

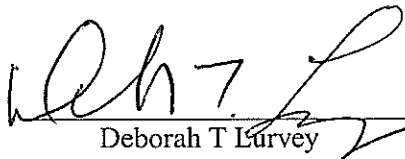
# **Frenchman Bay Regional Shellfish Conservation Ordinance**

**For the Municipalities of:**

**Ellsworth, Franklin, Hancock, Lamoine,  
Sorrento, Sullivan, and Trenton**



Original Ordinance Enacted	2010
Revised	2011/2012
Revised	2013
Revised	3/18/2014
Revised	5/27/2014
Revised	2/23/2017 (Master Copy)
Revised	01/27/2022 – DMR Approved
Revised	03/29/2025 DMR, Franklin

Attest and Certified By:   
 Deborah T Lurvey  
 Town Clerk, Franklin, Maine

Date: 3-29-2025

Pages: 23

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## **FRENCHMAN BAY REGIONAL SHELLFISH CONSERVATION ORDINANCE**

For the Municipalities of:

Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan, and Trenton

**Mission Statement:** These municipalities shall act collaboratively as stewards to preserve, protect, manage and enhance the shellfish resources and ecological well-being of the Greater Frenchman Bay Region and to insure a sustainable harvest of shellfish and opportunity for those who make their living on the tide.

The Management Partnership Team is:

Frenchman Bay Regional Shellfish Conservation Committee,

Frenchman Bay Regional Shellfish Municipal Joint Board,

and

Administrative Municipality.

**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 participating municipalities, which shall insure the protection and optimum utilization of shellfish resources within its limits. These goals shall be achieved by means, which may include, but not be limited to:

- A. Licensing.
- B. Limiting the number of shellfish harvesters.
- C. Restricting the time and area where harvesting is permitted.
- D. Limiting the minimum and maximum size of shellfish taken.
- E. Limiting the amount of shellfish taken daily by a harvester.
- F. Intertidal Mussel Management Plan.

**3. Administration****3.1 Frenchman Bay Regional Shellfish Conservation Committee (FBRSC)**

The Regional Shellfish Management Program for the participating municipalities shall be administered by the Frenchman Bay Regional Shellfish Municipal Joint Board (Municipal Joint Board, MJB) with technical input from the Frenchman Bay Regional Shellfish Conservation Committee (Conservation Committee, Shellfish Committee, or FBRSC), and with administrative support and input from the Administrative Municipality. The FBRSC shall consist of one member and may include one alternate member for each participating municipality. A non-resident may be appointed by a municipality to represent that municipality on the FBRSC.

FBRSC Members shall be commercial harvesters licensed under this Ordinance, if they are available and willing to serve, and shall be appointed by the municipal officers of the participating municipalities and in accordance with the procedures outlined in this document for terms of up to three (3) years. A quorum shall consist of a majority of the members.

**A. Selection of Regional Shellfish Conservation Committee Members**

Selectboard/Council members of each of the participating municipalities shall appoint, and replace as necessary, Shellfish Committee members according to their own policies and procedures. The FBRSC may recommend a replacement.

**B. Meetings**

The Chair of the Shellfish Conservation Committee shall be elected the first fall meeting by the members of the FBRSC. A quorum shall consist of a majority of the members of the FBRSC. Notice of all meetings of the FBRSC shall be given to each member of the FBRSC and the Municipal Joint Board, shall be published in accordance with each town's policies, and shall be open to the public. Minutes shall be recorded and made available for public review.

**C. Regional Shellfish Conservation Committee's Responsibilities shall include:**

- i. Keeping this Ordinance under review and making recommendations for its amendments.
- ii. Recommending management actions to the Municipal Joint Board (MJB) in conjunction with the Marine Resource Scientist of the Department of Marine Resources. Such actions may include, but are not limited to,
  - re-seeding of defined shellfish flats,
  - establishing conservation closures, and
  - limiting and/or expanding harvesting activities.
- iii. Recommending to the Municipal Joint Board enforcement actions for the protection of the resource.
- iv. In conjunction with the Administrative Municipality, prepare an annual report for the participating municipalities covering the aforementioned topics and other Committee activities by February 1.
- v. Assist in identifying possible sources of pollution harmful to the intertidal habitat and the shellfish resources.
- vi. By February 1 of each year with support from the Administrative Municipality, prepare and submit an Annual Shellfish Management Review to the Municipal Joint Board for their review and approval, prior to the Administrative Municipality submitting to the Department of Marine Resources by its April 1 deadline for review/approval.
- vii. By February-1 of each year with support from the Administrative Municipality, review, change, and submit an Annual License Sales Procedure to the Municipal Joint Board for approval. This plan shall outline in detail how many licenses are to be allocated on an annual basis and shall be consistent with 12 M.R.S.A. Section 6671 (3-A) and DMR Regulation Chapter 7. After Municipal Joint Board (MJB) approval the Administrative Municipality shall submit the Annual License Sales Procedure to the Department of Marine Resources for approval. After receiving approval for license allocations from the Commissioner of Marine Resources, the Administrative Municipality will post on their website. The Administrative Municipality will forward to all member Town Clerks the approval letter from DMR to post. The Administrative Municipality will forward the approval letter to all members of the MJB and FBRSC via email. The Annual License Sales Procedure will be available at all meetings of the MJB and FBRSC.

