

WARRANT RETURN FOR A SPECIAL TOWN MEETING
OF THE
TOWN OF OGUNQUIT

Tuesday, June 16, 1998

The Special Town Meeting was held on Tuesday, June 16, 1998, A.D. and called to order by Town Clerk Judy Shaw-Kagiliery with the Reading of the Call, Return, and First Article.

The Meeting convened at 7:15 P.M. with thirty-six (36) registered voters in attendance. Mary Littlefield served as Ballot Clerk.

ARTICLE 1: Wayne Adams was elected Moderator and sworn in by Town Clerk Judy Shaw-Kagiliery.

ARTICLE 2: Motion was made and seconded to accept the Article, as read. Passed by a show of hands.

ARTICLE 3: Motion was made and seconded to accept the Article, as read. Chairman Miller began by addressing Moderator Adams and advising he would like to offer two (2) minor amendments to the proposed ordinance. Chairman Miller continued that the Town Clerk had received correspondence from the Department of Marine Resources (DMR) expressing its approval of the proposed ordinance with two (2) exceptions relating to the Period of Issuance. As DMR was recommending that the Town stay with the original language of the current ordinance, Chairman Miller did not feel that this constituted a substantive change and, therefore, did not require another public hearing. Moderator Adams concurred. Moderator Adams then asked the voters to entertain the Motion on the floor. No vote was taken. Chairman Miller then asked Leonard Wyman, Chairman of the Shellfish Commission, if the proposed changes meet with the approval of the Shellfish Commission. Mr. Wyman indicated they did. A Motion was then made and seconded to amend the proposed Ordinance to conform to the language as required by the DMR. Passed, by a show of hands.

A Motion was then made and seconded to approve the proposed Shellfish Management Ordinance, with changes. Passed, as amended, by a show of hands.

ARTICLE 4: Motion was made and seconded to accept the Article, as read. Prior to the vote, Chairman Miller advised the floor that the proposed ordinance was a "boiler plate" ordinance that would give the Town Manager the authority to declare "a state of emergency" within the Town. Without the ordinance, it is necessary for the Governor to determine whether or not there is a state of emergency without immediate and direct knowledge of what is occurring in the Town. Moderator Adams called for a vote. Passed by a show of hands.

Following a Motion and second, Mr. Adams declared the Meeting adjourned at 7:26 P.M.

ATTEST: 
Judy Shaw-Kagiliery, Town Clerk
TOWN OF OGUNQUIT

DATED: June 17, 1998

Chapter 6 Shellfish Management Ordinance (Enacted every 3 Years)

601 Authority

This Ordinance is enacted in accordance with 12 M.R.S.A. Sections 6671 and 6681.

602 Purpose

To establish a Shellfish Conservation Program for the Town of Ogunquit which will insure the protection and optimum utilization of shellfish resources within its geographical limits. These goals will be achieved by means which may include:

- A. Licensing of shellfish harvesters (diggers);
- B. Limiting the number of shellfish harvesters;
- C. Restricting the time and area which harvesting is permitted;
- D. Limiting the minimum size of clams taken; and
- E. Limiting the amount of clams taken daily by a harvester.

603 Shellfish Conservation Commission

The Shellfish Conservation Program for the Town of Ogunquit will be administered by the Shellfish Conservation Commission consisting of five (5) regular and two (2) alternate members to be appointed by the Selectmen for terms of three (3) years. The Commission's responsibilities include:

- A. Establishing annually, in conjunction with the Department of Marine Resources of the State of Maine, the number of shellfish digging licenses to be issued;
- B. Surveying the clam flats to maintain current information on shellfish resources. Such surveys include:
 - a) Determination of size frequency of the shellfish,
 - b) Determination of growth,
 - c) Estimation of the standing crop of shellfish,
 - d) Collection of harvest data documenting local values of shellfish resources,
 - e) Estimation of potential yield of the flats,

ADD

- f) Identification of sources of pollution adjacent-to-impacting shellfish populations and location of discharges-sources on charts,
 - g) Identification of other resource problems such as green crab predation on shellfish and competition from mussels,
 - h) reseeding and transplanting to make fallow areas productive, and
 - i) placing barriers to keep spat in the area.
- C. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation;
- D. Reviewing this Ordinance periodically and make recommendations for amendments on a timely basis;
- E. Securing and maintaining records of shellfish harvest from the Municipality'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 in conjunction with the Area Biologist of the Department of Marine Resources;
- G. Designing and promulgating a Shellfish Conservation Plan in cooperation with the Department of Marine Resources based on the results of the clam flat survey, incorporating recommended levels of harvesting on the various flats (as shall be delineated on maps prepared by the Conservation Commission). Possible inclusions in such a plan are crop rotation, seed programs and predator control.
- H. Submitting an Annual Report to the Municipality and Department of Marine Resources detailing: all funds available, fund expenditures, harvest data, results of all experimental and conservation programs, enforcement activities and sources of pollution.

