

TOWN OF BRISTOL
SHELLFISH CONSERVATION ORDINANCE

Amended March 16, 2010

Amended March 26, 2013

Amended March 18, 2014

Amended March 17, 2015

Amended August 22, 2017

1. **Authority:** This ordinance is enacted in accordance with 12 MRSA Section 6671.
2. **Purpose:** To establish a shellfish conservation program for the Town of Bristol 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 harvesting is permitted.
 - D. Limiting the minimum size of shellfish taken.
 - E. Limiting the amount of shellfish taken daily by a recreational harvester.
3. **Shellfish Conservation Committee:** The Shellfish Conservation Program for the Town of Bristol will be administered by the Shellfish Conservation Committee consisting of five (5) regular members, terms of three (3) years, and two (2) alternate members, terms of one (1) year, to be appointed by the Selectmen.

The Committee's responsibilities include:

- A. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish harvesting licenses to be issued.
 - B. Reviewing annually the status of the resource using the results of clam flat, harvester, or dealer surveys and other sources of information and preparing in conjunction with and subject to the approval of the Department a plan for implementing conservation measures.
 - C. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation.
 - D. Keeping this ordinance under review and making recommendations for its amendments.
 - E. 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.
 - F. Recommending conservation closures and openings to the Board of Selectmen in conjunction with the area biologists of the Department of Marine Resources.
 - G. Submitting an annual report to the municipality and the Department of Marine Resources covering the above topics and all other committee activities.
4. **Definitions:**
 - A. *Resident:* The term "resident" refers to a person who has been domiciled in this

municipality for at least one year next prior to the time his claim of such residence is made.

B. *Non-Resident*: The word “non-resident” 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 soft-shell clams (*Mya arenaria*), hard-shell clams (*Mercenaria mercenaria*), American/eastern oysters (*Crassostrea virginica*), European oysters (*Ostrea edulis*), and razor clams (*Ensis directus*).

D. *Municipality*: Refers to the Town of Bristol, Maine.

5. Licensing: A municipal shellfish harvesting license is required for anyone ten (10) years or older. It is unlawful for any person to harvest shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this ordinance. A commercial harvester must also have a valid State of Maine Shellfish Commercial Harvesting License issued by the Department of Marine Resources.

A. Designation, Scope and Qualifications:

1.) *Resident Commercial Shellfish License*: This license is available to residents of The Town of Bristol and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.

2.) *Non-Resident Commercial Shellfish License*: This license is available to non-residents of this municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.

3.) *Resident Student Commercial Shellfish License*: This license is available to resident students enrolled in a primary or secondary education program, from 6th grade through 12th grade. Students 16 and under are exempt from conservation.

4.) *Resident Recreational Shellfish License*: This license is available to residents of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for personal use. A person holding a State of Maine Shellfish Commercial Harvesting License may not be issued or hold a resident recreational shellfish harvest license.

5.) *Taxpayer Recreational Shellfish License*: This license is available to real estate and personal property taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for personal use. A person holding a State of Maine Shellfish Commercial Harvesting License may not be issued or hold a taxpayer recreational shellfish harvest license.

6.) *Non-Resident Recreational Shellfish License*: This license is available to non-residents of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for personal use. A person holding a State of Maine Shellfish Commercial Harvesting License may not be issued or hold a non-

resident recreational shellfish harvest license.

- 7.) *License must be signed:* The licensee must sign the license to make it valid. By signing the license the harvester acknowledges that he/she must submit to inspection by the Warden. The license must be in the licensee's possession when engaged in harvesting.
- 8.) *Grandfathered Licenses:* Any municipal commercial licensed harvester who has completed or purchased 12 hours of conservation work shall be considered grandfathered. Grandfathered licenses will be issued from the first (1st) business day after January 1 for a period of 28 days. Any licenses remaining after the 28 day period will be dispersed by lottery as allocated. Licenses remaining after 90 days from the 1st day of sale shall be available to residents and non-residents alike, on a first come, first served basis.

Licensed members of the Municipal Shellfish Conservation Committee who are members in good standing shall retain grandfathered status provided they attend 50% of the meetings held during the calendar year.

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.
- 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 licenses must accompany in full the application for the respective license. Effective January 1, 2018 resident or non-resident commercial shellfish licenses being renewed may be purchased without performing conservation work. However, the performance of conservation work will reduce a resident or non-resident commercial shellfish license fee by \$20 for each hour worked, up to twelve (12) hours. The Town Clerk shall pay all fees received to the Town Treasurer. Fees received for shellfish licensing shall be used by the town for shellfish management, conservation and enforcement. All fees for shellfish licenses shall be recommended annually by the Shellfish Committee and submitted to the Board of Selectmen by October 1st for approval.

D. Limitation of Harvesters: Because shellfish resources are limited and because commercial or recreational harvesters can be expected to harvest a certain volume of shellfish per year, the number of harvesters must be controlled. This 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 control:

- 1.) Prior to November 1, the Shellfish Conservation Committee with the approval of the Commissioner of Marine Resources will establish the number of commercial and non-commercial licenses to be permitted following the requirements of 12 MRSA Section 6671 (3).
- 2.) The Shellfish Conservation Committee will notify the Town Clerk in writing prior to December 1 of the number of licenses to be issued.
- 3.) Notice of the number of licenses to 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.
- 4.) A license may not be returned to the Town and re-issued or transferred in the same year it was issued.

E. License Expiration Date: Each license issued under authority of this ordinance expires at midnight on the 31st day of December next following date of issue.

F. Reciprocal Harvesting Privileges: Commercial licensees from any other municipality cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of their licenses.

G. Recreational Shellfish License: Resident recreational shellfish license fees will be waived for applicants 65 years or older and 12 years or younger.

H. Suspension: Any shellfish licensee having three convictions for a violation of this ordinance within three years shall have their shellfish license automatically suspended for a period of ninety (90) days.

- 1.) A licensee whose shellfish license has been suspended pursuant to this ordinance may re-apply for a license only after the suspension period has expired.
- 2.) The suspension shall be effective immediately.
- 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. A written request must be filed with the Town Clerk within fifteen (15) days of 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. Based on the status of shellfish resources and other factors bearing on sound management, openings/closings will be made upon recommendation of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources area biologist, . The town will provide notification to the public of the conservation closure/openings in accordance with Department Regulations Chapter 7.50 (1) (c). This section requires a 5 day notice of

openings and closings. It shall be unlawful for any person to harvest, take or possess shellfish from any closed area in the town. This is a violation and is punishable under 12 MRSA sec 6671.

- 7. Minimum Legal Size of Soft-shell Clams:** It is unlawful for any person to possess soft-shell clams within the Town of Bristol, Lincoln 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 soft-shell clam shell stock.

B. Tolerance: Any person may possess soft-shell clams that are less than two (2) inches if they comprise less than 10% of any lot. The tolerance shall be determined by the numerical count of not less than one peck or 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: Any person who violates any provision of this section shall be punished as provided by 12 MRSA Section 6681.

- 8. Penalty:** A person who violates this ordinance shall be punished as provided by MRSA Section 6671 (10) & (10A) & (10B).

- 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 amended or repealed by the Town’s legislative body.

- 11. Severability:** 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 ordinances regulating the harvesting or conservation of shellfish in the town and any provisions of any other Town ordinance which is inconsistent with this ordinance are hereby repealed.