**D. Attendance**

Shellfish Conservation Committee members shall make every effort to regularly attend FBRSC meetings. If a Committee member is unable to attend a scheduled meeting, it is their responsibility to notify the Chair of the absence or it will be an

unexcused absence. Any Committee member who misses more than two unexcused meetings per year may lose their seat on the Committee.

#### **E. Convictions**

Anyone convicted of violating this ordinance shall be removed from the Shellfish Conservation Committee.

### **3.2. Frenchman Bay Regional Shellfish Municipal Joint Board (MJB)**

Each of the participating municipalities shall appoint one municipal officer (Selectboard/Council member), or a designee, as a member of the Municipal Joint Board to act as the municipality representative for all issues concerning this Ordinance. Each of the participating municipalities may also appoint one individual as an alternate member of the Municipal Joint Board to represent the respective municipal officer during an absence at a Municipal Joint Board meeting. The designee, and alternate, must be a resident of the participating municipality and does not need to be a municipal officer (Selectboard/Council member). The person so appointed shall serve at the pleasure of the body that made the appointment and may be replaced thereby.

#### **A. Meetings**

The Chair of the Municipal Joint Board shall be elected at the first fall meeting of each calendar year by the members of the Municipal Joint Board. A quorum shall consist of a majority of the members of the Board. Notice of all meetings of the Municipal Joint Board shall be given to each member of the Board and the Chair of the FBRSC, shall be published in accordance with each town's policies, and shall be open to the public. Minutes shall be recorded and made available for public review.

#### **B. Powers and Duties**

The Municipal Joint Board is authorized to

- approve the number of shellfish harvesting licenses to be issued,
- approve license fees,
- open and close the flats,
- set times when harvesting is allowed,
- set permitted quantities that may be harvested, and
- to take such actions as authorized by the Selectboard/Council of each of the participating municipalities, and subject to the Department of Marine Resources approval as noted in Section 6, based upon the recommendations of the FBRSC.

These actions shall be described in the Annual License Sales Procedure, Annual Conservation Plan, and the Shellfish Management Plan.

### **3.3 Frenchman Bay Regional Shellfish Program Administrative Municipality (FBRSAM)**

The Administrative Municipality shall appoint one municipal officer, or designee, as the Administrative Municipality Representative (AMR), a non-voting member of the Municipal Joint Board and the FBR Shellfish Committee.

#### **A. Meetings**

The Administrative Municipality Representative (AMR) will attend all meetings of the Municipal Joint Board (MJB) and the FBR Shellfish Committee (FBRSC). The AMR is responsible for the minutes and attendance of the meetings. The AMR is responsible for posting the notices of all meetings of the MJB and the FBRSC and shall be published in accordance with each town's policies, and shall be open to the public. Minutes shall be recorded and made available for public review.

#### **B. Powers and Duties**

The Administrative Municipality Representative (AMR) is authorized to:

Work with the SC Chair to accomplish all the necessary annual reports for DMR.

Work with the MJB Chair to finalize all the necessary annual reports for DMR.

Work with the SC and MJB Chairs to submit the Conservation Openings and Closings to DMR.

Work with the SC Chair and Conservation Warden for the reporting of all conservation time of the harvesters.

Work with the SC Chair and the Conservation Warden in preparation of the Annual Conservation Plan.

Maintain current lists of all licensed commercial and recreational harvesters.

Maintain the Intertidal Mussel Management Plan and Permits.

Maintain any Permits from outside agencies (ACoE, for example).

Maintain the Agendas and Minutes of both the SC and MJB.

Maintain the financial information for the FBRSP and have the program financials audited annually.

Maintain the history of the commercial and recreational harvesters.

Maintain the Ordinance, Interlocal Management Agreement, Administrative Municipality Agreement, Annual License Sales Procedure, Annual Conservation Plan, and Shellfish Management Plan.

Post all applicable Notices and forward same to the seven Town Clerks to post.

