

§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, shall apply in writing to the municipal officers of the city or town, stating the location of the weir, the boundaries of the cove in which the weir will be constructed as identified on a map prepared by the Commissioner of Marine Resources, limits and boundaries, as nearly as may be, of the intended erection or extension, and asking license for the intended erection or extension. The applicant must notify all parties that may be directly affected by the proposed construction. Upon receiving an application, the officers shall give at least 3 days' public notice of the application 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 designate in the notice a day and time on which they or their designee will meet on or near the premises described, to examine the same and hear all parties interested. If, following such examination and hearing of all parties interested, the 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 the applicant to make such an erection or extension, 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 \$5,000, conditioned that upon the termination of such license the applicant removes all stakes and brush from the location therein described. The municipal officers shall, within 10 days after the date of hearing, give written notice by 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 the court must be communicated 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 is binding on the municipal officers, who shall issue a license, if so directed by the decision of the court, within 3 days after the decision has been communicated to them. If the appeal is sustained by the court in whole or in part, the appellant will have costs against the appellee. If the appeal is not so sustained, the appellee will have costs against the appellant. If any owner to whom a license has been issued or the owner's heirs or assigns fail 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 the owner or the owner's heirs or assigns. [PL 2011, c. 559, Pt. A, §36 (AMD).]

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 Marine Resources, who shall, after a hearing at which all parties may be represented, decide as to the issuance of such license. [PL 1973, c. 513, §22 (AMD).]

In the case of waters adjacent to unorganized or deorganized territory that is not an island, the Commissioner of Marine Resources shall have the powers of municipal officers to issue licenses under this section. Notwithstanding the provisions of this section governing procedures, the Commissioner of Marine Resources shall review the application and hold a hearing as if this were a lease application under Title 12, section 6072, subsections 5 and 6. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §207 (AMD).]

Any licenses issued under this chapter shall constitute an approval and determination by the issuer thereof that the licensed wharf or weir constructed and operated within the limits imposed by such license does not adversely affect nor impair the interests of the issuer in such area, including navigation and the rights of private citizens in the area. Such license does not confer any right, title or interest in submerged or intertidal lands owned by the State. [PL 1975, c. 287, §2 (NEW).]

SECTION HISTORY

PL 1973, c. 513, §22 (AMD). PL 1975, c. 287, §2 (AMD). PL 1979, c. 631, §2 (AMD). PL 1983, c. 731, §4 (AMD). PL 1989, c. 890, §§A40,B206, 207 (AMD). PL 1999, c. 215, §1 (AMD). PL 2011, c. 559, Pt. A, §36 (AMD).

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