

2016.75

IN BOARD OF CITY COUNCIL..AUGUST 16, 2016

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 74, Waterways, **Division 5 - Shellfish Conservation Ordinance** be amended as follows:

Sec. 74-106. Opening and closing of flats.

The municipal officials, upon the approval of the commissioner of marine resources, may open and close areas for shellfish harvest. Upon recommendations of the shellfish conservation committee and concurrence of the department of marine resources area biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the municipal officials may call a public hearing, and shall send a copy of the notice to the department of marine resources. The decision of the municipal officials made after the hearing shall be based on findings of fact.

It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by the City of Biddeford in accordance with the Dept. of Marine Resources (DMR) Regulation, Chapter 7. Harvesting shellfish in a closed area is a violation of this municipality's ordinance and is punishable under MRSA Title 12 §6671.

Boundaries of conservation closures are explicitly defined in the conservation closure application submitted by the City of Biddeford to DMR and are part of the resulting permit issued by DMR. These permits are posted at the City Clerk's Office and on the DMR website.

NOTE: This amendment is a recommendation from DMR for the following reason:
Historically conservations closure violations were enforced and prosecuted without the recommended language in each municipal shellfish ordinance. However, recently at least one District Attorney in the state has indicated that they will not prosecute cases unless harvesting in a conservation closure is explicitly designated as illegal in the municipal shellfish ordinance. Therefore, DMR determined it was important to highlight this issue to the municipalities and recommend they include this language in the shellfish ordinances at the next available opportunity.

August 16, 2016

Motion by Councilor Ready, seconded by Councilor Quattrone to grant the first reading of the order.

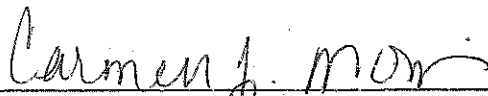
Vote: Unanimous.

September 6, 2016

Motion by Councilor Ready, seconded by Councilor Laverriere to grant the second reading of the order.

Vote: Unanimous.

Attest by:


Carmen J. Morris, City Clerk

Carmen J. Morris, City Clerk