



TOWN OF GEORGETOWN

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Georgetown, Maine 04548-0436
Phone (207) 371-2820 Fax (207) 371-2331

Department of Marine Resources
21 State House Station
Augusta, Maine 04333

June 19, 2018

To Whom it May Concern,

Enclosed please find an attested copy of the Georgetown Shellfish Conservation Ordinance that was approved by the voters at our Annual Town Meeting on Saturday June 16, 2018. Please also find a copy of the presented draft ordinance indicating proposed changes which were adopted.

Please feel free to contact the office with any questions.

Thank you!

Sincerely,

Amanda Campbell

Amanda Campbell
Town Clerk/Tax Collector/Registrar of Voters

ENCLOSURE (2) Georgetown Shellfish Ordinance For Amendment
Georgetown Shellfish Ordinance Amended 16 June 2018

TRUE COPY ATTEST
Amanda Campbell

SHELLFISH CONSERVATION ORDINANCE TOWN CLERK

for the Town of Georgetown, Maine

Amended 6 March 1985
Amended 11 June 1988
Amended 16 June 1990
Amended 8 June 1991
Amended 13 June 1992
Amended 12 June 1993
Amended 17 June 2017

Amended 18 November 1993
Amended 18 June 1994
Amended 10 June 1995
Amended 15 June 1996
Amended 14 June 1997
Amended 17 June 2000
Amended 16 June 2018

Amended 15 June 2002
Amended 12 June 2004
Amended 17 June 2006
Amended 16 June 2007
Amended 14 June 2008
Amended 18 June 2016

I. Authority: This Ordinance is enacted in accordance with 12 MRSA § 6671.

II. Purpose: To establish a shellfish conservation program for the Town of Georgetown which will ensure 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

III. Shellfish Conservation Committee: The shellfish conservation program for the Town of Georgetown will be administered by the Shellfish Conservation Committee, consisting of five or more members, of which one may be a non-resident of Georgetown, to be appointed by the Board of Selectmen for staggered three-year terms. The Committee's responsibilities include:

- A Establishing annually, in conjunction with the Department of Marine Resources, the number and kind of shellfish digging licenses to be issued;
- B Surveying each clam-producing area at least once each three years to establish size distribution and density and annually to estimate the status of the Town's shellfish resources;
- C Submitting to the Board of Selectmen proposals for the expenditure of funds for the purpose of shellfish conservation;
- D Keeping this Ordinance under review and making recommendations for its amendment;
- E Securing and maintaining records of shellfish harvest from the Town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources;
- F Recommending conservation closures and openings to the Board of Selectmen in conjunction with the Area Biologist of the Department of Marine Resources;
- G Identifying and qualifying shellfish conservation projects and determining yearly how many hours of conservation time applicants or license holders must complete to qualify for new licenses or license renewals; and
- H Submitting an annual report to the Town and the Department of Marine Resources covering the above topics and all other committee activities.

IV. Definitions:

- A Resident: The term "resident" refers to a person who owns or rents real estate in the Town of

Georgetown which is his or her permanent, fixed place of abode and principal place of residence. If a person claiming to be a resident neither owns nor rents real estate in the Town of Georgetown, he or she shall be required to produce such other evidence of residence as the Town Clerk may require. A person shall not qualify as a resident of Georgetown unless he or she has maintained a permanent, fixed place of abode and principal place of residence in Georgetown for three months prior to claiming residence. A person shall cease to be a resident of Georgetown on the date he or she acquires a permanent, fixed place of abode and principal place of residence in any other Town or moves from the Town of Georgetown.

- B Non-resident: The term "non-resident" shall apply to 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 terms "shellfish," "clams," and "intertidal shellfish resources" mean soft-shell clams (*Mya arenaria*), hen clams (*Spisula solidissima*), razor clams (*Ensis directus*), quahogs (*Mercenaria mercenaria*), American Oysters (*Crassostrea virginica*) and European Oysters (*Ostrea edulis*).
- D Clam Flats: The term "clam flats" means the area between high water and extreme low water.
- E 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 container, the contents of each container constitutes a separate lot.
- F Possess: For the purpose of this Ordinance, "possess" means dig, take, harvest, ship, transport, hold, buy and sell, retail and wholesale, soft-shell clam shellstock.
- G Student: For the purpose of this Ordinance, "student" shall apply to any person actively enrolled in or entering grades 5 through 12 as of the date of application.

