

A PETITION TO PLACE A WARRANT ARTICLE BEFORE THE VOTERS OF SOUTH BRISTOL
TO REGULATE COASTAL WATERS AQUACULTURE

SUMMARY OF THE PROPOSED ORDINANCE AMENDMENTS

If adopted by the voters, the South Bristol Coastal Waters and Harbor Ordinance and Shoreland Zoning Ordinance would be amended to regulate coastal waters aquaculture operations.

What is a coastal waters aquaculture operation?

It is a commercial operation for the culture of finfish in nets, pens, or other enclosures or for the suspended culture of any other marine organism, where the culturing of finfish or other marine organism occurs principally over or within coastal waters.

What would the proposed ordinance amendments do?

The proposed amendments would:

- Prohibit large-scale coastal waters aquaculture operations (occupying greater than ½ acre of coastal waters).
- Allow community-scale coastal waters aquaculture operations (occupying ½ acre or less) with a permit from a newly-established Aquaculture Review Committee. Before issuing a permit, the Aquaculture Review Committee would need to determine that:
 - (1) The applicant has the technical and financial capacity to carry out the operation in compliance with applicable law;
 - (2) The operation will not unreasonably interfere with recreational, fishing, navigational, or conservation uses;
 - (3) The operation will have no unreasonable visual impact on scenic resources;
 - (4) The operation will not unreasonably harm marine habitats; and
 - (5) For finfish aquaculture, the operation will not discharge more than 25 metric tons of dissolved nitrogen in any rolling 12-month period and will not cause a concentration of total nitrogen to exceed 0.32 mg/L in eelgrass beds. Finfish aquaculture operations would need to monitor water quality to ensure these standards continue to be met during the commercial life of the operation.

What activities are exempt from the proposed ordinance amendments?

- Traditional and heritage fisheries, such as lobstering, and land-based aquaculture operations are not regulated by the proposed ordinance amendments.
- Coastal waters aquaculture operations that are legally existing as of November 4, 2025 would be exempt from regulation until such time that the operation is modified or expanded, or the state lease for the operation expires or is extended, renewed, or converted to a standard aquaculture lease. After that, the operation would be regulated.

THE FULL TEXT OF THE PROPOSED ORDINANCE AMENDMENTS
IS ATTACHED TO THIS PETITION.

TOWN OF SOUTH BRISTOL, MAINE
PROPOSED ORDINANCE AMENDMENTS TO REGULATE
COASTAL WATERS AQUACULTURE OPERATIONS

- 1. The Town of South Bristol Coastal Waters and Harbor Ordinance is proposed to be amended by adding the words shown in underline, as follows:**

...

[Explanatory Note: The Table of Contents is proposed to be amended to insert a new Article X, and the remaining articles and pagination are proposed to be renumbered as appropriate.]

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Article I – General Provisions

Section 1. Purpose and Authority

This ordinance is to establish regulations for marine activities, including certain aquaculture activities, within the harbors, waterways, coastal waters, and tidal waters of the Town of South Bristol, Maine in order to ensure safety to persons and property, to promote availability and use of a valuable public resource, to protect historical water-dependent uses, to prevent loss of public and private access to and enjoyment of coastal waters, to prevent displacement of traditional fisheries including lobstering and other heritage fisheries, to preserve water-based recreation and public trust uses, to preserve traditional navigation channels and anchorages, to protect public and conserved lands and waters, to protect coastal water quality and marine habitats, to further the Town's interest in the coastal management policies in 38 M.R.S.A. § 1801, and to create a fair and efficient framework for the administration of that resource.

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Article II – Definitions

[Explanatory Note: The following definitions are proposed to be added to Article II, and the definitions are proposed to be renumbered to fall in alphabetical order.]

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Aquaculture Area:

Aquaculture area means the surface area of coastal waters used for (i) nets, pens, submersible cages, or other enclosures; (ii) buoys, platforms, or other technology for feeding and storage for equipment; (iii) waste management systems; (iv) floating structures or work platforms; and (v) loading and docking operations located over or within coastal waters. The aggregate surface area of any state lease is prima facie evidence of the size of an aquaculture area.

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Coastal Waters:

Coastal waters means all territorial waters of the Town that are within the rise and fall of the tide seaward to the 3-nautical-mile line as shown on the most recently published federal government nautical chart. Coastal waters include all tidal and subtidal lands, coastal wetlands, and waters over submerged and intertidal lands.

