

# SHELLFISH CONSERVATION ORDINANCE

## TOWN OF JONESBORO, MAINE

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 Town of Jonesboro which will insure the protection 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 a harvester.
3. Shellfish Conservation Committee: The Shellfish Conservation Program for the Town of Jonesboro, State of Maine, which will be administered by the Board of Selectmen working with the Shellfish Manager and warden. The Committee's responsibilities include:
  - A. Submitting proposals for the expenditures of funds for the purpose of shellfish conservation.
  - B. Keeping this ordinance under review and making recommendations for its amendments.
  - C. Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Maine Department of Marine resources.
  - D. Recommending conservation closures and openings in conjunction with the area biologists of the Maine Department of Marine resources.
  - E. Submitting an annual report to the Municipality and the Maine Department of Marine Resources covering the above topics and all other committee activities.
4. Definitions:
  - A. Resident: The term "resident" refers to any person who has been domiciled in this municipality for at least three (3) months next prior to the time their claim of such residence is made.

- B. Nonresident: The word “nonresident” means any person 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. Municipality: Refers to the Town of Jonesboro, Maine.
5. A. Designation, Scope, and Qualifications:
- 1) Resident Commercial Shellfish License: The license is available to the residents of the Town of Jonesboro and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.
  - 2) Nonresident Commercial Shellfish License: The license is available to the nonresidents of the Town of Jonesboro and entitles the holder to dig and take any amount of Shellfish from the shores and flats of this municipality. Said Nonresident Commercial Shellfish Licenses issued shall number no more than ten percent (10%) of all Resident Commercial Shellfish Licenses. Open License Sales: Ref. 5D.
  - 3) Resident Senior Commercial Shellfish License: The license is available to residents of the town of Jonesboro, age 65 to 70 and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.
    - A) The Complimentary License is available to residents of the Town of Jonesboro, age 71 and older and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.
  - 4) Nonresident Senior Commercial Shellfish License: The license is available to nonresidents of the Town of Jonesboro, age 65 to 70 and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality. Said Nonresident Senior Commercial shellfish Licenses issued shall number no more than ten percent (10%) of all Resident senior Commercial Shellfish licenses.
    - A) The Complimentary License is available to nonresidents of the Town of Jonesboro, age 71 and over and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality. Said complimentary Nonresident Senior Commercial Shellfish Licenses issued shall number no more then ten (10%) of all Complimentary Resident Senior Commercial Shellfish Licenses.
  - 5) Resident Junior Commercial Shellfish License: The license is available to residents of the Town of Jonesboro, age seventeen (17) or under and in good standing in school, and entitles the holder to dig and take any amount of

shellfish from the shores and flats of this municipality and reciprocating municipalities.

- 6) Nonresident Junior Commercial Shellfish License: The license is available to nonresidents of the Town of Jonesboro, age seventeen (17) or under and in good standing in school, and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality. Said nonresident Junior Commercial Shellfish Licenses shall number no more than ten percent (10%) of all Resident Junior Commercial Licenses.
  - 7) Resident Recreational Shellfish License: The license is available to residents and real estate taxpayers of the Town of Jonesboro and entitles the holder to dig and take no more than one (1) peck of shellfish in any one (1) day for the use of themselves and their family from the flat area.
  - 8) Nonresident Recreational Shellfish License: The license is available to non-Residents of the town of Jonesboro and entitles the holder to dig and take no more than one (1) peck of shellfish in any one (1) day for the use of themselves and their family from the flat area.
  - 9) Municipal Shellfish Digging License is required. It is unlawful for any person to dig or take any shellfish from the shores and or flats of this municipality except as provided by this ordinance.
  - 10) License Must Be Signed: The licensee must sign the license to make it valid.
  - 11) One License: No person shall possess more than one (1) Town of Jonesboro Commercial License.
  - 10) Holders of State Commercial Shellfish Licenses: If during the year the applicant's State Commercial Shellfish License is suspended, it will immediately suspend the corresponding license from the Town of Jonesboro. If the applicant holds a State Commercial Shellfish License, they can not purchase a Recreational License from the town of Jonesboro.
- B. Application Procedure: Any person may apply to the Town Clerk for the licenses required by this ordinance on forms provided by the municipality.
- 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, height, weight, signature, and whatever information the municipality may require.
  - 2) Misrepresentation: Any person who gives false information on a license Application will cause said application to become invalid and void.
- C. Fees: The fees for the licenses must accompany in full the application for the respective license. The Town Clerk shall pay all fees received to the Town Treasurer except for one dollar (\$1.00) for each license. Fees received for

shellfish licensing shall be used by the Town for shellfish management, conservation, and enforcement. No refund of license fees.

