

draft Recreational Shellfish Regulations

A New Era for Shellfishing in Hingham

These regulations mark a significant milestone for the Town of Hingham as we embark on opening recreational shellfishing for the first time in modern times. The primary goal and intention behind these comprehensive regulations are to ensure the sustainable management and conservation of Hingham's vital shellfish resources, protect public health, and provide clear guidelines for all participants. While the exact last known date that Hingham was open to recreational shellfishing is not readily available, these regulations are designed to foster a responsible and enjoyable shellfishing experience for residents and visitors alike, safeguarding our marine environment for future generations.

Section 1. Authority and Purpose

These regulations are adopted pursuant to the authority granted by Massachusetts General Laws, Chapter 130, and by vote of the Hingham Select Board acting as the Shellfish Authority. The purpose of these regulations is to conserve and manage Hingham's shellfish resources, protect public health, and regulate the taking of Shellfish, sea worms, and eels from Hingham waters in accordance with classifications and requirements of the Massachusetts Division of Marine Fisheries (DMF).

Section 2. Definitions

- **Approved/Conditionally Approved/Restricted/Prohibited Areas:** Areas classified as such by the Massachusetts Division of Marine Fisheries (DMF) in accordance with the National Shellfish Sanitation Program.
- **Commercial Shellfish Permit, Town of Hingham:** A Permit granted under the authority of the Town Manager, authorizing the taking of Shellfish for sale or other consideration.
- **Family:** All persons of the immediate Family (spouse or partner and any unmarried children and grandchildren under the age of 18) domiciled and living under the same roof.
- **Harvest:** To catch, dig, take, or attempt to catch or take any fish, Shellfish, or bait.
- **Permit Holder:** Any individual issued a Shellfish Permit by the Town of Hingham.
- **Peck:** A quantity not exceeding 10 quarts (672 cubic inches) dry measure, contained in a standard metal wire Peck basket, level with the top. This shall be the only authorized container for recreational Shellfish Harvest unless otherwise authorized by the Shellfish Constable.
- **Proof of Residency:** A current real estate tax bill, non-seasonal lease, valid Massachusetts operator's license, or any other identification issued by the Massachusetts Registry of Motor Vehicles in combination with Massachusetts motor vehicle registration, all listing a residential dwelling within the Town of Hingham. A post office box address is not acceptable as Proof of Residency.
- **Resident:** Resident real estate taxpayers, year-round tenants, and non-seasonal

tenants (six months or more of the calendar year) of residential dwellings located within the Town of Hingham.

- **Seed Clam:** Soft-shell clams measuring less than two inches in the longest diameter.
- **Seed Oyster:** Oysters measuring less than three inches in the longest diameter.
- **Seed Quahog:** Quahogs measuring less than one inch shell thickness (hinge width).
- **Shellfish:** Includes, but is not limited to, Clams, Quahogs, Mussels, Oysters, Scallops, Razor Clams, Sea Clams, Sea Scallops, Sea Quahogs, Conchs and Whelks, and any other mollusk species subject to regulation under MGL Ch. 130.
- **Sunrise:** For enforcement purposes, the time of Sunrise is based on the Boston Tide Calendar available at the Marine Environmental Affairs Department.
- **Sunset:** For enforcement purposes, the time of Sunset is based on the Boston Tide Calendar available at the Marine Environmental Affairs Department.
- **Digging Implement:** Any tool used for the purpose of Harvesting Shellfish, including but not limited to rakes, shovels, and tongs.

Section 3. Permit Requirement

- A. No person shall take, possess, or land Shellfish from the waters of Hingham without first obtaining a valid Permit issued by the Town of Hingham.
- B. Permits are non-transferable and must be carried on the person while shellfishing.
- C. Permit Holder is responsible for all persons shellfishing under that Permit.

Section 4. Permit Categories and Fees

A. Permits shall be issued annually by the Town Clerk at the following rates:

- **Resident Family Annual Permit:** \$35
- **Resident Senior (65+) Permit:** Residents 65 and over are eligible for a shellfish permit at no cost.
- **Non-Resident Annual Permit:** \$150
- **Short-Term Non-Resident Permits:** 1-week \$30; 1-month \$80 (available May–September)
- **Veteran:** No Fee (Per M.G.L. c. 130, s. 52 as amended, the Town of Hingham will provide any Veteran, upon request and proof of Veteran status, a license to harvest shellfish or sea worms by means of his own labor from the open areas for consumption by his own Family or for his own use as bait, provided that this take shall not exceed the limits in in Section 6 and three (3) dozen sea worms per day. Veterans 65 and over are eligible for a life-time shellfish permit at no cost.)
- **Commercial Permit:** \$350 (limited, subject to availability)
- **Replacement Permit/Badge:** \$5

B. The Select Board may adjust fees from time to time by majority vote at a public meeting.

C. Permit shall be valid from April 1st to March 31st and shall be subject to such limitations and restrictions as are set forth in these regulations, State of Massachusetts regulations, or

additional regulations imposed by the Select Board in the interest of conservation and preservation of the Town's shellfish resources and the public health.

