

Sec. 74-101. Authority. [Ord. No. 2000.20, § 1, 4-4-2000; Ord. No. 2002.33, 4-2-2002]

This division is enacted in accordance with 12 M.R.S.A. § 6671.

Sec. 74-102. Purpose. [Ord. No. 2000.20, § 2, 4-4-2000; Ord. No. 2002.33, 4-2-2002; amended 4-7-2009 by Ord. No. 2009.11; 11-17-2015 by Ord. No. 2015.75; 3-18-2025 by Ord. No. 2025.22]

To establish a shellfish conservation program for the City of Biddeford that will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means that may include:

- (a) Licensing and recommendation of any changes to licensing fees to the City Council annually.
- (b) Limiting the number of shellfish harvesters.
- (c) Restricting the time and area where digging is permitted.
- (d) Limiting the minimum size of shellfish taken.
- (e) Limiting the amount of shellfish taken daily by a harvester.

Sec. 74-103. Shellfish Conservation Committee. [Ord. No. 2000.20, § 3, 4-4-2000; Ord. No. 2002.33, 4-2-2002; amended 4-7-2009 by Ord. No. 2009.11; 3-18-2025 by Ord. No. 2025.22]

The Shellfish Conservation Program for the City of Biddeford will be administered by the Shellfish Conservation Committee consisting of seven members to be appointed by the Mayor and confirmed by the Council for terms of three 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 City Council proposals for the expenditures of funds for the purpose of shellfish conservation.
- (d) Keeping this division under review and making recommendations for its amendments.
- (e) Securing and maintaining records of shellfish harvest from the City'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 City Council in conjunction with the marine resource scientists 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. The Shellfish Management Plan shall include an annual review, budget, and objectives for the following year and will follow

the DMR regulations as outlined in DMR Chs. 7.20 and 7.30.

Sec. 74-104. Definitions. [Ord. No. 2000.20, § 4, 4-4-2000; Ord. No. 2002.33, 4-2-2002; amended 4-7-2009 by Ord. No. 2009.11; 11-17-2015 by Ord. No. 2015.75]

As used in this division, the following terms shall have the meanings indicated:

GUEST — Any person invited to assist a recreational license holder in harvesting a combined total that does not exceed one peck of shellfish per license per any one day.

MUNICIPALITY — Refers to the City of Biddeford, Maine.

NONRESIDENT — Anyone not qualified as a resident under this division.

RESIDENT — Refers to a person who is domiciled in this municipality. Proof of residency shall be by one of the following criteria:

- (1) A person who pays real estate property taxes to the City or can provide a rent receipt within the jurisdiction of the City;
- (2) A person who is a registered voter in the City;
- (3) A person who can provide a vehicle registration from the City of Biddeford, Maine;
- (4) A person who can provide a valid motor vehicle license showing an address within the jurisdiction of the City;
- (5) A person who can provide a valid school ID showing an address within the jurisdiction of the City. Proof of eligibility will be the burden of the applicant.

SHELLFISH, CLAMS and INTERTIDAL SHELLFISH RESOURCES — In the context of this division the words "shellfish," "clams," and "intertidal shellfish resources" mean soft shell clams (*Mya arenaria*).

Sec. 74-105. Licensing. [Ord. No. 2000.20, § 5, 4-4-2000; Ord. No. 2002.33, 4-2-2002; Ord. No. 2004.8, 3-2-2004; amended 4-7-2009 by Ord. No. 2009.11; 11-17-2015 by Ord. No. 2015.75; 3-18-2025 by Ord. No. 2025.22]

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 division. A commercial digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources. All recreational licenses are for personal use only.

(a) Designation, scope and qualifications:

1. Resident commercial shellfish license. The license is available to residents of the municipality 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 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 and guest(s) to dig and take

no more than one peck of shellfish per any one day from the shores and flats of this municipality.