Work with the Conservation Warden for changes to the Ordinance, Shellfish Management Plan, and Intertidal Mussel Management Plan, as requested by the SC and approved by the MJB.

Maintain Monthly Warden Reports and email same to MJB.

Prepare reports as necessary.

#### 4. Definitions

##### A. Resident

The term "resident" refers to a person being a Maine resident who has proof of being domiciled in at least one of the participating communities continuously for a minimum of one year (12 months) prior to the time their claim of such residence is made and/or whom has owned real estate and paid real estate taxes in at least one of the participating communities for a minimum of twelve (12) months. In order to determine resident eligibility new residents shall provide two forms of proof of residency from the list in Section 10 of the Annual License Sales Procedure. At least one shall be from Section 3 in that chart. All licensed harvesters will provide proof of residency on an annual basis.

##### B. Nonresident

The term "nonresident" 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*), Hard Clams/Quahogs (*Mercenaria mercenaria*), razor clams (*Ensis directus*), American Oyster (*Crassostrea virginica*), European Oysters (*Ostrea edulis*), and Atlantic Surf Clams/Hen Clams (*Spisula solidissima*).

##### D. Municipality

Refers to the municipalities of Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan, and Trenton, Maine. Wherever the words "town" or "community" may be used, they are intended to mean municipality.

##### E. Administrative Municipality

The municipality that administers this Ordinance and the directives of the Municipal Joint Board.

##### F. Annual License Sales Procedure

A plan written by the ADM and FBRSC then submitted to the Municipal Joint Board, by February 1 of each year, for approval. This plan shall outline in detail how licenses are to be allocated on an annual basis and shall establish priority status for the allocation of licenses as referred to in Section 5.3.

##### G. Annual Shellfish Management Review and Annual Conservation Plan

A detailed shellfish resource management plan written on an annual basis by the FBRSC, ADM, and Conservation Warden and submitted to, and approved by, the MJB for submission by the Administrative Municipality to the Maine Department of Marine Resources for approval. Said plan shall define actions to be taken regarding

- the number of licenses to be issued,
- re-seeding activities,
- conservation closures,
- limits on allowable harvest,
- harvesting days and times, and
- other measures taken to ensure a sustainable harvest of the resource.

**H. Conservation Work**

The term Conservation Work or Conservation Time, as used in this ordinance, shall be broadly defined and shall include the time accrued for work spent performing, but is not limited to, such activities as shellfish reseedling, pollution abatement, predator eradication, shellfish surveying, information gathering, testing and sampling, and any other activity that the FBRSC deems as supporting shellfish resource enhancement and the Frenchman Bay Regional Shellfish Management Program. All such Conservation Work activities must be approved by the Municipal Joint Board, once approved the ADM will post the Annual Conservation Plan via the Town Offices, on the FB Page, email to the harvesters that have given email addresses, and will be available at all meetings.

Any Conservation Work must be approved by the Conservation Warden/SC Chair prior to the work being performed by any harvester. All Conservation Work performed will be recorded by the Conservation Warden or the SC Chair in the Receipt Book.

**I. First Time Commercial License**

A commercial license of any class issued to an individual who has never held a commercial license of any class is a first-time license.

**5. Licensing**

A Frenchman Bay Regional Shellfish License is required to harvest shellfish in the jurisdiction of this Ordinance. It is unlawful for any person to dig or take shellfish from the shores and flats of the participating communities for the purpose of selling the shellfish without having a current commercial license issued by the Administrative Municipality as provided by this Ordinance. Additionally, a commercial harvester must have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources prior to harvesting shellfish for commercial purposes. It shall be unlawful for any individual whose State of Maine Commercial Shellfish License, or right to harvest, has been suspended by the State of Maine to harvest or possess shellfish without proof of purchase. Also, if such individual currently holds a municipal license, such license shall be suspended for the same period of time. Any restrictions on licenses regarding the harvest of shellfish as defined in this ordinance shall be outlined in the Annual License Sales Procedure.

**Licensing Requirements**

All license sales shall be conducted as described in the Annual License Sales Procedure.

**5.1 Designation, Scope, and Qualifications****A. Resident Commercial Shellfish License**

This license is available to residents of a participating municipality who are also State of Maine Residents and/or real estate tax payers in at least one of the participating municipalities, consistent with Section 4.A, above and entitles the holder to dig and take any amount of shellfish from the shores and flats of the participating municipalities, or entitles the holder to engage in commercial harvesting of shellfish in accordance with the ordinance and conservation measures

License Categories --

1. Regular Commercial Resident License – age requirement is over 19 and under 65.
2. Senior Commercial Resident License – age requirement is 65 and over.
3. Junior Commercial Resident License – age requirement is 19 and under.