604

Definitions

- 604.1 Municipality means the Town of Ogunquit, Maine.
- 604.2 Resident means a person who has resided in the State of Maine for at least six (6) months next prior to the time his claims of such residence is made, and who has resided in this municipality for at least three (3) months prior to the time his claims of such residence is made. "Resident" is extended to include non-resident property tax paying owners of real estate in this municipality.
- 604.3 Non-Resident means anyone not qualified as a resident under this Ordinance.
- 604.4 Shellfish/Clams means softshell clams ("Mya Arenaria").
- 604.5 Harvest means to dig, take, remove or otherwise harvest shellfish in the municipality.
- 604.6 Lot means the total number of clams in any bulk pile. Where clams are in a box, barrel or other container, the contents of each box, barrel or other container constitutes a separate lot.
- 604.7 Possess means harvest, ship, transport, hold, buy and sell retail and wholesale clam shellstock.
- 604.8 Period of Issuance means the first ninety-~~90~~ days-during-which-this-municipality-issues-shellfish-digging-licenses-each-year; opening day in the fall, until the closing time in the spring (as stated on the license).

605

Licensing

Municipal Shellfish Digging License is required. It is unlawful for any person to harvest shellfish in this Municipality without having a current license issued by this Municipality as provided by this Ordinance. It shall be lawful to harvest clams during the daylight-hours-only-on-Saturdays,--Sun-days-and-holidays.--Daylight-shall-be-interpreted to mean from one-half-hour-before-sunrise-until-one-half-hour-after-sunset. dates stated on the license. Actual digging is limited to daylight hours. It will be unlawful to dig from sunset to one half hour before sunrise.

Licenser must be at least ten (10) years of age.

605. a Type of License

605. a. 1 **ADD** **Resident and Real Property Taxpayer Recreational Shellfish License**

This license is available to residents and real property taxpayers only of this municipality and entitles the holder to harvest no more than one (1) peck of shellfish in any one (1) day for the use of himself and his family, from the shores, flats or coastal waters of this Municipality, when and where it is lawful to do so.

605. a. 2 **Non-Resident Non-Resipreating Recreational Shellfish License**

This license is available to any person not a resident of this Municipality and entitles the holder to harvest not more than one (1) peck of shellfish in any one (1) day for the use of himself and his family, from the shores, flats or coastal waters of this Municipality, when and where it is lawful to do so.

ADD

605. a. 3 **Resident Commercial Shellfish License - No license available.**

605. a. 4 **Non-Resident Commercial Shellfish License - No license available.**

605. a. 5 **One-time, specific-date license will be available within the five (5) working days prior to the selected dig date.**

605. a. 6 **Ogunquit Shellfish Conservation Commission Reserved Licenses - These licenses shall be issued to each member upon payment of stated fees.**

605. a. 37 **License Must Be Signed'**

The licensee must sign his or her license in order to validate it. Any person harvesting clams in this Municipality shall have on his/her person and show to any Warden or Law Enforcement Officer positive identification, when requested, in addition to the license, where required.

605. b Application Procedure

Any person may apply to the Town Clerk for the license required by this Ordinance on forms provided by the Municipality.

605. b. 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 may require.

605. b. 2 Misrepresentation

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

605. b. 3 Records

The Clerk or designated officials of this Municipality shall note on the application the date the license was issued, sign it and file the application with his or her records.

605. b. 4 Notice

Notice of the number and the procedure for application shall be published in a trade or industry publication 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.

605. c Limitation of Diggers

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Because the shellfish resources are limited and because a commercial or recreational digger can be expected to harvest a certain volume of clams per year, the number of licenses must be controlled. The number will vary from year to year depending upon estimates of the resource capabilities and management requirements consistent with good resource utilization. The following procedures will be followed to exercise the control:

1. Prior to October 1 of each year, the Shellfish Conservation Commission with the approval of the Commissioner of Marine Resources, will establish the number of licenses to be permitted.
2. The Shellfish Conservation Commission will notify the Town Clerk, in writing, prior to October 1 of each year the number of licenses to be issued.
3. During the period of issuance, the Town Clerk shall issue licenses to residents and nonresidents as allocated for each year on or ~~after November 1~~; from November 1 until March 31; ~~ninety (90) days thereafter the then~~ remaining unsold licenses that have not been issued within thirty (30) days of the original issuance shall be issued on a first-come, first-served basis to residents and non-residents alike. No reservations will be accepted by telephone.

605.ed

License Expiration Date

Each license issued under authority of this Ordinance expires at midnight on the 31st day of ~~October March. next following date of issue.~~

606

Minimum Legal Size of Shellfish

It is unlawful to possess in this Municipality shellfish which are less than two inches (2") in the longest diameter except that a licensee may possess shellfish that are less than two inches (2") 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.