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Coastal Waters Aquaculture Operation:

Coastal waters aquaculture operation means a commercial operation for the culture of finfish in nets, pens, or other enclosures or for the suspended culture of any other marine organism, where the culturing of finfish or other marine organism occurs principally over or within coastal waters.

A coastal waters aquaculture operation may include facilities, structures, infrastructure, and elements necessary or incidental to its operation that are located on land within the Town, but does not include any facilities, structures, infrastructure, and elements of a land-based aquaculture operation.

A coastal waters aquaculture operation is classified as follows:

A. Community-scale aquaculture operation is a coastal waters aquaculture operation that occupies an aquaculture area of one-half (½) acre or less.

B. Large-scale aquaculture operation is a coastal waters aquaculture operation that occupies an aquaculture area greater than one-half (½) acre.

Two or more aquaculture operations that are part of a common scheme of development and located within 1,000 feet of each other are counted as one aquaculture area.

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Finfish:

Finfish means any aquatic, cold-blooded vertebrate bearing gills, fins, and usually scales which produces dissolved nitrogen through metabolic processes including gill excretion, feces, and waste feed. This does not include shelled mollusks, lobsters, crabs, or marine mammals.

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Land-Based Aquaculture Operation:

Land-based aquaculture operation means a commercial operation for the culture of finfish in nets, pens, or other enclosures or for the suspended culture of any other marine organism, where the culturing of the organism occurs principally on land. A land-based aquaculture operation may include facilities, structures, infrastructure, and elements that are located over or within coastal waters without altering its designation as a land-based aquaculture operation so long as the operation

is subject to review pursuant to the Site Location of Development Act and Natural Resource Protection Act and does not seek exemption therefrom pursuant to 38 M.R.S.A. §§ 480-Q(10), 488(13).

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State Lease:

State lease means a submerged lands lease issued by the Maine Bureau of Parks and Lands pursuant to 12 M.R.S.A. § 1862 or an aquaculture lease issued by Maine Department of Marine Resources pursuant to 12 M.R.S.A. §§ 6072-A or 6072-B.

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Article X – South Bristol Aquaculture Review Committee

Section 1. Establishment.

There is hereby established a South Bristol Aquaculture Review Committee consisting of five (5) voting members and two (2) alternate members serving without pay, to be appointed by the municipal officers of the Town for staggered three-year terms. Any member of the South Bristol Coastal Waters & Harbor Committee may, upon appointment by the municipal officers, also serve as a member of the Aquaculture Review Committee.

Section 2. Duties.

The Aquaculture Review Committee shall review applications and issue decisions on applications for community-scale aquaculture operations in accordance with the requirements of this Article X.

Section 2. Organization and Procedure.

The Aquaculture Review Committee may adopt rules of procedure for the transaction of its business. The Aquaculture Review Committee must maintain a permanent record of its public proceedings, which shall be kept on file in the Town Office.

Section 3. Prohibited Activities.

Except as provided in Article X, Section 4.A.2, large-scale aquaculture operations (including the placement of any structure associated with such operations below the normal high-water line or over or within coastal waters) are prohibited in the Town's coastal waters.

Section 4. Community-Scale Aquaculture Operations—Permitting Procedures.

A. Applicability. Community-scale aquaculture operations are allowed in the Town's coastal waters pursuant to the requirements of Article X. The following activities are exempt from the permitting requirements in this Article X:

1. Any land-based aquaculture operation.
2. Any large-scale aquaculture operation legally existing as of the date of applicability, as defined in Article X, Section 6, until the earlier of (i) the date the operation is modified or expanded; (ii) the date the state lease expires; and (iii) the date the state lease is transferred, extended, renewed, or converted to a standard aquaculture lease, at which time the operation must comply with the requirements of this Article X.

