

TOWN OF BEALS  
Office of the Selectmen  
P.O. Box 189  
Beals, ME 04611

Town of Beals  
Shellfish Conservation Ordinance  
Effective Date: 1 March 2004 to 1 March 2007

1. **Authority:** This ordinance is enacted with 12 M.R.S.A., Section 6671
2. **Purpose:** To establish a Shellfish Conservation Program for the Town of Beals which will insure the protection and optimum utilization of shellfish resources with 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 Beals will be administered by the Shellfish Conservation Committee consisting of five (5) members to be appointed annually for the term of one (1) YEAR. The Committee's responsibilities include:
  - A. Establishing annually in conjunction with the Dept. Of Marine Resources the number of shellfish digging licenses to be issued.
  - B. Surveying the clam flats to maintain current information on shellfish resources.
  - C. Submitting to the Board of Selectmen proposals for the expenditures 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 Dept. of Marine Resources.
  - F. Recommending conservation closures and opening to the Board of Selectmen or Council in conjunction with the Area Biologists of the Dept. of Marine Resources.
  - G. Submitting a biannual report to the Municipality and the Dept. 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 been domiciled in this municipality for at least three (3) months 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 context of this ordinance the words “shellfish”, “clams” and “intertidal shellfish” resources mean soft-shell clams, Mya arenaria.
- D. **Municipality:** Refers to the Town of Beals, 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 commercial digger must also have a valid State of Maine Commercial Shellfish License issued by the Dept. of Marine Resources.

**A. Designation, Scope and Qualifications:**

- 1. **Resident Commercial Shellfish License:** The license is available to the residents of the Town of Beals and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.
- 2. **Nonresident Commercial Shellfish Licenses:** The license is available to nonresidents of the municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.
- 3. **Resident Recreational Shellfish Licenses:** The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take not more than one (1) peck of shellfish for the use of himself and his family.
- 4. **Nonresident Recreational Shellfish Licenses:** The license is available to any person not a resident of this municipality and entitles the holder to dig and take not more than one (1) peck of shellfish for the use of himself and his family.
- 5. **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 for the license 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 other information the Municipality requires.
- 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 license are as stated below and must accompany in full the application for the respective license. The appointed agent shall turn over all fees received to the Town Treasurer. Fees received for shellfish licensing shall be issued by the Town for shellfish management, conservation and enforcement.

<u>Type of License</u>	<u>Cost</u>	<u>Amount to be Sold</u>
Resident Commercial	50.00	OPEN
Nonresident Commercial	100.00	10% Open Sold
Resident Recreational	25.00	OPEN
Nonresident Recreational	50.00	10% Open Sold

### **Implementation of Open License Sales**

**D. Open License Sales”**

1. Prior to June 1, the Town Shellfish Conservation Committee with the approval of the Commissioner of Marine Resources, will establish licenses to be permitted following the requirements of 12 M.R.S.A., Section 6671 (3)
2. The Shellfish Conservation Committee will notify the Town Clerk and the appointed agent in writing prior to June 1, of the number of licenses to be issued. No reservations will be excepted.
3. All 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 the general circulation, which the municipal officers consider effective in reaching persons affected, not less than ten (10) days prior to issuance and shall be posted in the municipal offices until the period ends.
4. The appointed agent shall issue licenses to residents and nonresidents as allocated in Section C.

**E. License Expiration Date:** Each license issued under authority of this ordinance expires at midnight on the 31<sup>st</sup> day of May, next following date of issue.

**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 their license. \*None participating as of March 1, 2001.\*

**G. Shellfish License Fees** will be waived for residents and nonresidents sixty-two (62) years or older; licenses for those twelve (12) and under will be ten dollars (\$10.00)

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

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 appointed agent 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 the filing of a written request for hearing with the appointed agent 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 of appeal with the appointed agent 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 Dept. of Marine Resources Area Biologists that the status of shellfish resources and other factors bearing on sound management indicate that an area should be closed or opened, the Municipal Officers may call a public hearing of 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 Dept. of Marine 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 of Beals, Washington County, 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 soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel or other container constitutes a separate lot.
    2. **Possess:** For the purpose of this section, "possess" means to dig, take, ship, transport, hold, buy, or 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 (10%) percent 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.
- 7a. No licensee will 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 will 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.

This ordinance shall be in effect for a period of three (3) years from the date of adoption, Annual Town Meeting.

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 for shellfish in the town and any provisions of any other Town Ordinance which is inconsistent with this ordinance is hereby repealed.

**Signature of Municipal Officers**

Given under our hands in the Town of Beals, Washington County, State of Maine, this 1<sup>st</sup> day of March 2004.

**Board of Selectmen, Town of Beals**

**Velton Peabody, Chairman**

**Lenore Faulkingham, Selectman**

**Daniel F. Davis, Selectman**

A True Copy: Attest

*Lerry L Beal*

Town Clerk, Town of Beals

4/23/2015

**Signature of Municipal Officers**

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**Board of Selectmen, Town of Beals**

Wilton Peabody Chairman

Lerore Faulkingham Selectman

Daniel F. Davis Selectman

A True Copy: Attest

Lerry L B Feeney

Town Clerk, Town of Beals



**ORIGINAL**