

Town of Jonesport
OFFICE OF THE SELECTMEN
PO Box 489
Jonesport, ME 04649
SHELLFISH CONSERVATION ORDINANCE

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 Jonesport which will assure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:
 - A. Licensing;
 - B. Limiting the number of shellfish harvesters;
 - C. Restricting the time and area where digging is permitted;
 - D. Limiting the minimum size of clams taken;
 - E. Limiting the amount of clams taken daily by a harvester.
3. **Shellfish Conservation Committee:** The Shellfish Conservation Program for the Town of Jonesport will be administered by the Shellfish Conservation Committee consisting of five (5) members to be elected/appointed annually at town meeting for the term of one (1) year. The Committees' 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 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 Department of Marine Resources;
 - E. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all other committee activities.
4. **Definition:**
 - A. **RESIDENT:** The term "resident" refers to a person who has domiciled in this municipality for at least three (3) months next prior to the time his claim of such residence is made.
 - B. **NONRESIDENT:** The word "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 softshell clams, *Mya arenaria*.
 - D. **MUNICIPALITY:** Refers to the Town of Jonesport, Maine.
5. **Licensing:** A Municipal Shellfish Digging License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this ordinance.
 - A. **Designation, Scope and Qualifications:**
 - i. *Resident Commercial Shellfish License:* The license is available to the residents of the Town of Jonesport and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.
 - ii. *Nonresident Commercial Shellfish License:* The license is available to nonresidents of this municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.

iii. *Resident Recreational Shellfish License*: The license is available to residents of this town and entitles the holder to dig and take not more than one (1) peck of shellfish in any one (1) day for the use of himself/herself and his/her family, from July 1 to June 30.

iv. *Nonresident Recreational Shellfish License*: The license is available to nonresidents and nonresident real estate taxpayers and entitles the holder to dig and take not more than one (1) peck of shellfish in any one (1) day for the use of himself/herself and his/her family, from July 1 to June 30.

v. *Senior Resident and Senior Nonresident Recreational License*: The license is FREE to residents and nonresidents who are 65 years or older and entitles the holder to dig and take not more than one (1) peck of shellfish in any one (1) day for the use of himself/herself and his/her family, from July 1 to June 30.

6. A. LICENSE MUST BE SIGNED: The licensee must sign the license to make it valid.

B. APPLICATION PROCEDURE: Any person may apply to the appointed agent/Town Clerk for the licenses required by this ordinance on forms provided by the municipality.

i. *Contents of the Application*: The application must be in the form of an affidavit and must contain the applicant's name, birth date, current address, height, weight, signature and any other information the municipality may require.

ii. *Misrepresentation*: Any person who gives false information on a license application will cause said license to become void and invalid.

*C. FEES: *Fees may be subject to change*. The appointed agent/Town Clerk pays all fees received to the Town Treasurer. Fees received for shellfish licensing shall be used by the town for shellfish management, conservation and enforcement. Fees must be paid in full when applying for the respective license. Licenses available for sale are:

Resident Commercial

Nonresident Commercial

Resident Recreational

Nonresident Recreational

Senior Resident Recreational (65 years and older): FREE

Senior Nonresident Recreational (65 years and older): FREE

*License fees are subject to change, so fees are listed separately and not part of the ordinance. (Fee listing is next page after ordinance.)

D. PROCEDURE FOR LICENSE APPLICATIONS AND ISSUANCE:

i. Notice of the date on which licenses will 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 municipal officers consider 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 until the period concludes.

ii. The appointed agent/Town Clerk shall issue RESIDENT COMMERCIAL licenses FROM THE FIRST WORKING DAY IN THE THIRD WEEK OF JUNE on a first-come, first-served basis.

iii. The appointed agent/Town Clerk shall issue NONRESIDENT COMMERCIAL LICENSES BY LOTTERY AT A RATE OF 10% OF SALES OF THE RESIDENT COMMERCIAL LICENSES.

E. PROCEDURE FOR NONRESIDENT COMMERCIAL LICENSES APPLICATIONS BY LOTTERY AND ISSUANCE:

i. Applicants must register the first working day in July at a designated time and place which will be advertised in a newspaper and posted at least ten (10) days prior to the event.

F. LICENSE EXPIRATION DATE: Each license issued under authority of this ordinance expires at midnight on the 30th day of June, next following date of issue.

G. RECIPROCAL HARVESTING PRIVILEGES: Licenses from any other municipality on a joint shellfish management program may harvest shellfish according to the terms of their licenses.

H. **SUSPENSION:** Any shellfish licensee having three (3) convictions for a violation of this ordinance shall have his/her shellfish license automatically suspended for a period of thirty (30) days. This pertains to any violation of this ordinance.

i. A licensee whose shellfish license has been suspended pursuant to this ordinance may reapply for a license only after the suspension period has expired.

ii. The suspension shall be effective from the date of mailing of a Notice of Suspension by the appointed agent/Town Clerk to the licensee.

iii. Any licensee whose shellfish license has been automatically suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon the filing of a written Request for Hearing with the appointed agent/Town Clerk within thirty (30) days following the effective date of suspension. The licensee may appeal the decision of the Shellfish Conservation Committee before the Board of Selectmen by filing a written Request of Appeal with the appointed agent/Town Clerk within seven (7) days of the decision of the Shellfish Conservation Committee.

6. **Opening and Closing of Flats:** The Municipal Officers, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendation of the 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 an area should be closed or opened, 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 submit a copy of the notice to the Department of Marine Resources. The decision of the Municipal Officers made after the hearing shall be based on findings of fact. When an area that has been closed by the State becomes opened by the State, it shall remain closed by the Town for conservation.

7. **Minimum Legal Size of Softshell Clams:** It is unlawful for any person to possess softshell clams within the Town of Jonesport, Washington County, which are less than two (2) inches in the longest diameter except as provided by Subsection B of this section.

A. **DEFINITIONS:**

i) **Lot:** The word "lot" as used in this ordinance means the total number of softshell clams in any bulk pile. When softshell clams are in a box, barrel or other container, the contents of each box, barrel, or other container constitutes a separate lot.

ii) **Possess:** For the purposes of this section, "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale softshell clam shellstock.

B. **Tolerance:** Any person may possess softshell 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 a count of the entire lot if it contains less than one (1) peck.

C. **Penalty:** Whoever violates any provision of THIS SECTION shall be punished as provided by 12 M.R.S.A., Section 6671 (10).

8. No licensee shall knowingly be accompanied by an unlicensed digger, companion, or assistant, while digging or taking shellfish from the shores, flats, or waters of this municipality.

8. **Penalty:** A person who violates THIS ORDINANCE shall be punished as provided by 12 M.R.S.A., Section 6671 (10).

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

10. **Separability:** If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.

11. **Repeal:** Any ordinance regulating the harvesting or conservation of shellfish in the town and any provisions of any other town ordinance which is inconsistent with this ordinance is hereby repealed.

Signatures of Municipal Officers

/s/ Ralph L. Smith, Sr., First Selectman

/s/ Howard B. Mills, Jr., Second Selectman

/s/ Catherine F. Perry, Third Selectman

BOARD OF SELECTMEN

TOWN OF JONESPORT

A True Copy: Attest

/s/ Tonia J. Merchant, Town Clerk

TOWN OF JONESPORT