  
P.O. Box 297  
Machias, ME 04654

Tel: 207-255-8919  
Fax: 207-255-3572  
Email: [UT@washingtoncountymaine.com](mailto:UT@washingtoncountymaine.com)

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## APPLICATION FOR A SHELLFISH AQUACULTURE PERMIT

An aquaculture permit is considered a form of shellfish management by the Washington County Territories. As such, the application process and all aspects of the farming practices used in growing shellfish to commercial size fall under the jurisdiction and purview of the Shellfish Conservation Ordinance.

This is an application for a standard aquaculture permit, using bottom culture where there is no discharge into marine waters. A standard aquaculture permit may be up to 2 acres in size and may be issued for a term of no longer than 5 years.

***YOU ARE REQUIRED TO ATTEND A PRE-APPLICATION MEETING WITH THE U.T. ADMINISTRATION AND THE SHELLFISH COMMITTEE PRIOR TO CONDUCTING FIELD WORK AND COMPLETING THE APPLICATION. AN APPLICATION WILL NOT BE CONSIDERED COMPLETE UNTIL A PRE-APPLICATION MEETING IS HELD.***

The U.T. requires a **non-refundable** fee for aquaculture applications:

Effective May 1, 2009:                 \$200.00

### Mailing Instructions:

Provide one copy of your application to the U.T. Administration address listed below. The applicant shall be notified upon receipt when the application has been reviewed and accepted as complete by the U.T.

WASHINGTON COUNTY TERRITORIES  
P.O. Box 297  
Machias, Maine 04654

ATTN: Aquaculture Permit Administrator

## **A. THE PERMIT APPLICATION PROCESS: WHAT TO EXPECT**

The following information outlines the process leading to the approval of an aquaculture permit.

1. **Pre-application Meeting.** Prior to completing your application, please contact the U.T. to set up a pre-application meeting. Applications submitted without a pre-application meeting will not be considered complete. This will be an informal public meeting intended to familiarize the public and shellfish committee with the proposal and provide the U.T. with information prior to the site review.
2. **Submit Application.** Applicant submits application to Washington County Territories. The U.T. will make a determination as to whether or not your application is complete. If incomplete, you will receive a letter asking for further information. If complete, U.T. will forward your application to the Washington County Commissioners.
3. **Public Hearing.** No public hearing is required unless it is requested, in writing, by five or more interested persons within 30 days of the "Notice of intent to grant Aquaculture permit" being posted.
4. **Public Notice.** If a public hearing is determined necessary, The U.T. will issue public notice of the hearing.
5. **Decision.** The U.T. will prepare a report including proposed findings of fact, conclusions of law, and a recommended decision to grant or deny the permit. The U.T. will make a final decision to grant or deny the permit within 30 days of the public hearing or within 30 days of the "Notice of intent to grant Aquaculture permit" being posted.
6. **Requirements After a Permit is Granted.** The permittee must:
  - a. Establish an escrow account or secure a performance bond in the amount required by the U.T. in the permit.
  - b. Publish a notice in a newspaper of general circulation in the area affected.
  - c. Record the permit in the Washington County Office of the UT Supervisor.
  - d. Mark the permit site with the appropriate buoys.
  - e. Submit to the U.T. an annual report of permit activities.
  - f. Pay the annual rental fee of \$50 per acre.
  - g. Hold a current Washington County Territories Resident Commercial Shellfish Harvesting License
7. **Revocation.** The U.T. may commence revocation procedures if it determines that substantial aquaculture has not been conducted within the preceding year, that the permit activities are substantially injurious to marine organisms or the permittee has failed to hold a valid Washington County Territories Resident Commercial Shellfish Harvesting License during any period of the permit. If any of the conditions or requirements of a permit are not being observed, the U.T. may revoke the aquaculture permit.
8. **Transfer.** A permittee may apply for U.T. approval to transfer of his/her aquaculture permit to another person for the remaining portion of the permit term.
9. **Renewal.** A permittee must file with the U.T. an application to renew a permit no later than 90 days prior to the lapse of the prior permit.

## **B. REQUIREMENTS AND RESTRICTIONS**

Aquaculture permit must comply with the following state and federal regulations:

1. **Essential Habitats and Eagle Nests:** Aquaculture permits generally must not be closer than 1/4 mile from active eagle nests or Essential Habitats as regulated by Maine Department of Inland Fish & Wildlife (MDIF&W) under authority of the Maine State Endangered Species Act and in accordance with guidelines of other endangered and threatened species developed by MDIF&W. MDIF&W Essential Habitat Maps are available **for review** at the following offices: MDIF&W Regional Offices, county government, Registrar of Deeds offices, affected town offices, Regional Planning Commission offices and many state agencies. The maps are also available on the MIF&W website at [www.maine.gov/ifw](http://www.maine.gov/ifw). Maine State Endangered Species Act 1975, 12 M.R.S.A. §7751 *et seq.*
2. **Permit Conditions:** The U.T. may establish conditions that govern the use of the permit area and impose limitations on aquaculture activities.