V. Licensing: A Town Shellfish Digging License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of Georgetown without having a current license issued by the Town as provided by this Ordinance. A commercial digger must also have a valid State of Maine commercial shellfish license issued by the Department of Marine Resources, but need not purchase the State license before obtaining the Town license. Of the total licenses issued, both commercial and recreational, ten percent shall be reserved for non-residents. Applicants for non-resident recreational licenses will follow the lottery routine specified in paragraph D.12 below; they need not be present at the lottery.

A Designation, Scope, and Qualifications:

- 1 Resident Commercial Shellfish License: This license is available to residents of the Town of Georgetown and entitles the holder to dig or take any amount of shellfish from the shores and flats of Georgetown and reciprocating municipalities, with no more than one peck daily being the acceptable level of harvest from Reid State Park.
- 2 Non-Resident Commercial Shellfish License: This license is available to non-residents of the Town of Georgetown and entitles the holder to dig or take any amount of shellfish from the shores and flats of Georgetown, with no more than one peck daily being the acceptable level of harvest from Reid State Park.
- 3 Resident Recreational Shellfish License: This license is available to residents and real-estate taxpayers of the Town of Georgetown and entitles the holders to dig or take no more than one peck of soft-shell clams and one and one half bushels of hen clams in any one day. Shellfish so harvested are for the use of the holders, their families, and their guests, and shall not be sold. This license is not available to holders of State of Maine commercial shellfish licenses.

- 4 Non-Resident Recreational Shellfish License: This license is available to any person not a resident of Georgetown and entitles the holders to dig and take not more than one peck of soft-shell clams and one and one half bushels of hen clams in any one day. Shellfish so harvested are for the use of the holders, their families, and their guests, and shall not be sold. This license is not available to holders of State of Maine commercial shellfish licenses.
 - 5 Non-Resident Seven-Day Recreational Shellfish License: This license is available to any person not a resident of Georgetown and entitles the holders to dig and take not more than one peck of soft-shell clams and one and one half bushels of hen clams in any one day. Shellfish so harvested are for the use of the holders, their families, and their guests, and shall not be sold. This license is not available to holders of State of Maine commercial shellfish licenses and expires seven days from the date of issue.
 - 6 License must be signed: The licensee must sign the license to make it valid.
 - 7 A license is not required to harvest one peck of clams from the shores of Reid State Park.
- B Application Procedure: Any person may apply in person to the Town Clerk or mail in a completed application for the license required by this Ordinance on forms provided by the Town.
- 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 Town may require.
 - 2 Misrepresentation and Ineligibility: If after investigation the Town learns that a licensee has given false information or is otherwise ineligible to hold a license under this ordinance, the Selectmen shall give the licensee a minimum of seven days notice of a hearing on the matter. If the Selectmen determine at the hearing that the license should be revoked, they shall give the licensee written notice of revocation. Any licensee aggrieved by their decision may appeal to the Superior Court.
 - 3 No shellfish license will be issued to anyone with unpaid Town or State shellfish fines.
- C Fees: The fees for the licenses are as stated below and must accompany in full the application for a recreational license. Applicants for commercial licenses through the lottery must pay the fee required when they pick them up. The Town Clerk shall pay all fees received to the Town Treasurer except for \$1 for each license which she will retain as payment for issuing the license. Recreational license fees are waived for persons sixty-five years of age or older, those twelve years of age or younger, and those who have contributed four hours of conservation time in accordance with Article III, Section G of this Ordinance.

Resident Commercial:	\$ 200 per year
Resident Student Commercial:	\$ 100 per year
Non-Resident Commercial:	\$ 400 per year
Non-Resident Student Commercial	\$ 200 per year
Resident Recreational:	\$ 20 per year
Non-Resident Recreational:	\$ 35 per year
Non-Resident Seven-Day Recreational	\$ 25 per license

Visitors may purchase Non-Resident Seven-Day Recreational licenses from the Town Clerk or from agents appointed by the Board of Selectmen, in consultation with the Town Clerk and members of the Shellfish Conservation Committee. With their licenses they shall receive brochures outlining license restrictions and other applicable information. The Board of Selectmen shall approve agents to purchase Non-Resident Seven-Day Recreational licenses from the Town Clerk for resale and shall authorize them to charge no more than \$1 in addition to the fee set above. The Selectmen may withdraw their approval during the year for cause and may set

additional conditions for selling these licenses as necessary.

