

TOWN OF SOUTH BRISTOL  
SHELLFISH CONSERVATION ORDINANCE

I. **AUTHORITY.** This ordinance is enacted in accordance with 12MRSA Section 6671.

II. **PURPOSE.** To establish a shellfish conservation program for the Town of South 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 digging is permitted.
- D. Limiting the minimum size of clams taken.
- E. Limiting the amount of clams taken daily by a harvester.

III. **SHELLFISH CONSERVATION COMMITTEE.** The shellfish conservation program for the TOWN OF SOUTH BRISTOL will be administered by the Shellfish Conservation Committee, consisting of five (5) regular members and two (2) alternate members to be appointed by the selectmen, terms of three (3) years.

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. Also 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 towns 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 or Council in conjunction with the area biologists or 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.

H. Committee members must attend 50% of meetings annually to receive their eight hours conservation credit, and remain on the committee.

#### IV. DEFINITIONS

A. RESIDENT. The term “resident” refers to a person who has been resident and resides in this municipality for at least one (1) year prior to the time his/her 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).

Razor clams (Ensis directus), quahog or hard-shell clams (Merceraria mercenaria, and American Oysters (Crassostrea virginica).

D. MUNICIPALITY. Refers to the TOWN of SOUTH BRISTOL, MAINE

V. LICENSING. Municipal shellfish digging licenses are required. It is unlawful for any person to harvest or take 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 commercial license issued by the Department of Marine Resources.

A. DESIGNATION, SCOPE AND QUALIFICATIONS. The municipality shall first issue licenses to harvesters who have held commercial licenses for the previous three (3) years. Only then shall the municipality issue licenses to new applicants who have done verifiable conservation work.

1. RESIDENT COMMERCIAL SHELLFISH LICENSE. The license is available to residents of the Town of South Bristol, and entitles the holder to harvest and take any amount of shellfish from the shores and flats of this municipality and reciprocating municipalities.

    Anyone who moves out of town and resides in another community for over 90 days may have their town shellfish license revoked by the municipal warden, for the rest of the calendar Year, the shellfish committee will then hold that license if this occurs.

2. NON-RESIDENT COMMERCIAL SHELLFISH LICENSE. The license is available to non-residents of this municipality, and entitles the holder to harvest 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 Kindergarten through the 12<sup>th</sup> grade, upon the completion of four (4) hours of conservation work, as approved by the Shellfish Conservation Committee.

**4. NON-RESIDENT STUDENT COMMERCIAL SHELLFISH LICENSE.**

This license is available to non-resident students enrolled in a primary or secondary education program, from Kindergarten through the 12<sup>th</sup> grade, upon the completion of four (4) hours of conservation work, as approved by the Shellfish Conservation Committee.

**5. RESIDENT RECREATIONAL SHELLFISH LICENSE.** This license is available to residents and real estate tax payers of this municipality, and entitles the holder to harvest and take no more than one peck of shellfish in any one day for personal use.

A person holding a Maine state commercial shellfish license may not be issued or hold a resident or non-resident recreational clam harvest license

**6. NON-RESIDENT RECREATIONAL SHELLFISH LICENSE.** This license is available to non-residents of this municipality, and entitles the holder to harvest and take no more than one peck of shellfish in any one day for personal use. A person holding a Maine state Commercial license may not be issued or hold a resident or non-resident recreational clam Harvest license.

**7. Educational Licence.** This license will allow someone to dig clams for one day. This is a ONE DAY PASS. Maximum harvest of one peck is allowed. A person can purchase this licence five times throughout the Calendar year.

**8. LICENSES MUST BE SIGNED.** The licensee must sign the license to make it valid.

**9. LICENSES ISSUED:** Licenses will be issued from the first town office business day after January 1 for a period of 90 days, after which all remaining licenses will be dispersed by lottery.

**B. APPLICATION PROCEDURE.** After completing eight hours of conservation work as described and Verified by the Shellfish Conservation Committee, applicants from all commercial harvesting categories, V. A1-4 of this ordinance, may apply to the Town Clerk for the license required. Forms are 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 the said license to become invalid and void.

**C. FEES.** The fees for the licenses are as stated below, and must accompany in full the application for the respective license. The Town Clerk shall pay all fees received to the Town Treasurer, except for \$1.00 for each license which will be retained by the Clerk as payment for issuing the license. Fees received for shellfish licensing shall be used by the Town for shellfish management, conservation and enforcement.

