

**SHELLFISH CONSERVATION ORDINANCE
TOWN OF JONESBORO, MAINE**

Mission statement: Town of Jonesboro shall act collaboratively as stewards to preserve, protect, manage, and enhance the shellfish resources and ecological well-being of the shore and flats in Chandler River, Bobs cove, Mason Bay and to ensure a sustainable harvest of shellfish and opportunity for those who make their living on the tide.

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 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, will be administered by the Shellfish Conservation Committee, consisting of 5 or more people to be appointed by the Board of Selectmen for a term of one (1) year. The Selectmen are also part of the committee. The Committee's responsibilities include:
 - A. Submitting to the Board of Selectmen 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 to the Board of Selectmen or Council 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” shall mean a person who has domiciled (been a legal resident) in Jonesboro continuously for a minimum six (6) months prior to the time their claim of residence is made and has been registered to vote in Jonesboro for at least six (6) months. The person must have a current Maine driver’s license, valid Maine State ID, or valid United States passport which shows a Physical address in Jonesboro. In order to determine resident eligibility residents shall provide one (1) form of proof of residency from the table below. At least one proof of element shall be from each Section (1, 2, 3) in the Table 4.A.1 below. All licensed harvesters will provide proof of residency on an annual basis.

Table 4.A.1.

Section 1	Section 2	Section 3
<ul style="list-style-type: none"> - <u>Copy of Deed AND/ record of most recent mortgage payment</u> - <u>Copy of Lease AND record of legal affidavit from landlord affirming tenancy</u> - <u>Legal affidavit from landlord affirming tenancy AND record of most recent rent payment</u> 	<p><u>A utility bill or other work order dated within the past 60 days including:</u></p> <ul style="list-style-type: none"> - <u>Oil/Gas bill</u> - <u>Electric bill</u> - <u>Telephone bill</u> - <u>Cable/Satellite bill</u> <p><u>Income document dated within the past 60 days including:</u></p> <ul style="list-style-type: none"> - <u>Payroll stub</u> - <u>Bank or credit card statement</u> <p><u>Income or tax document dated within the past year:</u></p> <ul style="list-style-type: none"> - <u>W-2/1099 form</u> - <u>Property tax bill</u> - <u>Vehicle excise tax bill</u> 	<ul style="list-style-type: none"> - <u>Valid Maine Drivers License displaying physical address</u> - <u>Valid Maine photo ID card displaying physical address</u> - <u>Valid Passport displaying physical address</u> - <u>Current Vehicle Registration displaying Physical Address</u>

- B. Domicile of Legal Residence:
The residence where you have your permanent home or principal establishment and to where, whenever you are absent, you intend to return: every person is compelled to have one and only one domicile at a time.
- C. Nonresident:
The word “nonresident” means any person not qualified as a resident under this

ordinance. It will also mean any person that moved from this municipality to another municipality. That license will be revoked immediately.

D. Shellfish, Clams, and Intertidal Shellfish Resources:

When used in the context of this ordinance the words “shellfish”, “clams”, and “intertidal resources” mean soft shell clams, Mya arenaria.

E. Municipality:

Refers to the Town of Jonesboro, Maine.

F. Shellfish Management Plan:

A detailed shellfish management plan may be written as needed by the Municipal Shellfish Conservation Committee and submitted to, and approved by, the Selectmen Board for submission to, and approval by, the Maine Department of Marine Resources. 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 and harvesting days and times, and other measures to be taken to ensure sustainable harvest of the resource.

5. Licensing:

A. Designation, Scope, and Qualifications:

A Jonesboro Municipal Shellfish License is required to harvest shellfish within the jurisdiction of this ordinance. It is unlawful for any person to harvest or take shellfish from the shores and flats of this municipality as provided by this ordinance.

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 the amount of shellfish up to maximum to be determined by Selectmen Board and Clam Committee from the shores and flats of this municipality.