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606.a

Digger must use "claw digger's fork", or a tined fork with two inch (2") separation of tines and with a handle no longer than two feet (2').

607

Opening and Closing of Flats

The Municipal Officers, with the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendation of the Shellfish Conservation Commission and concurrence of the Department of Marine Resources Area Biologist that the status of the 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 (10) days notice published in a newspaper having general circulation in the Municipality 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.

608

Penalty

A person who violates this Ordinance, in any way, shall be punished as provided by 12 M.R.S.A., Sections 6671 and 6681.

609

Effective Date

This Ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective, and continue to be effective for a period of not more than three (3) years, after its adoption by the Municipality provided a certified copy of this Ordinance is filed with the Commissioner within twenty (20) days of its adoption.*

610

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.

611

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.

*Adopted at April 3, 1995 Annual Town Meeting - Article 3.

A P P E N D I X I

OGUNQUIT MUNICIPAL CODE

Shellfish Management Ordinance

FEES

The fee for a Shellfish License is as stated below and which the applicant shall pay with his/her application; excepting any real property taxpayer age (65) years or more, who upon presenting proof of age to the Clam Warden or designated officials, shall be exempt from any fee requirement.

Resident Recreational.....\$10.00 \$20.00

Non-Resident, Non-Reciprocating
Recreational.....\$20.00 \$35.00
(ATM 04/03/95)

ADD:
One-Day, Any-Person License.....\$ 5.00

Duplicate License, To Replace Lost or
Damaged License.....\$ 2.00

CIVIL EMERGENCY PREPAREDNESS**I. SHORT TITLE:**

This ordinance shall be known and may be cited and referred to as the "Civil Emergency Preparedness Ordinance of the Town of Ogunquit". Authorized under Title 37-B MRSA Section 781-834 as enacted by P.L. 1983, c. 460.

II. INTENT AND PURPOSE:

- A. It is the intent and purpose of this Ordinance to establish an office that will insure the the complete and efficient utilization of all of the Town's facilities to combat disaster as defined herein.
- B. The Ogunquit Office of Civil Emergency Preparedness will be the coordinating agency for all activity in connection with Civil Emergency Preparedness.

III. DEFINITIONS:

- A. The following definitions shall apply in the interpretation of this ordinance:
1. *Civil Emergency Preparedness*: means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, fire fighting, police, medical and health, emergency welfare, rescue, engineering, air raid warning and communications services; radiological, chemical and other special weapons defense; evacuation of persons from stricken areas; economic stabilization; allocation of critical materials in short supply; emergency transportation; existing or properly assigned functions of plant protection; other activities related to civilian protection and other activities necessary to the preparation for the carrying out of these functions.
 2. *Disaster*: means the occurrence of imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.
 3. *Civil Emergency Preparedness Forces*: shall mean the employees, equipment and facilities of all Town departments, boards, institutions and commissions; and , in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.
 4. *Civil Emergency Preparedness Volunteer*: shall mean any person duly registered, identified and appointed by the Director of the Office of Civil Emergency Preparedness activity.

CIVIL EMERGENCY PREPAREDNESS

5. **Director:** shall mean the Director of the Ogunquit Office of Civil Emergency Preparedness, appointed as prescribed in the Ordinance.
6. **Local:** restricted to the geographic boundaries of Ogunquit or Ogunquit and the municipalities adjacent to it.
7. **Regulations:** shall include plans, programs and other emergency procedures deemed essential to Civil Emergency Preparedness.
8. **Town Manager:** shall mean duly appointed person to the position of Town Manager by the Board of Selectmen or designated person selected by the Board of Selectmen in the Town Manager's absence.

IV. ORGANIZATIONS and APPOINTMENTS:

A. An Office of Civil Emergency Preparedness is hereby established within the executive department of the Town government and under the direction of the Town Manager.

1. **Organization:** The Town Manager is hereby authorized to organize the Office of Civil Emergency Preparedness utilizing to the fullest extent possible the existing agencies within the Town.

B. Administration and Operation:

1. **There shall be an executive head of the Office of Civil Emergency Preparedness who shall be known as the Civil Emergency Preparedness Director. The Director shall be appointed by the Board of Selectmen and work under the direction of the Town Manager.**
2. **In addition to the Director, the office shall include such other assistants, employees and CEP volunteers as are deemed necessary for the proper functioning of the organization. Any necessary employee shall be hired by the Director with the consent of the Town Manager.**
3. **The Office of Civil Emergency Preparedness shall operate according to this ordinance and regulations which shall be approved by the Ogunquit Selectmen and which may be amended from time-to-time by the Selectmen. No regulation or amendment shall be approved or adopted by the Selectmen during a declared emergency.**

V. EMERGENCY PROCLAMATION:

Whenever a local disaster exists or appears imminent, the Town Manager, or his designee, by majority approval of the Board of Selectmen, shall, by proclamation, declare that fact and that an emergency exists in the municipality. A copy of the proclamation shall be posted in the same manner as the warrant calling a town meeting or a copy of the proclamation shall be filed with the Clerk. Local representatives of the media shall be contacted and informed about the proclamation as soon as possible.