Resident Commercial	\$200.00
Non-Resident Commercial	400.00
Student Resident Commercial	
Ages 15 and under	10.00
Ages 16-18	100.00
Student Non-Resident Commercial	
Ages 15 and under	\$ 20.00
Ages 16-18	200.00
Resident Recreational	10.00
Non-Resident Recreational	20.00
Educational license	2.00

D. **LIMITATION OF DIGGERS.** The number of harvesters must be controlled because the shellfish resources are limited, and also because a commercial or recreational harvester can be expected to harvest a certain volume of clams per year. 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 may be followed to exercise the control.

1. Prior to November 15<sup>th</sup>, and upon the approval of the Commissioner of Marine Resources, the Town Shellfish Conservation Committee 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<sup>st</sup>, the number of licenses to be issued.
3. Notice of 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 ten(10) days prior to the period of issuance, and shall be posted in the municipal offices until the period concludes.
4. Licenses may be returned to the town voluntarily, and be reissued to another person at the current fee, according to the priorities established in this section.

E. **LICENSE EXPIRATION DATE.** Each license issued under authority of this ordinance expires at midnight on the 31<sup>st</sup> day of December.

F. **RECIPROCAL HARVESTING PRIVILEGES.** After approval of a reciprocal clam Harvesting agreement by the Shellfish Conservation Committee and Board of Selectmen Of this municipality, licenses from other cooperating municipalities may harvest shell-Fish according to the terms of their licenses until this ordinance expires.

G. **RECREATION SHELLFISH LICENSE.** Recreation shellfish license fees will be

waived for applicants 12 years or younger, and 65 years or older will be issued a lifetime license.

H. Any shellfish licensee having two (2) convictions for a violation of this ordinance or state law Concerning the harvesting of shellfish, shall have his/her shellfish license automatically suspended For a period of six (6)months.

1. A licensee whose shellfish license has been suspended pursuant to this ordinance may reapply for a license, only after the suspension period has expired.
2. The suspension shall be effective from the date of mailing the Notice of suspension by the Town Clerk to the licensee.
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 upon the filing of a written request for a hearing with the Town Clerk within thirty (30) days following 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.

VI. 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. The Shellfish Conservation Committee and the Department of Marine Resources area Biologist consider the status of shellfish resource and other factors bearing on sound Management in deciding if an area should be opened or closed. The Municipal Officers may Call a public hearing on ten(10) days notice. The hearing will be published in a newspaper Having general circulation in the Town, stating the time, place and subject matter of the Hearing, and they shall send a copy of the notice to the Department of Marine Resources. The decision made after the hearing of the Municipal Officers shall be based on findings of fact.

VII. MINIMUM LEGAL SIZE OF SOFT-SHELL CLAMS. It is unlawful for any person to Possess soft-shell clams within the Town of South 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. When 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 retailed and wholesale soft-shell clam shellstock.

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(1) peck or 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.

C. PENALTY. A person who violates any provision of this section shall be punished Provided by 12MRSA, Section 6681.

VIII. PENALTY, A person who violates any provision of this section shall be punished Provided by MRSA, Section 6671 (10).

IX. EFFECTIVE DATE. This ordinance, which has been approved by the Commissioner Of Marine Resources, shall become effective after it's adoption by the municipality provided A certified copy of the ordinance is filed with the Commissioner within twenty(20) days of It's adoption.

X. 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 effect the validity of The remaining portions of this ordinance .

XI. 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.

## XII. SHELLFISH REGIONAL ADVISORY COMMISSION

A. SHELLFISH REGIONAL ADVISORY COMMISSION. There is hereby established a Shellfish Regional Advisory Commission composed of representatives from each of the towns which enact this ordinance. The Municipal Officers of each town shall appoint one(1) member of it's shellfish committee and one (1) licensed commercial clam digger as members of the commission, the Shellfish Warden from each town and a liaison member. The Shellfish Warden from each town and a liaison member from the Department of Marine Resources, appointed by it's Commissioner, are non-voting members of the commission.

B. TERM OF OFFICE VACANCY. The office term of the Commission members terminates the first Monday of April. The Municipal Officers of the interested town shall appoint a person to fill a vacancy for the expired term.

C. OFFICERS OF COMMISSION. The Commission shall choose a Chairman, Vice-Chairman, and a Secretary. The Chairman shall preside at all meeting of the Commission, The Vice-Chairman shall preside in his/her absence, and the Secretary shall record and Keep minutes of each meeting.

D. The Commission shall advise the Shellfish Committee of each town on all matters Pertaining to conservation and harvesting of shellfish, including but not limited to the Opening and closing of clam flats. It shall act as a liaison between the towns and the State. It shall aid in the development of programs to help each town manage it's shellfish resources and shall take such other action as may be necessary, or desirable to implement

harvesting and conservation programs.

Bruna Bartlett  
Town Clerk

