



ANGUS S. KING, JR.
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

GEORGE D. LAPOINTE
COMMISSIONER

May 06, 2002

Janice Scanlon
Town Clerk
P O Box 430
Perry, ME 04667-0430

Re: Perry Shellfish Conservation Ordinance

Dear Janice:

This is to acknowledge receipt of the enactment of the ordinance for Perry. We have reviewed and approve the above-referenced enactment dated April 29, 2002.

This approval is with reference to the requirements of 12 M.R.S.A. §6671 (4) (B) and is not an opinion as to the validity of the ordinance in law.

Sincerely,

Harold C. Winters
Director, Shellfish Management

cc: Dave Clifford, Area Biologist



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OFFICES AT STEVENS SCHOOL COMPLEX, HALLOWELL

PHONE: (207) 624-6550

TTY (207) 287-4474

<http://janus.state.me.us/dmr>

FAX: (207) 624-6024

TOWN OF PERRY

71 FRONT ST.
PEMBROKE, ME 04666

Phone 726-4490

May 1, 2002

Harold Winters
Watershed Manager
Dept. of Marine Resources
21 State House Station
Augusta, ME 04333

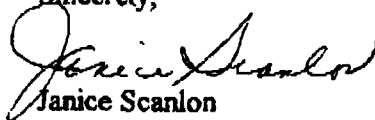
Dear Sir:

RE: Town of Perry Shellfish Conservation Ordinance

Enclosed please find a certified copy of the new Shellfish Ordinance that was enacted at a Special Town Meeting on April 29, 2002 for your approval.

Enclosed is a copy of the Warrant for the Special Town Meeting and a copy of the results of the Meeting.

Sincerely,



Janice Scanlon
Town Clerk
Town of Perry

**WARRANT FOR SPECIAL TOWN MEETING
PERRY, MAINE**

TO: Stephen Calder A RESIDENT OF THE TOWN OF PERRY, MAINE IN
THE COUNTY OF WASHINGTON AND STATE OF MAINE.

GREETINGS: IN THE NAME OF THE STATE OF MAINE, YOU ARE HEREBY
REQUIRED TO NOTIFY AND WARN THE INHABITANTS OF THE TOWN OF PERRY IN
SAID COUNTY, QUALIFIED BY LAW TO VOTE IN TOWN AFFAIRS, TO MEET AT THE
PERRY MUNICIPAL BUILDING IN SAID TOWN ON MONDAY, APRIL 29, 2002 AT 7:00
P.M. IN THE EVENING THEN AND THERE TO ACT ON ARTICLE 1 AND ALL OTHERS
SET BELOW.

ARTICLE 1: TO CHOOSE A MODERATOR TO PRESIDE AT SAID MEETING.

ARTICLE 2: TO SEE IF THE TOWN WILL VOTE TO ACCEPT THE SHELLFISH
CONSERVATION ORDINANCE.

ARTICLE 3: TO SEE IF THE TOWN WILL VOTE TO ADOPT THE NEW MAXIMUM
RATE OF 8.75% FOR DELINQUENT TAXES COMMITTED DURING CALENDAR YEAR
2002.

ONLY PERSONS REGISTERED TO VOTE IN THE TOWN OF PERRY MAY VOTE
AT THIS MEETING.

GIVEN UNDER OUR HANDS THIS 17 TH DAY OF APRIL 2002.

ATTEST
A TRUE COPY

Graydon Ritchie Sr
GRAYDON RITCHIE SR.

Stephen Calder

RICHARD L. CORBETT
William Kendall
WILLIAM KENDALL

RESULTS OF SPECIAL TOWN MEETING APRIL 29, 2002

Special Town Meeting was held at the Perry Municipal Building on April 29, 2002 at 7:00 P.M., as stated in the Warrant. Meeting was opened by Town Clerk, Janice Scanlon.

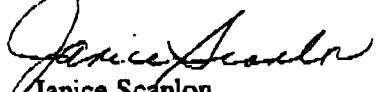
Art. 1. Elected R. Lee Corbett as Moderator by written ballot, qualified, and sworn in by the Town Clerk.

Art. 2. Motion made and seconded to accept Article 2 as read. Motion passed. Shellfish Conservation Ordinance accepted.

Art. 3. Motion made and seconded to accept Article 3 as read. Motion passed. Adopt the new maximum interest rate of 8.75% for delinquent taxes committed during the Calendar Year 2002.

Meeting adjourned at 7:12 P.M.

A true copy attest:


Janice Scanlon
Town Clerk

SHELLFISH CONSERVATION ORDINANCE
Town of Perry

1. **Authority**: This ordinance is enacted in accordance with 12 M.R.S.A. Section 6671.

2. **Purpose**:

A. To establish a shellfish conservation program for the Town of Perry which will insure 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

B. To authorize the Town of Perry to enter into regional shellfish management agreements and reciprocal agreements with other municipalities.

3. **Shellfish Conservation Committee**: The Shellfish Conservation Program for the Town of Perry will be administered by the Shellfish Conservation Committee consisting of three (3) members to be appointed by the selectmen for terms of one (1) year.