- D Limitation of Diggers: Clam resources vary in density and size distribution from year to year and over the limited soft-clam-producing area of the Town. It is essential that the Town carefully manage its shellfish resources. Following the annual review of the Town's clam resources, its size, distribution, and abundance, and the Shellfish Warden's reports, as required by Article III, the Shellfish Conservation Committee in consultation with the DMR Area Biologist and Shellfish Warden will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year. The following procedures will be followed to exercise the control.
- 1 Prior to 1 May, the Shellfish Conservation Committee, with the approval of the Commissioner of Marine Resources, will establish the number of commercial and non-commercial licenses to be issued following the requirements of 12 MRSA § 6671.
 - 2 The Shellfish Conservation Committee will notify the Town Clerk in writing prior to 15 May of the number of licenses to be issued.
 - 3 Notice of the number of licenses to be issued and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the Selectmen consider effective in reaching persons affected, not less than ten days prior to the period of issuance, and shall be posted in the Town Office until the period concludes.
 - 4 The Town Clerk shall issue recreational licenses to residents and non-residents as allocated from the first business day in July. The Town Clerk shall issue allocated commercial licenses as outlined in paragraphs D 6 or D 11 of this section.
 - 5 Licenses returned to the Town voluntarily or made available for any reason may be reissued to another person at the current fee according to the priorities established in paragraph D 11 of this section.
 - 6 All commercial shellfish license holders who have purchased their licenses prior to 1 October of the previous year and who have completed the prescribed number of hours of shellfish conservation work under the supervision of the Town Shellfish Warden or a member of the Shellfish Conservation Committee shall have one month prior to the first business day in July to purchase their licenses. They may appear in person at the Town Office or mail in a completed Commercial Shellfish License application prior to the first business day in July. Anyone who mails an application is responsible for ensuring that the Town has received it. Holders of student commercial licenses are not eligible to purchase non-student commercial licenses prior to the first business day in July.
 - 7 The Shellfish program coordinator shall record the names and hours worked for all those who do conservation work and provide this information to the Committee and to the Town Clerk.
 - 8 The Shellfish Conservation Committee shall waive all or part of the requirement for conservation time for an applicant who provides a written statement from a physician indicating that he or she was unable to participate in any regularly scheduled conservation because of illness or injury. At the request of an applicant, made at a regular monthly meeting of the Committee, it may arrange on an hour-for-hour basis:
 - a another time to complete conservation work for an applicant who demonstrates that the illness or incapacitation of a parent, spouse, or child has prevented him or her from participating in a regularly scheduled conservation time; or
 - b alternate, less strenuous work for an applicant who provides the Committee with a written

statement from a physician indicating that he or she is not physically able to participate in regular conservation work.

- 9 In the event that the Shellfish Conservation Committee, with the approval of the Commissioner of Marine Resources, decides to reduce the number of commercial licenses to be issued, licenses shall be awarded according to seniority in terms of the number of consecutive years that each applicant has held a valid Georgetown Commercial Shellfish License. The claim of seniority must be verified by reference to Town records of licenses awarded in previous years. The applicant who has held a Georgetown Commercial Shellfish License the greatest number of years shall be awarded the first license, the second-longest Georgetown license-holder shall be awarded the second license, and so on until all commercial licenses have been issued to applicants fulfilling the qualifications listed above. Any person denied a license because such a reduction shall take precedence over others not so qualified should the original number of licenses be restored.
 - 10 New resident, resident student, non-resident student, and non-resident commercial licenses will be issued according to lottery. The first lottery will consist of the names of those applicants as allocated who have completed the prescribed hours of conservation work. A student commercial lottery, if needed, shall be held prior to any non-student commercial lottery. If necessary, further lotteries may be held for applicants who have not completed the prescribed hours of conservation work.
 - 11 Applicants for all commercial licenses must register in person for the lottery on the first two business days of July and must be present for the drawing, regardless of whether or not there are available licenses. No one may register for the lottery on the day of the drawing. The lottery will be held in public at the Town Office at 9:30am on the third business day of July. The Town Clerk will record all names in the order in which they are drawn. Available licenses will be issued to those present. Any licenses that become available at a later date will be issued according to the order of draw. In the event a commercial license is returned and there are no eligible names on the waiting list, that license will not be reissued during that fiscal year.
 - 12 Applicants for non-resident recreational licenses must register for a lottery to be held after the lottery for commercial licenses on the third business day of July. Those who have registered on the first two business days of July will be eligible for that drawing. Those who register after that drawing will have their names added at the end of the list.
- E License Expiration Date: Each license issued under authority of this Ordinance expires at midnight on the 30th day of June next following the date of issue, except that Non-Resident Recreational Seven-Day licenses expire seven days from the date of issue.
- F Reciprocal Harvesting Privileges: Licensees from any other municipality cooperating with this Town on a joint shellfish management program may harvest shellfish according to the terms of their licenses.
- G Suspension: Any commercial shellfish license holder having two convictions for any State or Georgetown shellfish violation in a twelve-month period shall have his or her shellfish license suspended for a period of sixty days. The suspension shall be effective from the date of the second conviction. A third conviction in a twelve-month period will result in the loss of eligibility for any Georgetown license for three years from the date of the third conviction. Any recreational shellfish license holder having one conviction shall have his or her shellfish license suspended for a period of sixty days, effective from the date of conviction. A second conviction within twenty-four months of the first will result in the loss of eligibility for any Georgetown shellfish license for three years from the date of the second conviction.