**B. Nonresident Commercial Shellfish License**

This license is available to nonresidents of participating municipalities or residents of non-participating municipalities, and entitles the holder to dig and take any amount of shellfish from the shores and flats of the participating municipalities.

License Categories --

1. Regular Commercial Non-Resident License – age requirement is over 19 and under 65.
2. Senior Commercial Non-Resident License – age requirement is 65 and over.
3. Junior Commercial Non-Resident License – age requirement is 19 and under.

**C. Resident Individual Recreational Shellfish License**

This license is available to Residents and Maine resident real estate taxpayers of the participating municipalities, consistent with Section 4.A., above, who do not hold a valid State of Maine Commercial Shellfish License and entitles the individual to dig and take no more than one peck of shellfish or 3 bushels of “hen” or “surf” clams in any one day for their personal use. Residents with an Aquaculture Lease Permit shall be exempt and eligible for a recreational license.

License Categories --

1. Regular Recreational Resident License – age requirement is over 19 and under 65.
2. Senior Recreational Resident License – age requirement is 65 and over.
3. Junior Recreational Resident License – age requirement is 19 and under.

**D. Nonresident Individual Recreational Shellfish License**

This license is available to any person not a resident of one of the participating municipalities who does not hold a valid State of Maine Commercial Shellfish License and entitles the individual to dig and take no more than one peck of shellfish or 3 bushels of “hen” or “surf” clams in any one day for their personal use. Nonresidents with an Aquaculture Lease Permit shall be exempt and eligible for a recreational license.

License Categories --

1. Regular Recreational Non-Resident License – age requirement is over 19 and under 65.
2. Senior Recreational Non-Resident License – age requirement is 65 and over.
3. Junior Recreational Non-Resident License – age requirement is 19 and under.

**E. License Must be Signed**

The licensee must sign the license to make it valid. License must be in possession when engaged in harvesting. By signing the license the harvester acknowledges that they must submit to inspection by the Municipal Conservation Shellfish Warden.

**F. Harvest Limits**

Shellfish harvest limits may change and will be determined annually by the Shellfish Conservation Committee with final approval by the Municipal Joint Board. Harvest limits will be made available to all license holders.

**G. Closures**

All Frenchman Bay Region Shellfish license holders, both commercial and recreational, must comply with all conservation closures and state closures. It is the responsibility of the license holder to inform themselves of any and all closures.

**5.2 Fees**

A schedule of fees shall be available at the Administrative Municipality offices. The fees for the licenses shall be determined annually by the FBRSC and MJB. Licensees shall submit fees, in full upon issuance of license. Fees received for shellfish licenses shall be used by the Administrative Municipality to support the Frenchman Bay Regional Shellfish Conservation Ordinance. Sale of recreational licenses shall be the responsibility of each participating municipality. Any and all fees and license sales for recreational licenses shall be collected by the participating municipalities and sent to the Administrative Municipality as directed, except for a \$3.00 agent fee per license that will be retained by the issuing municipality.

Applicants for a commercial shellfish harvester license may volunteer to perform shellfish conservation work in exchange for a reduction in their commercial license fee as described in Section 5.4.B. Generally, each hour of conservation work performed will be credited as stated in the Annual License Sales Procedure and may be deducted from the full renewal commercial license fee, **except** that Junior Commercial license may be purchased without performing any Conservation Work.

First-time commercial licenses will be sold at the lowest fee for each class of commercial license.

**5.3 Application Procedure**

Any person may apply to the municipal Clerk for the licenses required by this ordinance on forms provided by the Administrative Municipality. Notice of available commercial licenses shall be published in a trade or industry publication, or in a newspaper, or newspapers, or combination of newspapers with general circulation which the Municipal Joint Board considers effective in reaching persons affected, not less than ten (10) days prior to the period of issuance and shall be posted in the municipal offices of the participating municipalities until the period expires. Applications for commercial licenses must be received at the Town Office of the

Administrative Municipality as required by the Annual License Sales Procedures. No FBR Shellfish license may be reserved and cannot be transferred.

**A. Contents of Application**

The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, signature, and any additional information the municipality may require, including photos.

**B. Misrepresentation**

Any person who intentionally gives false information on a license application shall cause the application to be removed from consideration. If a license is issued as a result of the false information, said license to become invalid and void.

**C. Address Change**

A person holding a commercial shellfish license under this ordinance shall notify the town clerk of the Administrative Town within ninety (90) days of address change outside of the participating municipalities. Failure to do so will be considered and treated as misrepresentation.