D. Application and fee for an Annual permit must be received by the Town Clerk by March 31st of each year. Any application received after March 1st will be subject to a late fee of \$150.00. Late fee will not be waived for any reason.

Section 5. Open and Closed Areas

A. Shellfish Constable (hereafter "Constable") shall post notice of all areas open or closed to shellfishing. Such postings shall be made at Town Hall, on the Town website, and at public landings.

B. Recreational Shellfishing Areas:

1. **GBH7.8 Hingham Harbor East:** This area is the only area currently open to recreational Shellfishing in Hingham waters. GBH7.8 is generally located in the inner harbor area and is geographically described as the intertidal waters and flats to extreme low water in Hingham Harbor from the painted white rock located seaward of the northernmost point of Worlds End, to the northwest corner of a stone pier housing the Lincoln Sailing Center located north and east of the Lincoln Street (RTE. 3A) rotary. This area is classified as Conditionally Approved.

2. All other areas within Hingham waters are closed to recreational Shellfishing. These areas include:

GBH7.7 World's End: Conditionally Restricted. The intertidal waters and flats to extreme low water of the Weir River from the Borland Bridge northerly to the painted white rock located seaward of the northernmost point of Worlds End.

GBH7.9 Hingham Bathing Beach: Prohibited. The waters, flats, and tributaries of Hingham Harbor south of a line drawn from the northernmost corner of the Hingham Bathing Beach bath house to the northwest corner of a stone pier housing the Lincoln Sailing Center located north and east of the Lincoln Street (RTE. 3A) rotary.

GBH7.10 Hingham Harbor West: Conditionally Restricted. The intertidal waters and flats to extreme low water of Hingham Harbor from the outermost extremity of the jetty north of Hingham Yacht Club on Crow Point, south to the northernmost corner of the Town of Hingham Bathing Beach Bathhouse excluding area GBH7.12.

GBH7.11 Weymouth Back River to Crow Point: Conditionally Restricted. The intertidal waters and flats to extreme low water in Hingham Bay from the house at #93 Kimball Beach Road easterly to the outermost extremity of the jetty north of Hingham Yacht Club on Crow Point.

GBH7.12 Langlee, Ragged, Sarah Islands: Prohibited. The waters and flats of Langlee Island, Ragged Island and Sarah Island out to 0.10 statute mile in all directions, in Hingham Harbor Hingham.

GBH8.0 Weymouth Back River: Prohibited. The waters, flats, and tributaries of Weymouth Back River in the towns of Weymouth and Hingham west of a line from the southernmost extremity of Slate Island due south to the house on 93 Kimball Beach Road, south of a line drawn from the westernmost extremity of Slate Island to the south eastern most extremity of Grape Island, and east of a line drawn from the southernmost extremity of Grape Island to the northernmost extremity of Lower Neck, excluding areas GBH8.1 through GBH8.5, inclusive.

C. Commercial Shellfishing Areas:

1. GBH7.8 is closed to Commercial Shellfishing.
2. Other areas within Hingham waters may be designated as open to Commercial Shellfishing only, conditionally restricted, or prohibited, as determined by the DMF and the Constable.

D. No person shall take Shellfish from any area Prohibited and no recreational digger shall take shellfish from an area conditionally restricted by DMF, or from areas closed due to public health concerns or propagation activities.

E. Constable may temporarily close areas for propagation, conservation, or public safety.

Section 6. Seasons, Size Limits, and Harvest Limits

A. Constable shall establish and publish annually the open seasons, daily or weekly catch limits, and minimum size limits for each species.

B. Unless otherwise posted, the following minimum sizes apply:

- **Quahogs:** 1 inch shell thickness across the hinge
- **Soft-shell clams:** 2 inches shell length
- **Oysters:** 3 inches shell length
- **Bay scallops:** Must have a well-defined raised growth ring (except for Seed used in propagation)
- **Razor Clams:** 5 inches in length in shell
- **Eels:** 9 inch minimum size

C. All undersized Shellfish must be immediately returned to the water from which they were taken. No person shall take or have in his or her possession any Shellfish less than the minimum size limit.

D. The total amount of Shellfish taken on a recreational Permit in any one week shall not exceed the recreational weekly limit for the following, shall be:

- **Soft-shell clams:** one level Peck, as defined.
- **Quahogs:** one level Peck, as defined.
- **Blue Mussels:** one level Peck, as defined.
- **Bay scallops:** one level Peck as defined.
- **Oysters:** twenty (20) quarts per week (Oysters may be harvested by Shellfish Permit Holders from November 1st to May 15th, all dates inclusive.)
- **Sea Worms:** three (3) dozen per day
- **Eels/Crabs:** There is a 24 pot/trap limit per Permit for Eel/Crab Permits.

E. Periwinkles may be harvested on the same open days as Clams. There is no size or quantity limit for Periwinkles.

Section 7. Methods of Harvest and Harvest Time Restrictions

A. Methods of Harvest

1. Recreational Harvest shall be by hand, rake, or tongs only. The use of power dredges, hydraulics, SCUBA, mechanical devices, or chemical methods is prohibited.
2. Soft shell Clams and Razors may only be harvested by means of a regular clam fork or rake.
3. Oysters shall be taken by rake or tong only, no diving.