2. Nonresident Commercial Shellfish License: The license is available to nonresidents of this municipality which enables the holder to dig and take the amount of shellfish up to maximum to be determined by Selectmen Board and Clam Committee 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 the amount of shellfish up to maximum to be determined by Selectmen Board and Clam Committee 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 the amount of shellfish up to maximum to be determined by Selectmen Board and Clam Committee from the shores and flats of this municipality. Said Nonresident Senior Commercial Shellfish Licenses issued shall number no more than ten (10%) of all Resident Senior Commercial Shellfish licenses.

5. Complimentary Resident Commercial Shellfish License: The license is available to residents of the Town of Jonesboro, age 71 and older and entitles the holder to dig and take the amount of shellfish up to maximum to be determined by Selectmen Board and Clam Committee from the shores and flats of this municipality.

6. Nonresident Complimentary Commercial Shellfish license: The license is available

to nonresidents of the Town of Jonesboro, age 71 and older and entitles the holder to dig and take the amount of shellfish up to maximum to be determined by Selectmen Board and Clam Committee from the shores and flats of this municipality. Said Nonresident Complimentary Commercial Licenses issued shall number no more than (10%) of all Resident Complimentary Commercial Shellfish Licenses.

7. Resident Junior Commercial Shellfish License: The license is available to residents of the Town of Jonesboro, age eighteen (18) or under and in good standing in high school, and entitles the holder to dig and take the amount of shellfish up to maximum to be determined by Selectmen Board and Clam Committee from the shores and flats of this municipality.

8. Nonresident Junior Commercial Shellfish license: The license is available to nonresidents of the Town of Jonesboro, age (18) or under and in good standing in high school, and entitles the holder to dig and take the amount of shellfish up to maximum to be determined by Selectmen Board and Clam Committee 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.

9. 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 use of themselves and their family from the shores and flats of this municipality.

10. Non-Resident Recreational Shellfish License: The license is available to nonresident 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 use of themselves and their family from the shores and flats of this municipality.

11. License Must Be Signed: The licensee must sign the license to make it valid.

12. One License: No person shall possess more than one (1) Town of Jonesboro Commercial License.

13. 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 cannot 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) Residents must provide elements in table 4.A.1 within each section in order to determine resident eligibility, residents must provide three (3) forms of proof of residency. Forms of proof of residency shall be from each Section (1, 2, and 3) in the table (4.A.1).

3) Misrepresentation: Any person who intentionally gives false information on a license application, regardless of non-resident or resident status, 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.

4) Address Change: Any person applying for or holding a commercial shellfish license under this ordinance shall notify the town clerk within ninety (90) days of an address change.

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 Sale: When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year:

1. Notice of the date, place, times and the procedure for the license sale shall be published in a trade 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. A copy of the notice shall be provided to the Commissioner of Marine Resources.
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-A) (E). For each commercial license category, the Town Clerk shall issue one License to a nonresident when 6 licenses are issued to residents and one more to nonresidents when 5 more are issued to residents, thereafter, one nonresident license will be issued for every 10 additional licenses 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 issued for every ten additional resident licenses issued. See Table 1 in 5.D, Section 2.

Table 1. 10% of the number of resident licenses sold in the previous licensing year.

Number of Resident Licenses	Number of Non-Resident Licenses
1-5	0
6-10	1
11-20	2
21-30	3

3. Prior to March 1 the Town shellfish Conservation Committee, 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 Shellfish Conservation Committee will notify the Town Clerk in writing that Commercial Shellfish licenses will be made available prior to May 1.
5. The Clerk of the Town of Jonesboro shall issue residents and nonresidents licenses beginning June 1 or the next business day. Said Nonresident Commercial Shellfish

Licenses shall number no more than ten percent (10%) of all Resident Commercial Licenses sold in the previous year. See Table 1 in 5.d, section 2.