4. Nonresident recreational shellfish license. The license is available to any person not a resident of this municipality and entitles the holder and guest(s) to dig and take not more than one peck of shellfish per any one day from the shores and flats of this municipality.
 5. Resident/nonresident one-day recreational shellfish license. The license is available to any resident or nonresident, and entitles the holder to dig and take not more than one peck of shellfish during the one and only day, or any part thereof, for which the license has been purchased.
 6. Individuals 12 years or younger do not need a license to assist a recreational shellfish license holder in harvesting not more than one peck of shellfish in total per any 1 day.
 7. The Shellfish Warden will be allowed to purchase a recreational shellfish license at the Residential Recreation rate and as part of the resident recreational license allocation, regardless of their residency.
 8. Resident and nonresident student commercial shellfish licenses. The student must be at least 16 years of age or older and under 23 years of age, based upon the May 1 of the year of application. A person issued a student license is enrolled:
 - a. A person must show proof of age and proof of school attendance, except that students attending college must show proof of 12 credit hours per semester by a state-recognized accrediting agency or body.
 - b. A person attending a public day school in accordance with the attendance requirement of 20-A M.R.S.A. § 5001-A, Subsection 1.
 - c. A person meeting the requirements of an alternative to attendance at public day school in accordance with 20-A M.R.S.A. § 5001-A, Subsection 3.
 - d. A person under the age of 18 as of May 1 of the year of application must have a parent or legal guardian signature on the shellfish application.
 - e. A person may not be considered to have ceased to be a student during any interim between school years if the interim does not exceed five months and if it is shown that the person has a bona fide intention of continuing to pursue a full-time course of study during the semester or other enrollment period immediately following the interim period. For purposes of this subsection, "full-time course of study" means at least 60% of the usual course load for the program in which the person is enrolled.
 - f. The Shellfish Committee may revoke a student license if the licensee fails to maintain required student status
 9. License must be signed. The licensee must sign the license to make it valid.
- (b) Application procedure. Any person may apply to the Clerk for the licenses required by this division on forms provided by the municipality.
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.
 3. All recreational licenses will be available on a first-come, first-served basis, regardless of residency.
- (c) Fees. The fees for the licenses are as stated below and must accompany in full the application for the respective license. The Clerk shall pay all fees received to the City Treasurer except for \$3 of each license that will be retained by the Clerk as payment for issuing the license. Shellfish license fees and fines shall be used by the municipality for shellfish management, conservation and enforcement.
1. Resident commercial: \$200
 2. Nonresident commercial \$400
 3. Resident student commercial: \$200
 4. Nonresident student commercial: \$400
 5. Resident recreational: \$30
 6. (Reserved)
 7. Nonresident recreational: -\$60
 8. (Reserved)
 9. Resident/nonresident one day only license \$20
- (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 municipality. It is essential that the municipality carefully husband its shellfish resources. If, following the annual review of the municipality's clam resources, its size distribution, abundance and the warden's reports, as required by Section 74-103, the Shellfish Conservation Committee, in consultation with the DMR marine resource scientist, determines limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year:
1. Prior to April 1, 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 1, the Shellfish Conservation Committee shall notify the 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 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 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.

4. The Clerk shall issue licenses to residents and nonresidents as allocated starting May 1 on a first-come, first-served basis.
 5. Licenses may be returned to the municipality voluntarily, and reissued to another person at the current fee according to the priorities established in this section. Any license returned is nonrefundable.
 6. (Reserved)
 7. All clam diggers/harvesters must use hand implements only – no assisted air harvesting (scuba diving).
 8. There shall be no night digging of shellfish. "Night" is defined as 1/2 hour after sunset and 1/2 hour before sunrise.
 9. All recreational clam diggers/harvesters shall not possess more than one container while harvesting. The container must have a maximum volume of not more than 10 quarts. NOTE: A 10-quart pail filled to within one inch of the rim is approximately one peck of clams.
- (e) Open license sales. 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 dates, places, times and the procedures for the license sales 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 10 days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the Commissioner of Marine Resources.
 2. For each commercial license category, the Clerk shall issue one license to nonresidents when six licenses are issued to residents and one more to nonresidents when five more are issued to residents; thereafter, one nonresident license will be issued for every 10 additional resident licenses issued. A total of no less than 10% of the total number of resident licenses shall be issued to non-residents in accordance with DMR regulation 70.43.
- (f) License expiration date. Each license issued under authority of this article expires at midnight on the last day of April next following the date of issuance.
- (g) Suspension. Any shellfish licensee having three convictions for a violation of this division shall have their shellfish license automatically suspended for a period of 30 days.
1. A licensee whose shellfish license has been suspended pursuant to this division 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 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 the filing of a written request for hearing with the Clerk within 30 days following the