**C: APPLICATION COVER SHEET FOR AQUACULTURE PERMIT**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

County: \_\_\_\_\_

State, zip \_\_\_\_\_

Telephone: business \_\_\_\_\_ home \_\_\_\_\_ cell \_\_\_\_\_

Email address: \_\_\_\_\_

Date of Pre-application meeting: \_\_\_\_\_

Washington County Territories Resident Commercial Shellfish Harvesting License #: \_\_\_\_\_

town county waterbody

Location of permit site: \_\_\_\_\_

Additional description  
(e.g. south of B Island) \_\_\_\_\_

Total acreage requested: \_\_\_\_\_  
(2-acre maximum: Individual)  
(4-acre maximum: Multiple Ownership)

Permit Term requested: \_\_\_\_\_  
(5-year maximum)

Name of species to be cultivated, common and scientific names:  
\_\_\_\_\_  
\_\_\_\_\_

Name, address and phone number of the source of seed stock, juveniles, smolts, etc., to be cultivated:  
\_\_\_\_\_  
\_\_\_\_\_

\$200.00 application fee enclosed: \_\_\_\_\_

I hereby state that the information included in this application is true and correct and that I have read and understand the requirements of the Washington County Aquaculture Permit Policy.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## D. APPLICATION INFORMATION REQUIREMENTS

Answer all questions under each Section as completely as possible.

This application includes questions on site location, site development, operation, environmental characterization, area resources, surrounding area use, technical capabilities, financial capabilities, and a list of certifications, licenses, etc.

Definitions from the Washington County Aquaculture Permit Policy:

A. UT

“UT” means the Washington County Office of the UT Supervisor.

B. Commission

“Commission” means the Washington County Board of Commissioners. This board comprises the administrators of the Washington County Territories.

C. Aquaculture

"Aquaculture" means the culture or husbandry of marine organisms by any person. In order to qualify as aquaculture, a project must involve affirmative action by the lessee to improve the growth rate or quality of the marine organism.

D. Culture or Husbandry

"Culture or husbandry" means the production, development or improvement of a marine organism.

E. Existing or Potential Uses

“Existing or Potential Uses” means all water-related activities and resources including, but not limited to, commercial and recreation fisheries, marine transportation, aquaculture, and boating.

F. Adverse Effects

"Adverse Effects" means impediments to water-related activities or unreasonable interference with natural processes supporting those activities. This includes, but is not limited to, floating or submerged obstruction, habitat destruction, natural flora and fauna displacement, current flow alteration, and lowered water quality.

G. Scientific research

“Scientific research” is a study or investigation intended to lead to new discoveries or advances within its field or to impact on the progress in that field.

H. Commercial research and development

“Commercial research and development” means a study by any person or company designed to try new species, new growing or harvesting techniques, new sites or to determine the commercial viability of an operation. The results of such research will not be part of the public record.

I. Mean Low-Water

“Mean low-water” means the average low tide.

Please read all instructions before completing. Applications must be typed and **reproducible**. Please use 8 1/2" x 11" paper with a 3/4" margin at the top; **use the numbering system listed for each item requested**. All drawings, charts and plans must adequately show the proposed project.

## **1. SITE LOCATION**

a. Vicinity Map

Use a NOAA chart or USGS Topographic map to show the waters and shorelands within the general vicinity of the permit tracts depicting the permit area.

b. Plan View

An enlargement of a NOAA chart or USGS Topographic map is suggested to provide this information. Exact location of permit described as follows:

1. Mark entire permit boundary.
2. Show depth contours and indicate mean low water and mean high water on all land adjacent or nearest site.
3. Mark true north with arrow.
4. Include scale used.
5. Label the location of Federal projects, navigational channels, any structures, existing aquaculture permits within 2000 feet or state or federal beaches, parks, conserved lands or docking facilities within 1000 feet.
8. Provide the latitude, longitude and State Plane Coordinates for each corner of the entire permit or the metes and bounds of the permit with coordinates for one starting point.

## **2. OPERATIONS**

a. Production Activities

1. List and describe your proposed activities including the number and type of vessels that will service the proposed site, frequency and duration of vessel traffic, cultivation techniques, predator control methods, harvest schedule, harvest technique and processing methods.
2. Describe the start-up and projected maximum production on a 12-month basis. Also state the maximum stocking density.

b. Noise and Light

1. Provide the type of powered equipment, if any, that will be used on site, including, but not limited to boats, barges, power washers, generators, upweller motors, harvesting or seeding equipment, and feeding equipment. Vessels moving to and from the site are considered exempt from the noise impact consideration.

2. Indicate generally when, how often and for how long this equipment will be used (i.e. daily, weekly, only during harvesting).
3. Specify what will be used to reduce the noise level from the powered equipment, i.e., mufflers, etc. You do not need to provide decibel or frequency ratings unless they are known or provided by the equipment manufacturer.

c. Marking

According to U.T. policy, all permit sites are to be marked with a floating device, such as a buoy, which displays the permit identifier assigned by the U.T. and the words "CLAM FARM" in letters of at least 2 inches in height in colors contrasting to the background of the device. The marked floating devices shall be displayed at each corner of the permit area that is occupied or at the outermost corners.