E. License Dates: Shellfish Licenses will be valid from June 1st of the current year of issue and expires at midnight on the 31st 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.

ENFORCEMENT:

This ordinance shall be enforced by the Certified Municipal Shellfish Conservation Warden or any Municipal Shellfish Conservation Warden appointed by the Selectboard who, within one year of appointment, must be certified by the Commissioner of the Maine DMR.

6. **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 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 following conviction. Any violation of this Ordinance may result in a license suspension. All suspensions of licenses shall be authorized by the Selectboard and the suspension shall be effective from the date of mailing of the Notice of Suspension by the Town Clerk to the Licensee. Any licensee whose license has been suspended pursuant to this Ordinance shall be entitled to a hearing before the Selectboard upon the filing of a written request for a hearing with the Town Clerk within thirty (30) days of the effective date of the suspension. The Licensee may appeal the decision of the Selectmen by filing a written request for appeal with the Town clerk within seven (7) days of the decision of the Selectmen. Classifications of, and penalties for, violations are categorized as follows:

6.1. Stopping 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 or any kind, or any person:

- A. To deliberately fail or refuse to stop immediately upon request or signal of any Certified Municipal Shellfish Conservation Warden.
- B. After the person has stopped, to fail to remain stopped until the said Warden has reached his immediate vicinity and makes known to the operator the reason for his request or signal.
- C. To fail or refuse to stand by immediately for inspection on request of said Warden.

- D. 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 any pail, bag, hod or container before said Warden has inspected the same.
- E. To attempt to elude, disobey, or assault any Certified Municipal Shellfish Conservation Warden.

Penalties: The first violation of Section 6.1 of this Ordinance shall result in a one (1) month suspension of the license and a fine determined based on state law. The second and subsequent violations of Section 6.1 of this Ordinance shall result in a twelve (12) month suspension of the license and a fine determined based on state law. Subsequent violations can be added to the municipality's suspension list. Other penalties shall be assessed in accordance with state statutes and regulations.

6.2. Harvesting Clams in any Closed Area: It is unlawful for any person to harvest clams in a closed area.

Penalties: Any person found guilty of harvesting clams in a closed area shall result in a one (1) month suspension of the license and a fine determined based on state law. The second and subsequent violations of Section 6.2 of this Ordinance shall result in a twelve (12) month suspension of the license and a fine determined based on state law. Subsequent violations can be added to the municipality's suspension list. Other penalties shall be assessed in accordance with state statutes and regulations.

6.3. Minimum Legal Size of Shellfish: It is unlawful for any person to violate minimum shellfish size regulation set forth in this Ordinance.

Penalties: The first violation of possession with illegal size of shellfish shall result in a one (1) month suspension of the license and a fine determined based on state law. The second and subsequent violations of Section 6.3 of this Ordinance shall result in a twelve (12) month suspension of the license and a fine determined based on state law. Subsequent violations can be added to the municipality's suspension list. Other penalties shall be assessed in accordance with state statutes and regulations.

6.4. Aiding and Abetting: It is unlawful for a person holding any type of Shellfish License to help another person that does not hold a shellfish license, either in getting a shellfish license or in digging and taking of shellfish from the shores and flats of the Town of Jonesboro.

Penalties: If a person holding a commercial license uses it to aid and abet the illegal harvest of

clams their license shall be suspended for the remaining time left on their license and they shall receive a fine determined based on state law. Other penalties shall be assessed in accordance with state statutes and regulations.

6.5 Abuse of license type: It is unlawful for a person holding a recreational license, resident or nonresident, to dig and take more than one (1) peck of shellfish in any one (1) day or to sell the shellfish commercially instead of harvesting for themselves and their family.

Penalties: If a person holding a recreational license uses it to harvest clams commercially, their license shall be suspended for twelve (12) months, and they shall receive a fine determined by the state law upon conviction. Other penalties shall be assessed in accordance with state statutes and regulations.

