

The Georges River Regional
Interlocal Clam Management
Agreement of 2002

as amended in 2004

Reviewed at Public Hearing February 10, 2005

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I. TITLE

This Interlocal Agreement shall be known, and may be cited as, "The Georges River Regional Interlocal Clam Management Agreement."

II. FINDING OF FACT

As expected in the initial agreement, passed in 1996, parts of the inter-tidal zones that make up the Georges River region have been opened for clam digging. This operation has been very successful over the past six years and it is the intent of this agreement to continue the association of the towns bordering the Georges River that have made that success possible.

III. LEGAL AUTHORITY

Legal authority to enter this Interlocal Agreement is provided by the "Interlocal Cooperation Act", Title 30-A, Sections 2201 through 2207, 1987. Legal authority for the associated communities to enact the proposed Ordinance is referenced within the proposed Ordinance.

IV. CONSIDERATION CLAUSE

This agreement may be entered into by the towns of Cushing, St. George, South Thomaston, Thomaston and Warren by approval at a Town Meeting in their municipality in consideration of the importance of and need for clam management measures to preserve this natural resource for current and future diggers, both commercial and recreational, and the need for a cooperative effort between the towns to effectively and successfully continue to implement the Management Plans and Ordinance developed by the Georges River Regional Shellfish Management Committee.

The goals and objectives of this agreement are to manage the resource through licensing, limitations on the number of diggers and quantities harvested, limiting size of clams taken, limiting time and areas where digging is permitted, opening and keeping the river open for harvesting, seeding programs, and by rewarding conservation work.

V. VALIDITY AND SEVERABILITY

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

PART 1 - Purpose

The purpose of this Agreement is to define the common and individual responsibilities of the towns that choose to participate in this agreement.

PART 2 - Definitions (as used in this Agreement)

Administrative Municipality - is that municipality selected to perform the duties of administration associated with implementing this Agreement and Ordinance.

Agreement - is used to reference this Agreement. See Section I - Title above.

Ordinance - is used to reference the Georges River Regional Shellfish Management Ordinance.

PART 3 - Administration

The Administrative Municipality shall be selected by the Joint Board of Selectmen, subject to agreement by that municipality's Board of Selectmen. The municipal official of the Administrative Municipality designated to administer this Agreement shall attend all Joint Board meetings and shall receive direction from the Joint Board. To offset the additional expense that will be incurred by the Administrative Municipality, said municipality shall retain ten percent (10%) of all fees and fines collected under the Ordinance for use by said municipality.

Administration of this Agreement is the responsibility of the Administrative Municipality. Administrative duties that are the responsibility of each member municipality shall include: sale of licenses following procedures defined by the Ordinance, forwarding of funds collected under the Ordinance to the Administrative Municipality, or by other such mechanism as may be agreed to by the town administrations.

3.1 - Joint Board Each of the participating towns shall appoint one municipal officer (Selectman) as a member of a Joint Board to act as the town's representative for all issues concerning this Agreement. Each of the participating towns may also appoint one individual as an alternate member of the Joint Board to represent the respective municipal officer during an absence at a Joint Board meeting. The alternate must be a resident of the participating town, does not need to be a municipal officer (Selectman) of the participating town, and must not have held a commercial shellfish license during the last three (3) years previous to the appointment. The person so appointed shall serve at the pleasure of the body that made the appointment and may be replaced thereby.

3.2 - Meetings

- A chairman of the Joint Board shall be elected at the first meeting of each calendar year by the regular members of the Joint Board.
- Regular meetings shall be held at least monthly.
- Special meetings may be called at the request of a member of the Joint Board or a member of the Shellfish Management Committee through the Chairman of the Joint Board.
- A quorum shall consist of a majority of the Board.
- Any vote must be approved by a majority of Joint Board members present and voting.

- Notice of all meetings of the Joint Board shall be given to each member of the Board, shall be published in accordance with town policies, and shall be open to the public. Minutes shall be recorded and made available for public review.
- Executive sessions, when necessary, shall be conducted according to State law and in accordance with the Administrative Municipality's policies.

3.3 - Shellfish Management Committee As stated in the Ordinance, a Shellfish Management Committee shall be appointed by the towns and shall act in an advisory capacity to the Joint Board to recommend conservation actions to be taken by the Joint Board.

3.4 - Powers The Joint Board is authorized to: set the number of shellfish licenses to be issued; establish license fees; open and close the flats; set times of the day and days of the week when digging is allowed; set permitted quantities that may be harvested; and, to take such other actions as required to implement the intent of this Agreement as authorized by each municipality's Board of Selectmen and approved by the Department of Marine Resources. The Joint Board shall also have the responsibility and authority to take actions as required and allowed by law to ensure that legal, financial and personnel issues are appropriately and correctly resolved.

PART 4 - Finance

All expenses incurred by this Agreement are to be met by license fees, fines and/or other funds collected under the provisions of the Ordinance and this Agreement. Given that implementation of this Agreement and Ordinance is financially and recreationally beneficial to the participating towns, the use of funding provided by the towns is authorized.