**5.4 License Allocation Procedures**

License sales procedures shall be determined by the FBRSC and MJB, and submitted by the Administrative Municipality to the Department of Marine Resources for their approval at least thirty (30) days prior to the licenses going on sale. Notice of the number of licenses to be issued and the procedure for application shall be defined by the Annual License Sales Procedures.

**A.** The Administrative Municipality shall issue licenses to those residents and non-residents who have met the requirements of obtaining a commercial license. The Administrative Municipality shall issue licenses and hold a lottery for nonresident commercial licenses by the procedure described in the Annual License Sales Procedure.

**B.** Optional Conservation Work may be completed prior to June 1<sup>st</sup> to reduce the license cost in accordance with the Annual License Sales Procedures. The performance of Conservation Work in order to accrue Conservation Time is optional and may be credited as described in Section 1A of the Annual License Sales Procedure.

1) First-time commercial licenses may be purchased at the lowest fee for each class of commercial license.

**C.** Details explaining how licenses will be issued will be described in the Annual License Sales Procedure.

**5.5 Limitation of Diggers**

The number of commercial licenses may be limited and will be issued according to the Annual Shellfish License Sales and Lottery Procedure, as approved by the SC, MJB, and DMR.

- A. If it is determined that Limited Licenses are necessary, the Administrative Municipality shall issue licenses to residents and nonresidents as described in the Annual License Sales Procedure.

**5.6 Open License Sales**

When the FBRSC and MJB determine limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year;

- A. The number of recreational licenses will not be limited. Recreational licenses shall be issued to residents or non-residents without restriction.

**5.7 License Expiration Date**

Each license issued under authority of this ordinance expires at midnight on June 30<sup>th</sup> of each year.

**5.8 Fee Waivers**

Recreational shellfish license fees are not required for individuals younger than age 13 at the time of license application, except for the \$3.00 Agent Fee.

**6. Opening and Closing of Flats**

The MJB upon recommendation by the FBRSC and approval by the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon concurrence of the Department of Marine Resources Scientist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the MJB and FBRSC may call a public hearing, and the Administrative Municipality shall send a copy of the notice to the Department of Marine Resources. The decision of the MJB and FBRSC made after the hearing shall be based on findings of fact.

**7. Minimum Legal Size of Soft Shell Clams**

It is unlawful for any person to possess soft shell clams within participating municipalities that are less than two (2) inches in the longest diameter except as provided by Subsection 7.2 of this section.

**7.1 Definitions****A. 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.

**B. Possess**

For the purpose of this section, "possess" means dig, take, harvest, ship, transport, hold, buy, and sell retail and wholesale soft shell clam shell stock.

**7.2 Tolerance**

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

**7.3 Penalty**

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

**8. Penalty**

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

**9. Effective Date**

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

**10. Severability**

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 member communities and any provisions of any other town ordinance, which is inconsistent with this ordinance, is hereby repealed.

**12. Use of Fees and Fines, Funding**

Fees for shellfish licenses shall be set forth in the Annual License Sales Procedure and shall accompany the application for the respective license. Fees and fines received shall be used for costs incurred in the enforcement and management of this ordinance.

**12.1 Non-lapse Provision**

Monies in the Administrative Municipality Shellfish Account shall not lapse at the end of the fiscal year but shall be carried over to the next year in that account.

**12.2 Funding**

The Frenchman Bay Regional Shellfish Program shall be self-supporting, to the extent possible. Funds for operating the Program may be generated by license fees, fines, and financial support from participating communities, fund-raising events, and charitable contributions.

**13. Violations, Suspension of Licenses, and Fines**

Any person who violates this Ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 and/or Section 6681. A violation of this Ordinance may result in a license suspension. A licensee whose shellfish license has been suspended pursuant to this Ordinance may request return of their license only after the suspension period has expired. A suspended license is not to be returned until the fine is paid in accordance with the court's decree. The suspension of a commercial license shall begin automatically, following conviction. Any licensee whose license has been suspended for a period of time greater than 30 days, pursuant to this Ordinance, shall be entitled to a hearing before the Municipal Joint Board upon the filing of a written request for a hearing with the Town Clerk of the Administrative Town within thirty (30) days of the effective date of the suspension.

**13-A Costs and Attorney's Fees**

In addition to any penalty assessed for any violation of this ordinance, if the municipality is the prevailing party, the municipality shall be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

*Classifications of violations are categorized as follows:*

**13.1 Suspension of License**

The Municipal Joint Board (MJB) may suspend any license or permit and privilege to obtain a license or permit issued under this Ordinance on the following grounds.

1. Conviction of any violation found in M.R.S.A. Title 12 Chapter 623, while engaged in the harvest of shellfish.
2. Suspension or revocation of State of Maine Commercial Shellfish License.
3. Conviction of any section of this Ordinance.
4. Intimidation of FBRSP staff and employees of the admirative municipality.