- B. Permit Required.** Before constructing, operating, or expanding a community-scale aquaculture operation, a permit must be obtained from the Aquaculture Review Committee.
- C. Application; Notice.** At least fourteen (14) days before the Aquaculture Review Committee meeting on which the applicant appears on the agenda, the applicant must submit to the Town five (5) paper copies and one electronic copy of an application containing the submission requirements set forth in Article X, Section 4.D. Before filing the application, the applicant must notify, by certified mail, return receipt requested, all riparian landowners located within 1,000 feet of the proposed operation and the municipal officers of the Town. The notice must contain a brief description and map of the proposed operation.
- D. Submission Requirements.** An application for a community-scale aquaculture operation must include:
- 1. Application Fee.** An application fee in an amount established by the municipal officers.
 - 2. Applicant Information.** The name, mailing address, phone number, and email address of the applicant, its principal representative, and all parties involved in preparing the application; and the general organizational structure of the applicant.
 - 3. Right, Title, or Interest.** Evidence of the applicant's right, title, or interest in the proposed operation, (i) by deed, lease, purchase and sale agreement, option to purchase, or some other legal proof of interest, and (ii) by submitting a copy of a state lease or state lease application for the proposed operation.
 - 4. Technical and Financial Capacity.** Evidence of the applicant's ability and financial capacity to carry out the proposed operation in compliance with this Article X and applicable law.
 - 5. Project Description.** A written narrative with detailed information describing the proposed operation (including a construction and operation timeline). The narrative must explain how the operation will comply with each of the review criteria in Article X, Section 5.
 - 6. State and Federal Applications and Permits.** Copies of applications submitted by the applicant for any required state and federal approvals, permits, and licenses, and any such issued approval, permits, and licenses, including any state lease.
 - 7. Additional Information.** Any additional information requested by the Aquaculture Review Committee to assist it in determining whether the proposal complies with the review criteria in Article X, Section 5.
- E. Completeness Review.** The Aquaculture Review Committee must determine whether the application is complete. If the application is incomplete, the Aquaculture Review Committee must notify the applicant of the information necessary to deem the application complete and must set a date by which the additional information must be submitted. If the information is not submitted by that date, the application must be returned to the applicant.
- F. Public Hearing.** The Aquaculture Review Committee must hold a public hearing on the application. Notice of the hearing must be provided least fourteen (14) days prior to the hearing by the applicant to all riparian landowners as provided in Article X, Section 3.B, and by the Town by publication in a newspaper of general circulation within the Town and by posting a notice in a conspicuous public place within the Town.

G. Decision. The Aquaculture Review Committee must deliberate and issue written findings of fact and conclusions of law that set forth the reasons it approves, approves with conditions, or denies the application based on the review criteria in Article X, Section 5. The Aquaculture Review Committee may impose any conditions of approval it determines are necessary to meet the requirements of this ordinance, including but not limited to restrictions on hours of operation and any associated transport of finfish or other marine organisms to avoid or minimize community impacts from the operation.

H. Permit Expiration. Any permit granted under this Article X expires if the permitted operation is not substantially started within one year or in commercial operation within two years of the date of issuance. Any such permit also expires if the operation is not in commercial operation for any consecutive two-year period.

Section 5. Community-Scale Aquaculture Operations—Review Criteria.

Before issuing a permit authorizing a community-scale aquaculture operation, the Aquaculture Review Committee must find that the proposal complies with each of the following review criteria. The burden of proof rests with the applicant.

A. Technical and Financial Capacity. The applicant must possess the necessary technical expertise and financial capacity to design, construct, operate, and decommission the operation in compliance with all applicable laws.

B. No Unreasonable Community Impacts. The proposal must not unreasonably interfere with existing recreational, fishing, navigational, or conservation uses in the Town's coastal waters, including:

1. Traditional public and commercial uses such as lobstering and other heritage fisheries;
2. Water-based recreation uses;
3. Channels of navigation and anchorages;
4. Public and conserved lands, and their conservation values located within one nautical mile of the proposed operation;
5. Residential and commercial operations located within one nautical mile of the proposed operation; and
6. Public trust uses.

C. No Unreasonable Visual Impact on Scenic Resources. The proposal must have no unreasonable visual impact on existing and reasonably anticipated use and enjoyment of scenic resources located within one nautical mile of the proposed operation. For purposes of this section, "scenic resources" are public natural resources, public lands or waters, or publicly accessible land protected by a conservation easement visited by the general public, in part for the use, observation, and enjoyment of natural or cultural visual qualities.

D. No Unreasonable Harm to Marine Habitats.

1. The proposal must not unreasonably harm seabed habitat, seagrass and eelgrass, significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries, or other aquatic life.

2. In addition, for any proposed community-scale aquaculture operation for the culture of finfish, the maximum total dissolved nitrogen output of the operation may not exceed twenty-five (25) metric tons in any rolling twelve (12)-month period, and the operation may not cause the concentration of total nitrogen to exceed 0.32 mg/L in coastal waters containing eelgrass beds. The Aquaculture Review Committee may retain the services of a professional to develop an independent carrying capacity model to evaluate the impacts of the proposal, which cost shall be borne by the applicant, and may rely on the predictive results of such a model or any other credible evidence in making findings with regard to the nitrogen output and concentration limits set forth herein.