4.1 - Apportionment If additional funds are required to successfully implement this Agreement, or to enforce the Ordinance, such funds should be appropriated by the participating communities. Any such action will require the approval of the legislative body of the municipality raising the funds.

4.2 - In-kind Contributions All in-kind contributions shall be treated as common property held by the participating communities and shall be managed by the Administrative Municipality.

4.3 - Financial Procedures

- a. All funds collected by the participating municipalities shall be held in a "Shellfish Ordinance Account(s)" by the Treasurer of the Administrative Municipality. Disbursement of account funds is restricted to costs directly incurred by implementation of this Agreement and/or Ordinance. Annually or on request, financial reports shall be provided to each participating municipality by the Administrative Municipality. Such reports shall include information concerning any jointly held properties.
- b. The fiscal year shall be the same as the Administrative Municipality's, or as set by the Joint Board.

4.4 - Starting Fund A starting fund is not required as the Ordinance and Agreement have been in effect and the financial situation is positive.

PART 5 - Property

Acquired properties include a boat, a truck and gear used by the Warden. These properties are held by the Administrative Municipality as defined in the Agreement.

5.1 - Title Title to all acquired property shall be held by the Administrative Municipality for the benefit of all participating municipalities.

5.2 - Possession and Maintenance Possession and maintenance of any acquired property is the responsibility of the Administrative Municipality.

PART 6 - Personnel

A Shellfish Conservation Warden or Wardens shall be employed to enforce the Ordinance and perform such other duties as specified in the Warden's job description. The Warden shall be assisted as the need dictates by all other municipal law enforcement agencies as well as other County and State law enforcement agencies as appropriate.

6.1 - Employing Municipality The employing municipality shall be the Administrative Municipality and its personnel policy shall apply.

6.2 - Job Title The job title for the Shellfish Warden shall be "Georges River Regional Shellfish Conservation Warden."

PART 7 - Remedies

This section identifies potential problem areas and suggests procedures for resolution.

7.1 - Breach of Agreement Actions that can be considered a breach of this Agreement include, but are not limited to: failure to conform to the specifications of this Agreement and failure to conform to the specifications of the Ordinance.

7.2 - Disagreements The first level for resolution of disagreements between the parties to this Agreement shall be an appeal to the Joint Board. The decision of the Joint Board may be appealed to the Superior Court within thirty (30) days after the Joint Board ruling. The Joint Board shall review the problem with the objective of developing an action plan to resolve the problem. Mediation or arbitration will be considered whenever appropriate.

7.3 - Withdrawal Any party may withdraw from this Agreement subject to the following:

- a. Notice of intent to withdraw shall be given to the Joint Board at least sixty (60) days prior to withdrawal;
- b. Any payments due during the notice period shall be paid to the Treasurer of the Administrative Municipality;

- c. Upon the effective date the withdrawing party shall lose all rights and benefits derived from this Agreement and to any funds previously contributed;
- d. In the event the Administrative Municipality withdraws, one of the remaining members shall assume those duties. The process for selecting an Administrative Municipality as outlined in the Agreement shall be followed. All records and titles held by the withdrawing Administrative Municipality shall be turned over to the new Administrative Municipality.
- e. In the event that this Agreement is terminated for any reason, all outstanding liabilities shall be allocated in accordance with this Agreement, and this Agreement shall survive for the purpose of enforcing the rights among the parties.

PART 8 - Adoption, Amendment

8.1 - Adoption This agreement shall not take effect until it has been approved by the Department of Marine Resources, approved by the legislative bodies of the parties to the agreement, and filed with the clerks of the parties and with the Secretary of State. A failure of any individual town to approve this Agreement or the Ordinance will not invalidate the Agreement or Ordinance for those towns that do choose to approve.

8.2 - Duration This Agreement shall continue until July 1, 2006, or until terminated or continued by action of the parties to the Agreement.

8.3 - Review by Regional Planning Commission This agreement is to reviewed as required by the Regional Planning Commission.

8.4 - Amendment This agreement may be amended by following the procedures established in 8.1 hereinabove.

8.5 - New Parties to Agreement Municipalities may be admitted as parties to the Agreement by a majority vote of the Joint Board and upon approval by the legislative body of the new party to the agreement.

PART 9 - Execution

WHEREAS: In consideration of all of the above, and IN WITNESS WHEREOF, the parties have by their duly authorized officers caused this Agreement to be executed in all parts this ____ day of _____, 2005.

MUNICIPALITY	SIGNATURE	TITLE
Cushing	_____	_____, Joint Board member
St. George	_____	Steve N. Miller, Joint Board member
So. Thomaston	_____	Penny Alley, Joint Board member
Thomaston	_____	_____, Joint Board member
Warren	_____	John Crabtree, Joint Board member

A true copy. ATTEST: _____
Christine M. Luce, Town Clerk