**13.1.1 Suspension Procedure**

Suspension is intended as a corrective action and is applied progressively.

The procedure for municipal shellfish license suspension is outlined below:

1. Any harvester convicted of a violation outlined in Section 13 shall have their license suspended for thirty (30) days.
2. Any harvester convicted for a total of two violations as outlined in Section 13 within 5 years shall have their license suspended for ninety (90) days.
3. Any harvester convicted of three (3) violations as outlined in Section 12 Shall have their license suspended for one (1) Calander year from date of conviction.

**13.2 Reinstatement Fee**




The licensee must pay a fee equivalent to one-eighth (1/8) of the base license price for the first offense and one-quarter (1/4) for the second offense within the same license year.

This fee must be paid to the administrative municipality for the reinstatement of a suspended license. A license will only be considered valid once this fee has been paid in full. If the reinstatement fee is not paid by the end of the license year, the licensee's right to apply for any municipal shellfish license will be suspended until the fee is settled.

**Financial Hardship:** If the licensee cannot pay the reinstatement fee due to a genuine financial hardship, the MJB may require the licensee to complete six (6) hours of approved conservation work for the first suspension within one (1) license year. This accommodation is unavailable for any subsequent suspensions within one (1) license year.




**13.3 Immediate License Suspension**

Certain severe offences outlined in this ordinance are subject to immediate license suspension. The procedure for immediate suspension is as follows:

1. The violator has charged with the following offences under this ordinance or certain criminal offences, they are:
  -  Failure to Stop for Inspection
  -  Assault on a Shellfish Warden
  -  Material Misrepresentation
2. Upon receipt from the Shellfish Warden or Law Enforcement Officer that a person has violated these offences. The Administrative Municipality shall have the offender served with or issue a certified letter to the offender within 7 days, notifying them that their license has been suspended immediately, and that they may appear at the next MJB board meeting to appeal the immediate suspension.

**13.4 Habitual Offender Revocation**

Any person who has accumulated four (4) or more convictions for distinct offenses described in this paragraph arising out of separate acts committed within a 5-year period shall have their privilege to obtain a FBRSP license immediately revoked:

-  Any violation of Title 12 Chapter 623 while engaged in the harvesting of shellfish.
-  Any act of violence while engaged in the harvesting of shellfish, within the jurisdiction of FBRSP.
-  Violation of any section of this Ordinance.

**13.5 General Ordinance Violations**

Any licensed or unlicensed harvester who violates this Ordinance or the policies adopted in the Annual License Sales Procedure commits the offense(s) as outlined in Title 12 M.R.S.A. § 6671.

**13.6 Commercial Harvesting of Shellfish without a License**

It is unlawful to commercially harvest shellfish without a valid FBRSP License and a commercial harvest must possess a valid State of Maine Commercial Shellfish Harvesters License.

Penalties: Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

**13.7 Recreational Harvesting of Shellfish without a License**

It is unlawful to recreationally harvest shellfish without a valid FBRSP License. A recreational harvester may not possess a Maine Commercial Shellfish License. By possession of a Commercial Shellfish License a person invalidates their recreational FBRSP license.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10-A, and the license holder may face suspension under Section 13 of this ordinance after conviction.

**13.8 Aiding and Abetting**

A licensed harvester who aids and abets in the harvest of shellfish in violation of this Ordinance shall be subject to the same penalties as the person they assisted.

Penalties: Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

**13.9 Legal Size of Shellfish and Tolerance**

It is unlawful for any person to possess shellfish within the Frenchman Bay Region area which are:






- A.** Soft Shell Clams that are less than two (2) inches at the longest diameter to the amount of not more than ten (10) percent of any lot.
- B.** Hard Clams/Quahogs that are less than one (1) inch in thickness as measured across the hinge width to the amount of not more than five (5) percent of any lot. Hinge width is measured at the thickest part of the clam where the shells are joined together.
- C.** American Oysters that are less than two and one half (2.5) inches at the longest diameter to the amount of not more than ten (10) percent of any lot.
- D.** European Oysters that are less than three (3) inches at the at the longest diameter to the amount of not more than ten (10) percent of any lot
- E.** Atlantic Razor Clams that are less than four (4) inches long.
- F.** Surf Clams have no size limit.

Tolerance: The tolerance is determined by numerical count of not less than one peck nor more than four (4) pecks taken at random from various parts of the bulk pile or by a count of the entire pile if it contains less than one peck.

Penalties: Penalties shall be assessed in accordance with Maine Department of Marine Resources statutes and regulations.

