



PAUL R. LEPAGE  
GOVERNOR

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

PATRICK C. KELIHER  
COMMISSIONER

August 1, 2016

To Whom It May Concern,

The Department of Marine Resources (DMR) has become aware of an issue that may affect your municipal shellfish ordinance and your municipality's ability to enforce conservation closures. All municipal shellfish ordinances should include explicit language identifying conservation closures **and must also prohibit** harvest within these areas. The municipal shellfish ordinance should include the following, or similar statements:

*It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by the town of NAME in accordance with DMR Regulation, Chapter 7. Harvesting shellfish in a closed area is a violation of this municipality's ordinance and is punishable under MSRA Title 12 §6671.*

*Boundaries of conservation closures are explicitly defined in the conservation closure application submitted by the town of NAME to DMR and are part of the resulting permit issued by DMR. These permits are posted at the town office and online:*

<http://www.maine.gov/dmr/shellfish-sanitation-management/programs/municipal/ordinances/towninfo.html>.

The term "shellfish" should be defined in the municipal shellfish ordinance as those species included in the municipal shellfish conservation program (e.g. "Shellfish" means soft shelled clams).

DMR understands that ordinance changes often require a town meeting to adopt and encourage towns to add this language into their municipal shellfish ordinances as soon as practically possible. This will ensure that any enforcement of illegal harvesting in conservation closed areas can be addressed by the local authorities.

If you have any questions, don't hesitate to contact your area biologist:

Peter Thayer (NH border to Boothbay) – 633-9539 or [pete.thayer@maine.gov](mailto:pete.thayer@maine.gov)

Hannah Annis (Newcastle to Frenchmans Bay) – 949-4498 or [hannah.annis@maine.gov](mailto:hannah.annis@maine.gov)

Heidi Leighton (Bar Harbor to Canadian border) – 434-5922 or [heidi.leighton@maine.gov](mailto:heidi.leighton@maine.gov)

Sincerely,

Kohl Kanwit  
Director, Bureau of Public Health

## DRAFT LANGUAGE REQUIRED BY MDMR FOR INCLUSION IN FRENCHMAN BAY REGIONAL SHELLFISH CONSERVATION ORDINANCE

16 November 2016

To comply with Maine Department of Marine Resources (DMR) requirements communicated in DMR memorandum dated August 1, 2016, it is recommended that the Frenchman Bay Regional Shellfish Municipal Joint Board include explicit language within the Frenchman Bay Regional Shellfish Conservation Ordinance substantially similar to, or the same as, the following draft language:

***It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by those 7 municipalities included in the Frenchman Bay Regional Shellfish Conservation Ordinance, namely the municipalities of Ellsworth, Lamoine, Trenton, Hancock, Franklin, Sullivan, and Sorrento, in accordance with DMR Regulation, Chapter 7. Harvesting shellfish in a closed area is a violation of the regional ordinance of these municipalities and is punishable under MRSA Title 12 §6671.***

***Boundaries of conservation closures are explicitly defined in the conservation closure application submitted on behalf of the seven (7) above-named municipalities to DMR and are part of the resulting permit issued by DMR. These permits are posted on the website of the City of Ellsworth, the administrative municipality for the seven (7) municipality regional ordinance, and also online at:***

***<http://www.maine.gov/dmr/shellfish-sanitation-management/programs/municipal/ordinances/towninfo.html>***

I recommend the above bold and highlighted language be included in Section 13.3 Harvesting Clams in any Closed Area of our ordinance and that it completely replace those words in the existing ordinance, as follows:

***“It is unlawful for any person to harvest clams in a closed area.”***

This action should satisfactorily address the DMR memorandum referenced above.

Dick Fennelly, Chairman  
Frenchman Bay Regional Shellfish Municipal Joint Board