D. Limitation of Harvesters:

Open License Sales: When the Board of Selectmen determines limiting shellfish licenses is not an appropriate shellfish management option one or more license categories for the following year:

- 1) Notice of the date, place, times and the procedure for the license sales shall be Published in a trade or industry publication, or in a newspaper or combination of newspaper with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the initial sale date and shall be posted in the municipal office.
- 2) On the first day of license sales, the total number of non-resident licenses shall be issued in accordance with DMR Regulations Chapter 7. 4, sections 1, 2, and 3. Thereafter, non-resident licenses will be issued in accordance with the 10% rule as described in 12 M.R.S.A. subsection 6671 (3-E). For each commercial license category, the Town Clerk shall issue one License To nonresidents when six licenses are issued to residents and one more to nonresidents when four more are issued to residents, thereafter, one nonresident license will be issued for every ten additional resident license issued. For each recreational license category, the Town Clerk shall issue one license to a resident and one to a nonresident; thereafter, one nonresident license will be for every ten additional resident licenses issued.
- 3) Prior to March 1 the Board of Selectmen, with the approval of the Commissioner of Marine Resources, will establish the number of commercial and non commercial licenses to be permitted following the requirements of 12 M.R.S.A. Section 6671 (3).
- 4) The Board of Selectmen will notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued prior to May 1.
- 5) The Clerk of the Town of Jonesboro shall make available Commercial Shellfish Licenses to the residents and non-residents on the third Monday in May to become in affect on June 1. Said Nonresident Commercial Shellfish Licenses shall number no more than ten percent (10%) of all Resident Commercial Licenses.

E. License Dates: Shellfish Licenses will be valid from June 1<sup>st</sup> of the current year of Issue and expire at midnight on the 31<sup>st</sup> day of May next following date of issue.

F. Reciprocal Harvesting Privileges: Licenses from any other municipality co-operating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their licenses.

G. Suspension: Any Shellfish Licensee having three (3) convictions for a violation of this ordinance shall have their license automatically suspended for a period of

thirty (30) days.

- 1) A licensee whose Shellfish License has been suspended pursuant to this Ordinance may reapply for a license only after the suspension period has expired.
  - 2) The suspension shall be affective from the date of mailing of a Notice of Suspension by the Town Clerk 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 Board of Selectmen upon the filing of a written request for a hearing with the Town Clerk within thirty (30) days following the affective date of the suspension. The Licensee may appeal the decision of the Shellfish Conservation Committee by filing a written request for appeal with the Town Clerk within seven (7) days of the decision of the Shellfish Conservation Committee.
6. Opening and Closing of Flats: The Municipal Officers, upon the approval of the Commissioner of Marine resources, may open and close areas for shellfish harvest. Upon recommendation of the Board of Selectmen and concurrence of the Maine department of Marine Resources area biologist that the status of the shellfish resource and other factors, bearing on sound management, indicates that an area should be opened or closed, the Municipal Officers may call a public hearing on ten (10) days notice published in a newspaper having general circulation in the Town, stating the time, place, and subject matter of the hearing, and shall send a copy of the notice to the Maine department of Marine Resources. The decision of the Municipal officers made after the hearing shall be based on finding of fact. Public notice of municipal conservation closures or openings will be provided through publishing, advertising and/or posting official notices in public places five (5) days prior to initial openings or closures.
7. Minimum Legal size of Soft Shell Clams: it is unlawful for any person to possess soft shall clams within the Town of Jonesboro, Washington County, State of Maine, which are less than two (2) inches in the longest diameter 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 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 purpose of this section "possess" means to dig, take, harvest, Ship, transport, hold, buy and sell retail and wholesale soft shell clam shell stock.
- B. Tolerance: Any person may possess soft shell clams that are less than two (2) inches if they comprise less than ten percent (10%) of any lot. The tolerance shall be determined by numerical count of not less than one (1) peck nor more than four (4) pecks taken at random from various parts of the lot or by count of the entire lot if

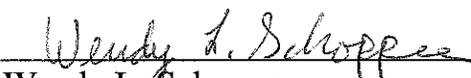
it contains less than one (1) peck.

8. Penalty: Any person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671.
9. Effective Date: This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality, provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.
10. 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.
11. Repeal: Any ordinance regulating the harvesting or conservation of shellfish in the Town and any provisions of any other Town ordinance which is inconsistent with this ordinance is hereby repealed.

  
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Michael C. Schoppee

  
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Mary D. Wilson

  
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Patrick C. Whitney  
Board of Selectmen  
Town of Jonesboro, Maine

ATTEST:   
Wendy L. Schoppee  
Town Clerk

This Shellfish Ordinance was voted and accepted  
At the May 11, 2016 Town Meeting  
Attest: A true copy.