

MAINE STATE LEGISLATURE

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CHAPTER 9
WHARVES AND FISH WEIRS

Sec.

- 1021. Definitions.
- 1022. License to build or extend; application.
- 1023. Expiration of license.
- 1024. Waters between 2 towns.
- 1025. Recording of documents; compensation to officers.
- 1026. Extension of herring weirs and wharves; shore owner's consent.

§ 1021. Definitions

The words "fish weir" mentioned in this chapter are defined to be a fixed structure erected and maintained during part of each fishing season in the tidewater, constructed of at least 25 spiling or stakes fastened together by binders, surrounded by brush, lath racks or netting, forming the catch pound into which fish are led or guided by one or more fixed leaders constructed of spiling or stakes not more than 20 feet apart and at least 100 feet long, fastened together by binders surrounded by lath racks, brush or netting and from which catch pound they cannot readily escape.

R.S.1954, c. 98, § 12; 1959, c. 281, § 2.

§ 1022. License to build or extend; application

Any person intending to build or extend any wharf, fish weir or trap in tidewaters, within the limits of any city or town, may apply in writing to the municipal officers thereof, stating the location, limits and boundaries, as nearly as may be, of such intended erection or extension, and asking license therefor. Upon receiving such application, said officers shall give at least 3 days' public notice thereof in a newspaper, published in the town, or, if there is no newspaper published in the town, in a newspaper published within the county, and shall therein designate a day and time on which they will meet on or near the premises described, to examine the same and hear all parties interested. If, upon such examination and hearing of all parties interested, said officers decide that such erection or extension would not be an obstruction to navigation or injury to the rights of others, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing him to make such an erection or exten-

sion, and to maintain the same within the limits mentioned in such license. The applicant for license to build or extend a fish weir or trap shall first give bond to the town, with sureties, in the sum of \$500, conditioned that upon the termination of such license he shall remove all stakes and brush from the location therein described. Said municipal officers shall, within 10 days after the date of hearing, give written notice by registered mail of their decision to all parties interested. Any person aggrieved by the decision of the municipal officers, in either granting or refusing to grant a license as provided, may appeal to the Superior Court within 10 days after the mailing of such written notice. The court shall set a time and place for hearing and give notice thereof in the same manner as provided for a hearing before the municipal officers. The decision of said court shall be communicated within 10 days after the date of hearing to the appellant and to the municipal officers of the town in which the proposed wharf, weir or trap is to be located. This decision shall be binding on said municipal officers, who shall issue a license, if so directed by the decision of said court, within 3 days after said decision has been communicated to them. If said appeal is sustained by said court in whole or in part, the appellant shall have his costs against the appellee. If the appeal is not so sustained, the appellee shall have his costs against the appellant. If any owner to whom a license has been issued, or his heirs or assigns, fails to remove all stakes and brush within a period of one year after the termination of the license, as provided in section 1023, any person can remove the same without charge against said owner, his heirs or assigns.

In the case of islands not within the jurisdiction of any town all powers of municipal officers to issue licenses to build weirs are conferred upon the owner or owners of such islands. If said owner or owners are unable to agree as to the issuance of a license they shall submit the question of such issuance to the Commissioner of Sea and Shore Fisheries, who shall, after a hearing at which all parties may be represented, decide as to the issuance of such license.

R.S.1954, c. 98, § 7; 1955, c. 227; 1961, c. 317, § 295; 1963, c. 414, § 112.

§ 1023. Expiration of license

The license for the building or extension of a fish weir or trap issued under section 1022 or any right or privilege granted by the Legislature for the building or extension of any such fish weir or trap shall terminate and become void unless such weir or trap

shall be built within one year from the date of the license or the granting of such right or privilege, and maintained and operated in good faith for some part of each year thereafter. A weir that is not under active construction by July 15th in any year shall not be considered a weir for the remainder of the year.

R.S.1954, c. 98, § 8; 1959, c. 281, § 1.

§ 1024. Waters between 2 towns

In any river or tidewater lying between 2 towns or cities, no such wharf or fish weir described in sections 1022 and 1023 shall be erected without the consent of the municipal officers of both. In no case shall any wharf be extended beyond any wharf lines heretofore legally established.

R.S.1954, c. 98, § 9.

§ 1025. Recording of documents; compensation to officers

The application provided for in section 1022, with the notice and proceedings thereon and the license granted, shall be recorded in said town. Reasonable compensation shall be paid by said applicant to the municipal officers for their services and expenses and to the clerk for recording, and if license is granted, \$5 additional shall be paid therefor by said applicant to said town.

R.S.1954, c. 98, § 10.

§ 1026. Extension of herring weirs and wharves; shore owner's consent

No fish weir, trap or wharf shall be extended, erected or maintained except in accordance with this chapter. No fish weir, trap or wharf shall be erected or maintained in tidewaters below low-water mark in front of the shore or flats of another without the owner's consent, under a penalty of \$50 for each offense, to be recovered in a civil action by the owner of said shore or flats. This chapter applies to all herring weirs and traps, but does not apply to other weirs or traps, the materials of which are chiefly removed annually, provided such weirs or traps do not obstruct navigation nor interfere with the rights of others. This section shall not affect any wharves so erected or maintained on the 21st day of April, 1901.

R.S.1954, c. 98, § 11; 1961, c. 317, § 296.