**13.10 Failure to Stop for Inspection**

A person shall produce their license on demand of any certified Municipal Shellfish Conservation Warden in uniform and having "probable cause" to take such action. It is unlawful for the operator of a motor vehicle, boat, vessel, or conveyance of any kind, or any person:

-  To deliberately fail or refuse to stop immediately upon request or signal of any Certified Municipal Shellfish Conservation Warden.
-  After the person has stopped, fail to remain stopped until the said Warden has reached their immediate vicinity and makes known to the operator the reason for their request or signal.
-  To fail or refuse to stand by immediately for inspection on request of said Warden.
-  To throw or dump into any coastal waters or flats after having been requested or signaled to stop by a Certified Municipal Shellfish Conservation Warden any shellfish or pail, bag, hod, or container before said Warden has inspected the same.
-  To attempt to elude, disobey, or assault any Certified Municipal Shellfish Conservation Warden.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10. In addition to any criminal penalty the offender will face the following license suspensions:

- A. For the first conviction, there will be an immediate license suspension of ninety (90) days.
- B. For a second conviction within five (5) years, an immediate license suspension of one (1) calendar year from the date of conviction.
- C. For any subsequent violations within five (5) years, the license holder's privilege to obtain a municipal license will be immediately revoked by the Municipal Joint Board. The holder shall be prohibited from applying for a municipal commercial or recreational shellfish harvester license for five (5) calendar years from the date of conviction.

**13.11 Assault on a Shellfish Warden**

A person is guilty of assault on a Shellfish Warden if they intentionally, knowingly, or recklessly cause bodily injury to a Municipal Shellfish Conservation Warden in the performance of their official duties.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10. In addition to any criminal or civil penalties, the license holder will face immediate licensee suspension under Section 13 of this ordinance until the criminal proceeding have been concluded. If the license holder is convicted under this section or a similar offense, including M.R.S.A. Title 17-A §752-A, 17-A §207, the license holder will face license revocation under section 12 of this ordinance.

**13.12 Harvesting Shellfish in a Conservation Closure Area**

It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by those seven (7) municipalities included in the Frenchman Bay Regional Shellfish Conservation Ordinance, namely the municipalities of Ellsworth, Lamoine, Trenton, Hancock, Franklin, Sullivan, and Sorrento, in accordance with DMR Regulation, Chapter 7. Harvesting shellfish in a closed area is a violation of the regional ordinance of these municipalities and is punishable under MRSA Title 12 §6671.

Boundaries of conservation closures are explicitly defined in the conservation closure application submitted on behalf of the seven (7) above-named municipalities to DMR and are part of the resulting permit issued by DMR. These permits are posted on the website of the, Town of Franklin ([franklinmaine.com](http://franklinmaine.com)), the administrative municipality for the seven (7) municipality regional ordinance, and online at Maine DMR – Shellfish Closures: Legal Notices/Map and Interactive Map. Our Areas are covered in area EG and EI. Also, the FBRSP Conservation Closures are on the same page under the Conservation Closures tab.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10, and the license holder may face suspension under Section 13 of this ordinance after conviction.

**13.13 Harvesting Shellfish in a State Closed Area**

It shall be unlawful for any person to harvest, take, or possess shellfish from any areas closed by the Commissioner of the Department of Marine Resources for contamination or pollution as outlined in M.R.S.A. Title 12 § 6672.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10, and the license holder may face suspension under Section 13 of this ordinance after conviction.

**13.14 Washing Shellfish in a State Closed Area**

A person may not wash, hold, transport from, or keep shellfish in any area closed under M.R.S.A. Title 12 § 6672.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10, and the license holder may face suspension under Section 13 of this ordinance after conviction.

**13.15 Tagging Shellfish**

A commercial license holder shall identify shellfish the license holder has taken using a harvester's tag. The tag must be consistent with the format the Department of Marine Resources (DMR) requires under rules adopted to meet this requirement. Each container of shellfish must be tagged in accordance with department rules.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10, and the license holder may face suspension under Section 13 of this ordinance after

### **13.16 Harvest Limits**

It is unlawful for any person to violate the harvesting limits placed on licenses as described in the Annual Shellfish Management Plan or specific conservation restrictions for conservation closures or openings.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10, and the license holder may face suspension under Section 13 of this ordinance after conviction.

### **13.17 Harvesting on a Conservation Closure Day**

It is unlawful for any municipal commercial shellfish license holder to harvest shellfish on a conservation closure day.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10, and the license holder may face suspension under Section 13 of this ordinance after conviction.