VI. Opening and Closing of Flats: The Selectmen, with the approval of the Commissioner of Marine

Resources, may open and close areas for shellfish harvest. Upon recommendation of the Shellfish Conservation Committee and concurrence of the DMR Area Biologist that the status of the shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Selectmen may call a public hearing on ten days notice published in a newspaper having general circulation in Georgetown, stating the time, place, and subject matter of the hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Selectmen made after the hearing shall be based on findings of fact.

VII. Minimum Legal Size of Soft-shell Clams: It is unlawful for any person to possess soft-shelled clams in the Town of Georgetown which are less than two inches in the longest diameter, except as provided by Section A of this Article.

- A Tolerance: Any person may possess soft-shelled clams that are less than two inches if they comprise less than ten percent of any lot. The tolerance shall be determined by numerical 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 pile if it contains less than one peck.
- B Penalty: Anyone who violates this section shall be punished as provided by 12 MRSA § 6681.

VIII. Harvesting at Night: It is unlawful to harvest shellfish at night using artificial light. The Shellfish Warden and the Marine Patrol may harvest shellfish at night with artificial light for the Officer Salty program and the Boothbay Aquarium, but only after notifying the Marine Patrol office in Boothbay.

IX. Enforcement: The Shellfish Warden is charged with enforcing this Ordinance. Anyone who violates its terms shall be punished as provided by 12 MRSA § 6671, §6621, §6025(4) and §6953

- A DMR Pollution Closures: It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed in the Town of Georgetown in accordance with DMR Regulation, Chapter 23; and it shall be unlawful to wash, hold, or keep shellfish in any area closed by DMR regulation or to possess, ship, transport, or sell shellfish so washed, held, or kept. Harvesting shellfish in a closed area is a violation of this municipality's ordinance and is punishable under MRSA Title 12 §6671.
- B Conservation Closures: It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by the Town of Georgetown in accordance with 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
- C Stopping for Inspection & Penalty: It shall be unlawful for the operator of a motor vehicle, boat, vessel, airplane or conveyance of any kind, or any person:
 - 1. Stopping: To fail or refuse to stop immediately upon request or signal of any certified municipal shellfish conservation warden in uniform;
 - 2. Remaining stopped: After he has so stopped, to fail to remain stopped until the certified municipal shellfish conservation warden reached his immediate vicinity and makes known to that operator the reason for the request or signal;
 - 3. Standing By: To fail or refuse to stand by immediately for inspection on request of any certified municipal shellfish conservation warden in uniform;
 - 4. Throwing or dumping items: Who has been requested or signaled to stop by a certified municipal shellfish conservation warden in uniform to throw or dump into any water any marine organism, or any pail, bag, barrel or other container of any type, or the contents thereof, before the certified municipal shellfish conservation warden had inspected the same.

Violation of this section is a Class D crime, except that the court shall impose a fine of not less than \$500. A court may not suspend a fine imposed under this section.

X. Aiding and Abetting: A harvester holding a commercial license who knowingly helps, assists, or facilitates the harvest of shellfish in violation of this Ordinance shall be subject to prosecution for the same violations and shall suffer the same penalties as the person assisted.

XI. Effective Date: This Ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the Town of Georgetown provided a certified copy of it is filed with the Commissioner within twenty days of its adoption. It shall be the responsibility of the licensee to keep informed of all amendments to this Ordinance.

XII. 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.

XIII. Repeal: Any Ordinance regulating the harvesting or conservation of shellfish in the Town and any provision of any other Town Ordinance which is inconsistent with this Ordinance is hereby repealed.

Georgetown which is his or her permanent, fixed place of abode and principal place of residence. If a person claiming to be a resident neither owns nor rents real estate in the Town of Georgetown, he or she shall be required to produce such other evidence of residence as the Town Clerk may require. A person shall not qualify as a resident of Georgetown unless he or she has maintained a permanent, fixed place of abode and principal place of residence in Georgetown for three months prior to claiming residence. A person shall cease to be a resident of Georgetown on the date he or she acquires a permanent, fixed place of abode and principal place of residence in any other Town or moves from the Town of Georgetown.

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- 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

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