



SHELLFISH CONSERVATION ORDINANCE TOWN OF STOCKTON SPRINGS, MAINE

Adopted by the Town of Stockton Springs

Amended: October 24, 2003

Amended: June 14 2008

Amended: June 17, 2017

Amended: June 16, 2018

Attested by: _____, Christina Hassapelis

Title: Town Clerk

SHELLFISH CONSERVATION ORDINANCE
Town of Stockton Springs, Maine

1. **AUTHORITY:** This Ordinance is enacted in accordance with Title 12 M.R.S.A. Section 6671.

2. **PURPOSE:** To establish a shellfish conservation program for the Town of Stockton Springs, 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

3. **Shellfish Conservation Committee:** The Shellfish Conservation Program for the Town of Stockton Springs will be administered by the Shellfish Conservation Committee appointed by the Selectmen for staggered terms of three (3) years.

The Committee's responsibilities include:

- A. Establishing annually, in conjunction with the Department of Marine Resources, the number of shellfish digging licenses to be issued.

- B. Reviewing annually the status of the resource using the results of clam flat, harvester or dealer surveys and other sources of information and preparing, in conjunction with and subject to the approval of the department a plan for implementing conservation measures.

- C. Submitting to the Town Manager a yearly proposal for the expenditures of funds for the purpose of shellfish conservation, who will then present it to the Board of Selectmen as part of the budget process.

- D. Keeping this Ordinance under review and making recommendations for it 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 or Council in conjunction with the Area Biologists of the Department of Marine Resources.
- G. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all other committee activities.

4. Definitions:

- A. Resident: The term resident refers to a person who has been domiciled in this municipality for at least three months prior to the time his claim of such residency is made.
- B. Non-resident: The term non-resident means anyone not qualified as a resident under this Ordinance.
- C. Shellfish, clams or Intertidal Shellfish Resources: When used in the context of the Ordinance, the words "shellfish" and "intertidal shellfish resources" mean soft shell clams (*Mya arenaria*), quahogs, surf clams and oysters. "Clams" mean soft shell clams, quahogs and surf clams.
- D. Municipality: Refers to the Town of Stockton Springs, Maine.

5. Licensing: 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:

- 1. Resident Commercial Shellfish License: The license is available to residents of the Town of Stockton Springs and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.
- 2. Non-resident 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.

3. Residential Recreational Shellfish License: The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family.
 4. Nonresident Recreational Shellfish License: The license is available to any person not a resident of this municipality and entitles the holder to dig and take no more than a peck of shellfish in any one day for the use of himself and his family.
 5. 72-Hour Recreational License: The license is available to any person and entitles the holder to dig and take not more than one peck of shellfish in any one day for his or her personal use. Persons may obtain additional licenses for those unable to make it in person on the condition that they are able to provide all the required information for the license, including name, address, date of birth, sex, height, weight, eye color, and hair color. The person receiving the license must sign prior to use; all rules and regulations apply.
 6. License must be signed: The licensee must sign the license to make it valid.
- B. Application Procedure: Any person may apply to the Town clerk, in person, for licenses required by this Ordinance on forms provided by the municipality, except for 72 hour licenses per Section 5.A.5. Applications will be processed on a first-come first-served basis.
1. Contents of 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. Misrepresentation: Any person who gives false information on a license application will cause said license to become invalid and void.
- C. Fees: The fees for the licenses are found in the Application, License, Permit, and Other Fees Ordinance.

- D. Limitation of Diggers: Clam resources vary in density and size distribution from year to year and over the limited shellfish producing area of the town. It is essential the town carefully husband its shellfish resources. Following the annual review of the town's shellfish resources, its size distribution, abundance and the warden's reports, as required by Section 3, the Shellfish Conservation Committee, in consultation with DMR Area Biologist, will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year.
1. Prior to May 1st, the committee shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license year to the Commissioner of Marine Resources for concurrence.
 2. After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to May 15th the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.
 3. Notice of the number of licenses to be issued and the procedure for application shall be published in 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.
 4. The Town Clerk shall issue licenses to residents and nonresidents as allocated from June 1st to July 31st, after which licenses shall be issued to residents and nonresidents on a first-come first-serve basis. Applicants must apply in person for all except the 72 hour licenses as allowed under Section 5.A.5.
 5. Licenses may be returned to the town voluntarily and reissued to another person at the current fee according to the priorities established in this section.
 6. Digging is only allowed during the daylight hours, between sunrise and sunset. Night digging is prohibited.
- E. License Expiration Date: Each license issued under authority of this Ordinance expires at midnight on the 31st day of May next, following the date of issuance.

- F. Reciprocal Harvesting Privileges: Licenses from any other municipality cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of this license.
- G. Fee Waiver: Recreational shellfish license fees will be waived for applicants sixty-five (65) years old or older and twelve (12) years old or younger.
- H. Conservation Benefit: Stockton Springs shellfish license holders who have purchased their licenses during the period of issuance of the previous year and who have completed ten (10) hours of conservation work during the previous year under the supervision of the town shellfish warden, may be permitted to purchase a shellfish license, if available, during the first two business days preceding the regular sale date at the resident rate. Further, anyone who has completed ten (10) hours of conservation work during the previous year under the supervision of the town shellfish warden may also be eligible to purchase a shellfish license, if available, during the first two business days preceding the regular sale date at the resident rate.
- I. Suspension: Any shellfish licensee having one conviction for a violation of this Ordinance shall have his shellfish license automatically suspended for a period of thirty (30) days.
1. A licensee whose shellfish license has been suspended pursuant to this Ordinance may reapply for a license only after the suspension period has expired.
 2. The suspension shall be effective from the date of mailing of a Notice of Suspension by the Town Clerk to the licensee.
 3. Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon filing of a written Request for Hearing with the Town Clerk within thirty (30) days following the effective date of the suspension. The licensee may appeal the decision of the shellfish Conservation Committee before the Board of Selectmen by filing a written Request for Appeal with the 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 recommendations of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources Area Biologist that the status of the shellfish resources and other factors bearing on sound management indicate that an area should be opened or closed, the Municipal Officers may call a public hearing, and shall send a copy of the notice to the Department of Natural Resources. The decision of the Municipal Officers 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 the Town or Township of Stockton Springs, County of Waldo, 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 that 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".
 2. **Possess** For the purpose of this section, possess means, dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam 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 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 6681.
8. **Penalty:** A person who violates this Ordinance shall be punished as provided by 12 M.R.S.A., Section 6671.
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. **Period of Ordinance:** This Ordinance shall remain in effect until repealed by the Town of Stockton Springs or rescinded by the State of Maine.
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 this 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.