### **13.18 Material Misrepresentation**

Under this ordinance, giving false or misleading information to obtain a license or permit is unlawful. In addition to any civil or criminal penalties outlined below, the license or permit issued under this information shall be immediately voided, and all fees forfeited to FBRSP.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10, and the license holder may face suspension under Section 13 of this ordinance after conviction.

### **13.19 Misconduct**

A licensee or applicant may not threaten or intimidate an employee of the administrative municipality or a representative of FBRSP. Any complaints of this misconduct will be investigated by the Shellfish Warden or other Law Enforcement.

Penalties: The MJB may impose the following license suspensions for misconduct: the offenders municipal shellfish license or right to apply for a license will be suspended for one (1) month, three (3) months for the second offense, and one (1) year for the third offense in one (1) calendar year.

### **13.20 Trespass while Shellfish Harvesting**

A person may not access, or cross private lands posted in accordance with M.R.S.A. Title 17-A § 402 Criminal Trespass, or who has been warned for trespass by a property owner, their agent, Law Enforcement officer, or Shellfish Warden, without permission.

Penalties: A penalty will be enforced according to M.R.S.A. Title 12 § 6671.10, and the license holder may face suspension under Section 13 of this ordinance after conviction.

**13.21 Littering**

A person is prohibited from throwing, dropping, depositing, discarding, dumping, or disposing of litter, including human or animal feces, in any manner or amount in the following areas:

1. On or within any beach, mudflat, public right-of-way, or any other public land, except in designated containers or receptacles or on property specifically designated for garbage and refuse disposal by the State, its agencies, or political subdivisions
2. In any tidal or coastal waters, streams, rivers, or on ice over water in the intertidal zone.

**14. Enforcement**

This ordinance shall be enforced by the certified Municipal Shellfish Conservation Warden or any Municipal Shellfish Conservation Warden appointed by the Municipal Joint Board who, within one year of appointment, must be certified by the Commissioner of the Maine DMR. An enforcement action shall be filed in the name of the municipality where the violation was alleged to have occurred.

**15. Amendments****15.1 Initiation**

A proposal for an amendment to this Ordinance may be initiated by the following:

- A. A written petition submitted with the number of voters in the participating municipalities equal to at least ten percent of the voters in the last gubernatorial election;
- B. A recommendation of the FBRSC; or
- C. A recommendation of the Municipal Joint Board.

**15.2 Procedure**

- A. Any proposal for an amendment shall be made to the Municipal Joint Board, in writing, stating the specific changes requested. All such proposals may be transmitted to the FBRSC for their review and recommendation.
- B. Within thirty (30) days of receiving a properly initiated amendment, the MJB shall hold a public hearing on the proposal. Notice of the hearing shall be posted within the participating communities at least seven (7) days prior to the hearing. The notice shall contain the time, date, and place of the hearing and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the municipal Clerk's office shall be adequate notice.

**15.3 Adoption**


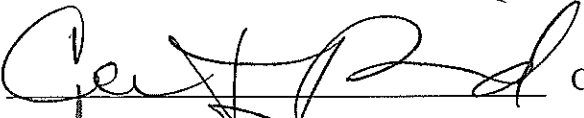
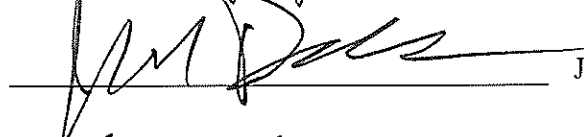



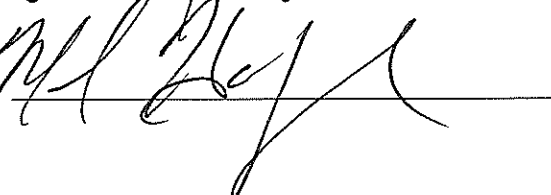
This Ordinance may be amended by a majority vote of the Municipal Joint Board, after proposed changes have been reviewed by the Department of Marine Resources. Note: Ellsworth's charter requires Council action.

**15.4 Statute Law Changes**

Any changes to referenced Statue Laws in this Ordinance shall automatically update in this Ordinance upon enactment.

**Adoption:**

WHEREAS: In consideration of all of the above, and IN WITNESS WHEREOF, the parties have by their duly authorized officers caused this Ordinance to be adopted in all parts this 29th day of March 2025

Municipality	Signature	Name/Title
Franklin		Dana Smith, Chair MJB
Ellsworth		Catherine Pickard, MJB Member
Hancock		Joseph Porada, MJB Member
Lamoine		Kathleen Rybarz, Selectboard Member
Sorrento		Ann Hoffner, MJB Member
Sullivan		Gary Edwards, MJB Member
Trenton		Mike Hodgkins, MJB Member