6.6. Harvesting without a license: It is unlawful to harvest shellfish without a municipal license.

Penalties: Any person convicted of harvesting shellfish within the town of Jonesboro without a municipal license issued by authority of the Town of Jonesboro's Shellfish Ordinance shall be added to municipal suspension list and ineligible to apply for any municipal shellfish license for a period of THREE years from the date of the conviction. They shall receive a fine determined by the state law upon conviction. Other penalties shall be assessed in accordance with state statutes and regulations.

6.7. Night Harvest/Digging: It is unlawful to harvest shellfish with headlighting, spotlight, or any non-natural light sources during the night within the municipal shellfish flats in accordance with the Shellfish Management Plan.

Penalties: Any person convicted of harvesting shellfish with headlight, spotlight, or any non-natural light sources within the time frame stated in the management plan within selected flats and coves shall result in a one (1) month suspension of the license and a fine based on state law. The second and subsequent violations shall result in a six (6) month suspension of the license and a fine based on state law. Subsequent violations can be added to the municipality's suspension list. Other penalties shall be assessed in accordance with state statutes and regulations.

6.8. Suspension List: A person can be added to a suspension list for municipal ordinance regardless of residential status for the following:

- A. A person who attempts to obtain or possesses a license authorized from the municipal ordinance through fraud, misstatement or misrepresentation shall be ineligible to obtain a 'resident' or 'nonresident' license(s) for a period of 3 years.
- B. Unlicensed, residents or non-resident persons, convicted of illegal shellfish

harvesting in the Town of Jonesboro shall be permanently ineligible to obtain a 'resident' license and/or enter in the lottery to obtain a 'non-resident' license.

- C. A person who owes the municipal fees and fines monies as a result of the municipal violations shall have their privilege to take part in the municipal shellfish program revoked till paid in full.
- D. Shellfish licensee having more than three (3) convictions for violation of this ordinance within a three (3) year period shall have their municipal shellfish license privilege revoked.
- E. Subsequent violations from section 6. Violations, suspension of licenses and fines can be added to the municipality's suspension list revoking privilege to take part of the municipal shellfish program.

6.9. State License: A person licensed under this ordinance who has had their Maine State commercial shellfish license suspended shall forfeit their municipal shellfish license for the duration of the State suspension. Such a person in possession of shellfish must carry a receipt of purchase for said shellfish.

7. 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 Shellfish Conservation Committee 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.

8. Minimum Legal Size of Softshell Clams:

It is unlawful for any person to possess soft shell 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.
- C) **Penalty:** Whoever violates any provision of this shall be punished as provided by 12 M.R.S.A. section 6671.

9. **Penalty:**

Any person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671.

10. **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.

11. **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 the ordinance.

12. **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.

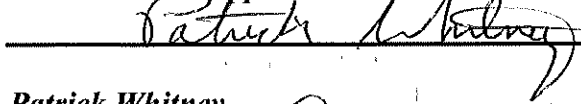
13. **Use of Fees and Fines, Funding:**

Fees for shellfish licenses shall be set forth in the annual shellfish management plan and shall accompany the application for the respective license, Free and fine received shall be used for the costs incurred in the enforcement and management of this ordinance.

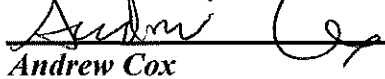
13.1 **Non-Lapse Provision:** Monies in the municipal shellfish account shall not lapse at the end of the year but shall be carried over to the next year in that account.

13.2 **Funding:** the Municipal shellfish program shall be self-supporting as much as possible. Funds for the operation of the program may be generated by license fees, fines, and financial support from the participating communities.


Michael C. Schoppee


Patrick Whitney

Patrick Whitney


Andrew Cox

Board of Selectmen

Town of Jonesboro, Maine

Passed at Jonesboro Town Meeting Dated: 3/4/26

ATTEST: 
Wendy L. Schoppee
Town Clerk