effective date of suspension. The licensee may appeal the decision of the Shellfish Conservation Committee before the Council by filing a written request for appeal with the Clerk within seven days of the decision of the Shellfish Conservation Committee.

- (h) Biddeford commercial shellfish license holders who have purchased their licenses during the period of issuance for the previous license year will be entitled to renew their license the first week preceding the regular sale date of May 1.

Sec. 74-106. Opening and closing of flats. [Ord. No. 2000.20, § 6, 4-4-2000; Ord. No. 2002.33, 4-2-2002; amended 4-7-2009 by Ord. No. 2009.11; 9-6-2016 by Ord. No. 2016.75; 3-18-2025 by Ord. No. 2025.22]

- (a) The municipal officials, 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 marine resource scientist that the status of shellfish resources and other factors bearing on sound management indicate that an area should be opened or closed, the municipal officials may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the municipal officials made after the hearing shall be based on findings of fact.
- (b) It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by the City of Biddeford in accordance with the Department of Marine Resources (DMR) Regulation Chapter 7. Harvesting shellfish in a closed area is a violation of this municipality's ordinance and is punishable under 12 M.R.S.A. § 6671.
- (c) Boundaries of conservation closures are explicitly defined in the conservation closure application submitted by the City of Biddeford to DMR and are part of the resulting permit issued by DMR. These permits are posted at the City Clerk's Office and on the DMR website.

Sec. 74-107. Minimum legal size of soft shell clams. [Ord. No. 2000.20, § 7, 4-4-2000; Ord. No. 2002.33, 4-2-2002; amended 4-7-2009 by Ord. No. 2009.11]

It is unlawful for any person to possess soft shell clams within the municipality which are less than two 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 division means the 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 shell stock.
- (b) Tolerance. Any person may possess soft shell clams that are less than two inches if they comprise less than 10% of any lot. The tolerance shall be determined by 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 lot if it contains less than one peck.
- (c) Penalty. Whoever violates any provision of this section shall be punished as provided by 12 M.R.S.A. § 6681.

Sec. 74-108. Penalty. [Ord. No. 2000.20, § 8, 4-4-2000; Ord. No. 2002.33, 4-2-2002; amended 4-7-2009 by Ord. No. 2009.11]

A person who violates this division shall be punished as provided by 12 M.R.S.A. § 6671(10).

Sec. 74-109. Effective date. [Ord. No. 2000.20, § 9, 4-4-2000; Ord. No. 2002.33, 4-2-2002; amended 4-7-2009 by Ord. No. 2009.11]

This division, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality, provided that a certified copy of the ordinance from which this division is derived is filed with the Commissioner within 20 days of its adoption.

Sec. 74-110. Period of ordinance. [Ord. No. 2000.20, § 10, 4-4-2000; Ord. No. 2002.33, 4-2-2002; amended 4-7-2009 by Ord. No. 2009.11]

This division shall remain in effect until eliminated or amended.

Sec. 74-111. Separability. [Ord. No. 2000.20, § 11, 4-4-2000; Ord. No. 2002.33, 4-2-2002]

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

Sec. 74-112. Repeal. [Ord. No. 2000.20, § 12, 4-4-2000; Ord. No. 2002.33, 4-2-2002]

Any ordinance regulating the harvesting or conservation of shellfish in the municipality and any provisions of any other municipal ordinance that is inconsistent with this division is hereby repealed.

Attest:



Robin Patterson, City Clerk

February 17, 2026