The Committee's responsibilities include:

- A. Annually estimating the status of the town's shellfish resources.
- B. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation;
- C. Keeping this ordinance under review and making recommendations for its amendments;
- D. 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;
- E. Recommending conservation closures and openings to the Board of Selectmen or Council in conjunction with the Area Biologists of the Department of Marine Resources.
- F. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all other committee activities.
- G. Conducting conservation programs.

4. Definitions:

A. Resident: The term "resident" refers to a person who has been domiciled in this municipality for at least three 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 town of Perry, Maine.

E. Shellfish Conservation Requirements: Ten (10) hours yearly requirement of activities determined by and under the supervision of the shellfish conservation committee including, but not limited to, reseeded of shellfish areas with wild or hatchery seed, conducting clam population surveys, and attending shellfish conservation committee meetings. Harvesters will receive one-half hour credit towards conservation requirements for each shellfish conservation committee meeting attended, up to a limit of two (2) hours. Any combination of other approved conservation activities, plus up to two (2) hours meeting attendance will constitute the required ten (10) hours.

Conduction of a conservation program for commercial licenses as follows:

- a. The Shellfish Conservation Committee shall develop a list of conservation activities by which commercial license applicants can comply with the conservation time requirement and post such a list at the Municipal Building. The conservation time requirement is subject to limits set by the Shellfish Conservation Committee after a public hearing held with a ten day notice, and approved by the Perry Board of Selectmen.
- b. At least one member of the Committee or shellfish warden shall be present to supervise and validate each conservation activity.
- c. The Committee shall maintain records of compliance with this program including a log of conservation dates, activities, and participants, receipts for participants including conservation time completed as of that date, and a complete list of participants that must be filed with the Town Clerk.
- d. It shall be the responsibility of the commercial license holder applicant to contact a Committee member or shellfish warden to schedule conservation activities.

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:

1) **Resident Commercial Shellfish License:** The license is available to residents of the Town of Perry who have completed shellfish conservation requirements 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 who have completed shellfish conservation requirements and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.

3) **Resident 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 not more than one peck of shellfish in any one day for the use of himself and his family.

5) **Resident Senior Commercial Shellfish License:** The license is available to residents of the Town of Perry 60 years or older who have completed shellfish conservation requirements and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.

6) **Nonresident Senior Commercial Shellfish License:** The license is available to nonresidents of this municipality 60 years or older who have completed shellfish conservation requirements and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.

7) **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 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. The application must contain a section which indicates that, by signing, the applicant specifically agrees to respect Perry conservation and management measures, including areas closed for conservation purposes, and conservation time requirements and acknowledge that failure to respect these measures may result in loss of license.

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 must accompany in full the application for the respective license. The Town Clerk shall pay all fees received to the Town Treasurer except for \$1.00 for each license which will be retained by the clerk as payment for issuing the license. Fees received for shellfish licensing shall be used by the town for shellfish management, conservation and enforcement.

1) 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 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.

2) The Town Clerk shall issue commercial licenses by the open sales method from May 15 to residents and nonresidents who have completed shellfish conservation requirements on a first-come first-served basis.

D. License Expiration Date: Each license issued under authority of this ordinance expires at midnight on 14 day of May next following date of issue.

E. Reciprocal Harvesting Privileges: Licensees from any other municipality cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of this ordinance.

F. Fees Waived: Recreational shellfish license fees will be waived for residents and non-residents 60 years or older and 12 years or younger.

G. 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. Any shellfish licensee having two convictions for a violation of this ordinance shall have his shellfish license automatically suspended for a period of sixty (60) days. Any shellfish licensee having three convictions for a violation of this ordinance shall have his shellfish license automatically suspended for a period of one year.

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 the filing of a written Request for Hearing with the 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 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 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 that an area should be opened or closed, the Municipal Officers may call a public hearing on ten-day's 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 Department of Marine Resources. The decision of the Municipal Officers made after the hearing shall be based on findings of fact.

Any area closed by the State shall be closed by the Town of Perry for conservation. When an area that has been closed by the State becomes opened by the State, it will remain closed by the Town of Perry for conservation.

7. Minimum legal size of softshell clams: It is unlawful for any person to possess softshell clams within the town of Perry, 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, 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 softshell clam shellstock.

B. Tolerance: Any person may possess softshell clams that are less than two inches if they comprise less than 10% of any lot. The tolerance shall be determined by numerical 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. Section 6681.

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.

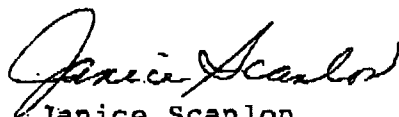
10. Period of Ordinance: This ordinance shall remain in effect until rescinded by the Town of Perry or by the State.

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.

As adopted 4-29-2002

I certify this is a true copy as enacted at a Special Town Meeting in the Town of Perry on April 29, 2002.



Janice Scanlon
Town Clerk