B. Harvest Time Restrictions

1. **Harvest Days:** Shellfish taken under a recreational Permit may be harvested on Sunday, Wednesday, and Saturday, and on Commonwealth of Massachusetts recognized holidays as adopted by the Town of Hingham only, except as otherwise stated.
2. **Harvest Hours:** No person shall take or attempt to take Shellfish or Harvest during the nighttime hours, between ½ hour after Sunset and ½ hour before Sunrise.

Section 8. Commercial Permits

- A. Commercial Permits are limited and may be issued only to Hingham Residents.
- B. Commercial Permits are regulated under the Shellfish Management Agreement with DMF.

Section 9. Resource Protection and Digging Practices

- A. **Habitat Protection:** All Permit Holders shall exercise due care to minimize disturbance to Shellfish habitat. This includes, but is not limited to, avoiding unnecessary destruction of eelgrass beds, salt marsh, and other critical marine vegetation.
- B. **Backfilling:** All holes created during the process of Harvesting Shellfish shall be immediately and completely backfilled to their original contour to prevent erosion and damage to the Shellfish bed.
- C. **Waste Disposal:** No refuse, litter, or discarded Shellfish shells (other than those returned as undersized) shall be left on Shellfish beds or adjacent shorelines. All waste must be properly disposed of in designated receptacles or carried out by the Permit Holder.
- D. **Digging Implement Restrictions:** The use of Digging Implements that cause excessive damage to the Shellfish resource or habitat, as determined by the Constable, is prohibited. The Constable reserves the right to specify approved Digging Implements.
- E. **Container Requirements:** 1 Peck containers only. No bags.

Section 10. Reporting and Data Collection

- A. **Diggers will be required to report their catch and other relevant information as required by the Constable.**
- B. **Cooperation with Data Collection:** Permit Holders may be required to cooperate with the Constable or authorized agents in the collection of data pertaining to Shellfish Harvest, including but not limited to, species harvested, quantities, and locations. This data will be used for resource management purposes.

C. Reporting Unusual Conditions: Permit Holders are encouraged to report any unusual conditions observed on the Shellfish beds, such as disease outbreaks, unusual mortality, or environmental concerns, to the Constable promptly.

Section 11. Special Management Areas

A. Designation of Special Management Areas: The Select Board, upon recommendation of the Constable, may designate specific areas within Hingham waters as Special Management Areas for purposes such as propagation, research, or habitat protection.

B. Regulations for Special Management Areas: Within Special Management Areas, the Constable may establish additional or more restrictive regulations regarding Harvest methods, seasons, size limits, catch limits, or access, as deemed necessary for the specific management objectives of that area. Notice of such regulations will be posted in accordance with Section 5.

Section 12. Emergency Closures

A. Authority for Emergency Closures: Notwithstanding any other provision of these regulations, the Constable, in consultation with the Board of Health, may implement emergency closures of any Shellfish area if public health, safety, or the integrity of the Shellfish resource is immediately threatened.

B. State-Determined Closures: All Shellfish areas in Hingham waters shall be closed when the Commonwealth of Massachusetts Division of Marine Fisheries (DMF) determines that closures are necessary due to elevated bacteria levels, such as those resulting from significant rainfall events.

C. Notice of Emergency Closures: Notice of Emergency Closures shall be disseminated as quickly as possible through appropriate channels, including but not limited to the Town website, local media, and postings at public landings. Emergency Closures shall remain in effect until rescinded by the Constable or DMF.

Section 13. Determining State Open/Closed Status

A. DMF Shellfish Status Website: The official open/closed status of Shellfish areas in Massachusetts, as determined by the Division of Marine Fisheries (DMF), can be accessed by the public on the DMF Shellfish Status website. This website provides real-time information on closures and openings due to water quality or other public health concerns.

B. Local Postings and Announcements: In addition to the DMF website, the Constable will endeavor to post information regarding state-determined closures and openings at Town Hall, on the Town website, and at public landings, as outlined in Section 5. For up-to-date closure information, you may also call -----.

Section 14. Effective Date

These regulations shall take effect upon approval by the Hingham Select Board and posting in accordance with Massachusetts law.

Section 15. Enforcement and Penalties

A. Constable, Deputy Constables, Deputy Harbor Master, Assistant Harbormasters, and Police Officers are authorized to enforce this ordinance.

B. Violations may result in fines of not less than \$50 and not more than \$300 per offense, forfeiture of catch, and/or suspension or revocation of Permits. Each day of violation constitutes a separate offense.

C. Repeat or egregious violations may be referred for prosecution under MGL Ch. 130.

Section 16. Severability

If any provision of this ordinance is declared invalid, the remaining provisions shall remain in full force and effect.

Section 17. Aquaculture

In the event that the Town establishes an aquaculture licensing program, any such applications shall be reviewed on a case-by-case basis. No license shall be issued unless and until approval has been granted by the Massachusetts Division of Marine Fisheries, the Select Board, and the Shellfish Constable.