E. Monitoring Plan for Finfish Aquaculture.

For any proposed community-scale aquaculture operation for the culture of finfish, the applicant must submit for review to the Aquaculture Review Committee, and must implement during the commercial life of the operation, a plan that monitors environmental conditions at the operation site and throughout the coastal waters to ensure that the operation continues to comply with the review criteria in Article X, Section 5.D.2. The plan must monitor operation output for flow, total Kjeldahl nitrogen (TKN), nitrate and nitrile nitrogen, total nitrogen, total ammonia, total phosphorus, and pH at frequencies no less than once per month at the operation site and in locations throughout the coastal waters, including within eelgrass beds, and must include, at minimum: (i) ongoing water quality monitoring (monthly), seabed monitoring (annually), and seagrass and eelgrass monitoring (annually); and (ii) anticipated and actual feed and calculated nitrogen output conditions and supporting documentation. The number and locations of monitoring sites shall be determined by the Aquaculture Review Committee. During the commercial life of the operation, the permit holder must submit to the Aquaculture Review Committee and municipal officers a monthly report providing the data and monitoring results required by this subsection.

Section 6. Date of Applicability.

This Article X and the associated amendments to this Ordinance, duly adopted by the Town Meeting on _____, 20____, are expressly intended to and shall have retroactive effect. Notwithstanding 1 M.R.S.A. § 302, and regardless of the effective date, this Article X and said amendments shall govern and apply to all actions and proceedings that were incurred or are pending before any officer, board, or committee of the Town on or after November 4, 2025, which shall be the date of applicability.

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Article XI – Enforcement

This Ordinance may be enforced by the municipal officers of the Town or their duly authorized designees, including the Harbor Master, Deputy Harbor Master or any law enforcement officer vested with authority. Violations shall be prosecuted as provided in 38 M.R.S.A. §12 (which incorporates the enforcement mechanism of 30-A M.R.S.A. §4452) and, where applicable, 38 M.R.S.A. §13.

The following acts or omissions constitute a violation of this Ordinance: (1) operating or expanding a coastal waters aquaculture operation that is prohibited by this Ordinance; (2) operating or expanding a community-scale aquaculture operation without a permit or not in compliance with the review criteria in Article X, Section 5 or permit conditions; (3) for any permitted community-scale aquaculture operation for the culture of finfish, exceeding at any time the maximum nitrogen output

or concentration limits set forth in Article X, Section 5.D.2; (4) any material misstatement of fact in any notice, application, or supporting documentation filed with the Town; and (5) failure to comply with any other provision of this Ordinance.

The Code Enforcement Officer, Harbor Master, Deputy Harbor Master, or any staff or designee of the Aquaculture Review Committee may, at any time, enter and inspect any vessel, structure, or coastal waters aquaculture operation to determine compliance with any provision of this Ordinance.

Article XII – Appeals

Any action or decision of the Harbor Master as to which this ordinance expressly provides a right of appeals may be appealed to the Town Select Board pursuant to this Article XII. No other action, non-action, decision or determination of the Harbor Master is appealable under this Ordinance. An appeal must be submitted in writing to the Town Select Board no later than thirty (30) days after the action or decision appealed from. Upon receipt of a written appeal, the Town Select Board shall promptly schedule an appeal hearing, giving notice to the applicant and to the Harbor Master of the date, time and place of the hearing. The appellant and the Harbor Master each shall have an opportunity to be heard and to present written and oral evidence. After the hearing the Town Select Board shall promptly issue a written decision. There is no appeal under this ordinance from the decision of the Town Select Board.

Any person aggrieved by a decision, action, or failure or refusal to take action of the Aquaculture Review Committee pursuant to Article X of this Ordinance may bring an appeal to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Article XIII – Repeal of Previous Regulations

This Ordinance repeals and replaces the Ordinance Establishing Harbor Rules and Regulations, dated May 26, 1988, and amended Sept 11, 1989, for the Town of South Bristol, and any other prior ordinances, rules or regulations inconsistent herewith.

2. The Shoreland Zoning Ordinance for the Municipality of South Bristol, Maine is proposed to be amended by adding the words shown in underline, as follows:

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TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT				
	RP	R	LC	GD	FW
...					
13. Aquaculture ¹³	PB	PB	yes	yes	yes

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¹³ See Town of South Bristol Coastal Waters and Harbors Ordinance for land use controls and permitting requirements applicable to certain aquaculture activities.

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