CIVIL EMERGENCY PREPAREDNESS

VI. EMERGENCY POWERS and DUTIES:

- A. During any period when a local disaster has been proclaimed or when the Governor has proclaimed a disaster pursuant to MRSA Title 37-B Section 742, the Town Manager may promulgate such regulations as he or she deems necessary to protect life and property and preserve critical resources. Such regulations may include, but not be limited to, the following:**
- 1. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of Civil Emergency Preparedness forces or to facilitate the mass movement of persons from critical areas within or outside the Town.**
 - 2. Regulations pertaining to the movement of persons from areas deemed hazardous or vulnerable to disaster.**
 - 3. Such other regulations necessary to preserve public peace, health and safety.**
- B. The Town Manager may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people, and bind the Town for the fair value thereof.**
- C. The Town Manager may require emergency services of any Town officer or employees. If regular Town forces are determined inadequate, the Director may require the services of such other personnel as he or she can obtain that are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities provided by state law and Ordinances for regular Town employees and other registered and identified Civil Emergency Preparedness and disaster workers.**

VII. TERMINATION OF EMERGENCY:

Whenever the Town Manager is satisfied that a local emergency or disaster no longer exists, he or she shall terminate the emergency proclamation by another proclamation. That proclamation shall be published in local newspapers and posted in the same manner as the warrant calling a town meeting. Local representatives of the media shall be informed of the termination of the emergency as soon as possible.

VIII. DUTIES OF THE DIRECTOR OF THE OFFICE OF CIVIL EMERGENCY PREPAREDNESS:

- A. The Director of the Office of Civil Emergency Preparedness shall be responsible to the Town Manager in regards to all phases of the Civil Emergency Preparedness activity. Under the supervision of the Manager, he or she shall be responsible for the planning, coordination and operation of the Civil Emergency Preparedness activity in the Town. Under supervision of the Manger, he or she shall maintain liaison with the County, State and Federal authorities and the authorities of other nearby political subdivisions as to insure the most effective operation of the Civil Emergency Preparedness plan. His or her duties shall include, but not be limited to, the following:**

CIVIL EMERGENCY PREPAREDNESS

- 1. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the Town for Civil Emergency Preparedness purposes.**
- 2. Development of plans for the immediate use of all the facilities, equipment, manpower and other resources of the Town for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare.**
- 3. Negotiating and concluding agreements with owners or persons in control of buildings or other property for the Civil Emergency Preparedness purposes and designating suitable buildings as public shelters.**
- 4. Through public informational programs, educating the civilian population as to actions necessary and required for the protection of their persons and property in case of enemy attack, or disaster, as defined herein, either impending or present.**
- 5. Conducting public practice alerts to insure the efficient operation of the Civil Emergency Preparedness forces and to familiarize residents with Civil Emergency Preparedness regulations, procedures and operations.**
- 6. Coordinating the activity of all other public and private agencies engaged in any Civil Emergency Preparedness activity.**
- 7. Assuming such authority and conducting such activity as the Town manager may direct to promote and execute the Civil Emergency Preparedness plan.**

IX. CIVIL EMERGENCY PREPAREDNESS and DISASTER PLAN:

- A. A comprehensive Civil Emergency Preparedness Emergency Operations Plan shall be adopted and maintained by resolution of the Selectmen upon recommendation by the Town Manger.**

X. VIOLATION OF REGULATIONS:

It shall be unlawful for any person to violate any of the provisions of this Ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder, or delay any member of the Civil Emergency Preparedness organization as herein defined in the enforcement or the provisions of this Ordinance or any regulation or plan issued thereunder.

XI. PENALTY:

Any person, firm or corporation violating any provision of this Ordinance, or any rule or regulation promulgated thereunder, upon conviction thereof, shall be punished by a fine of a minimum of \$100.00 to a maximum of \$1,000.00 per occurrence.

CIVIL EMERGENCY PREPAREDNESS

XII. SEVERABILITY:

Should any provision of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions, or of this Ordinance, as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and remain valid notwithstanding such declaration.

XIII. CONFLICTING ORDINANCES, ORDERS, RULES AND REGULATIONS SUSPENDED:

At all times when the orders, rules and regulations made and promulgated pursuant to this Article shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

XIV. EFFECTIVE DATE:

This Ordinance shall take effect on the _____ day of _____, 1998 in accordance with the provisions of Section _____, of the Town Ordinance.