### **3. ENVIRONMENTAL CHARACTERIZATION**

The Washington County Territories Aquaculture Permit Policy, specifies that applicants may conduct more than one site evaluation, but one evaluation must be completed between April 1 and November 15, dates inclusive, annually.

a. Environmental Characterization

Provide the environmental evaluation used to select the proposed permit tract(s). Descriptive information shall include but not be limited to: bottom characteristics (include but not limited to sediment types, distribution and topography), resident marine and upland flora and fauna (e.g., list species that are very abundant, common, rare), tide levels.

### **4. SURROUNDING AREA USE**

a. Surrounding Property

1. Provide a tax map, chart, or topographic map showing the locations of the permit tract(s), the waters, shorelands and general vicinity of the permit tract(s). Property lines must be clearly marked. Mark the entire permit boundary on the map or chart.

b. Existing Uses

1. Describe the navigational or other uses of the area(s) by type (recreational, commercial), volume, time (seasonal patterns of use), duration (in the vicinity), direction of traffic, amount of activity.

2. Describe the degree of exclusive use required by the proposed permit and the impact on existing or potential uses of the area.

## **5. TECHNICAL CAPABILITY**

Provide information regarding professional expertise such as a resume and documentation of technical expertise and practical experience necessary to accomplish the proposed project.

## **6. FINANCIAL CAPABILITY**

- a. Financial Capability  
Provide documentation to prove the applicant has the necessary financial resources for the proposed project. See Washington County Aquaculture Permit Policy chapter 1.02(G).
- b. Cost Estimates  
Provide documentation of accurate and complete cost estimates of the proposed aquaculture activities.
- c. Other Permit Interests and Multiple Ownership  
List all other aquaculture permits held by the applicant or in which the applicant has a financial interest.
- d. Other Permit Interests and Multiple Ownership Continued  
If the applicant is a corporation, submit information as requested under (Corporate Applicants). If the applicant is in a partnership, submit information as requested under (Partnership Applicant). Washington County Aquaculture Permit Policy chapter 1.03(1)-(2).

### **A. Corporate Applicants (2 Acres)**

1. The date and State in which Incorporated and a copy of the Articles of Incorporation;
2. The names, addresses, and titles of all officers;
3. The names and addresses of all directors;
4. Whether the corporation, or any stockholder, director, or officer had applied for an aquaculture permit for Maine lands in the past, and the outcome or current status of that application or permit;
5. The names and addresses of all stockholders who own or control at least 5% of the outstanding stock and the percentage of outstanding stock currently owned or controlled by each such stockholder;
6. The names and addresses of stockholders, directors, or officers owning an interest, either directly or beneficially, in any other Maine aquaculture

permits, as well as the quantity of acreage from existing aquaculture permits attributed to each such person under Washington County Aquaculture Permit Policy chapter 1.03(3);

7. Whether the corporation or any officer, director, or shareholder listed in item 5 above has ever been arrested, indicted, convicted of, or adjudicated to be responsible for any violation of any marine resources or environmental protection law, whether state or federal.

**B. Partnership Applicant (4 Acres)**

1. The date and state in which the partnership was formed and a copy of either the Certificate of Limited Partnership or documentation of the formation of a General Partnership;
2. The names, addresses, and ownership shares of all partners;
3. Whether the partnership or any partner has applied for an aquaculture permit for Maine lands in the past and the outcome or current status of that application or permit;
4. Whether the partnership or any partner owns an interest, either directly or beneficially, in any other Maine aquaculture permits as well as the quantity of acreage from existing aquaculture permits attributed to the partnership or partner under Washington County Aquaculture Permit Policy chapter 1.03(3);
5. Whether the partnership or any partner has been arrested, indicted or convicted of or adjudicated to be responsible for any violation or marine resources or environmental protection law, whether State or Federal.

**7. OTHER REQUIREMENTS**

The following items must accompany the application:

a. Escrow Account

Documentation confirming that the applicant has read Washington County Aquaculture Permit Policy chapter 1.10 and that upon issuance of a permit by the U.T. the permittee will open an escrow account determined by the nature of the aquaculture activities proposed as follows –

Structure, no discharge           \$ 200.00



34 Center St.  
P.O. Box 297  
Machias, ME 04654

Tel: 207-255-8919  
Fax: 207-255-3572  
Email: UT@washingtoncountymaine.com

## AQUACULTURE PERMIT RENEWAL APPLICATION

Please provide the following information and send this application, along with the appropriate fee (\$200.00) and a certified tax map and updated list of riparian owners to the Aquaculture Administrator at the above address.

1. Name of permit holder: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_
2. Identify the aquaculture permit you request to be renewed: \_\_\_\_\_  
\_\_\_\_\_
3. Describe the type and amount of aquaculture to be conducted during the new term: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Describe the amount of aquaculture conducted on the permit site during the previous permit term, including but not limited to seeding, cultivation or harvest of organisms: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Fee enclosed: \_\_\_\_\_
6. Certified tax map and updated list of riparian landowners enclosed: \_\_\_\_\_

\_\_\_\_\_ Date

\_\_\_\_\_ Signature of Permit holder

